

# 2019-2021

**Collective Bargaining Agreement**

**Association of Engineering Employees of Oregon**

**and**

**The State of Oregon**

**For the:**

**Department of Transportation**

**Department of Forestry**

**Parks and Recreation Department**

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## **DIVISION 1 – TERMS AND REGULATIONS**

### **ARTICLE 1.1 PARTIES TO THE AGREEMENT (Prior Article 1)**

This Agreement is entered into between the Association of Engineering Employees of Oregon (Association) and the State of Oregon, acting by and through the Department of Administrative Services (Employer) on behalf of the Oregon Department of Transportation, Oregon State Department of Forestry and the Oregon Parks and Recreation Department (hereinafter called the “Agency”), for the purpose of establishing matters of employment relations covered by this Agreement for employees in the bargaining unit.

### **ARTICLE 1.2 RECOGNITION (Prior Article 2)**

The Employer recognizes the Association as sole and exclusive bargaining agent for all employees within the appropriate bargaining units, both existing and to be determined in the future, for which the Association is certified or recognized, except temporary employees and those employees excluded by law or by determination of the Employment Relations Board (ERB).

Classifications represented by the Association within the Oregon Department of Transportation (ODOT), the Oregon Parks and Recreation Department (OPRD) and the Department of Forestry (Forestry) are listed in Appendix B, including such other classes as may from time to time be determined as appropriate through the Employment Relations Board process.

The Employer shall notify the Association when the Agency excludes a filled bargaining unit position based on supervisory, managerial or confidential status. Any dispute regarding such exclusions shall be resolved by the Employment Relations Board.

### **ARTICLE 1.3 SCOPE OF THE AGREEMENT (Prior Article 3)**

Section 1. This Agreement binds the Association and any person designated by it to act on behalf of the Association. Likewise, this Agreement binds the Employer and its employees and any other person designated by it to act on its behalf.

The terms of this Agreement shall apply to all members of certified or recognized bargaining units, represented by the Association, both existing and as determined in the future.

Section 2. This Agreement supersedes all prior agreements negotiated between the Association and the Employer unless those agreements specify a different term.

Section 3. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements reached by the parties after the exercise of that right and opportunity are set forth in this Agreement.

Section 4. All statewide policies currently being applied by the Employer relating to employment relation matters, rights, and benefits of this bargaining unit’s members shall be continued for the life of this Agreement.

Section 5. This Agreement does not constitute a commitment by the Employer to continue benefits mandated under personnel rules in effect prior to the adoption of this Agreement or to extend statewide any policies or practices affecting isolated areas or specific circumstances.

#### **ARTICLE 1.4 TERMS OF THE AGREEMENT (Prior Article 4)**

Section 1. Except as otherwise indicated herein, this Agreement takes effect on July 1, ~~2017~~2019, ~~or such date the Agreement is signed, whichever is later,~~ and expires on June 30, ~~2019~~2021.

Section 2. For the purpose of renewing, renegotiating, or amending at the expiration of the existing agreement, negotiations shall begin the first business day following January 15 of odd-numbered years.

REV: 2017,2019

#### **ARTICLE 1.5 EFFECT OF LAW AND RULES (Prior Article 5)**

Section 1. This Agreement is subject to all applicable existing and future laws of the State of Oregon including rules or regulations promulgated under the provisions of the Administrative Procedures Act of the State of Oregon.

Section 2. In the event that any provision of this Agreement shall at any time be declared invalid by any court of competent jurisdiction or through government regulations or decree, such decision shall not invalidate the entire Agreement, it being the expressed intent of the parties hereto that all other provisions not declared invalid shall remain in full force and effect. That provision declared invalid shall be subject to renegotiation by the parties.

Section 3. No new Employer Personnel Rule or change in any existing Employer Personnel Rule that addresses subjects that are mandatory issues for bargaining shall be adopted unless the change has been first agreed to by the other party in negotiations. The Association shall be notified in advance of all proposed rule changes regardless of bargain-ability, and shall be given an opportunity to comment prior to processing the proposed change.

#### **ARTICLE 1.6 COMMUNICATIONS ON EMPLOYMENT RELATIONS MATTERS (Prior Article 6)**

The Employer shall not issue any directives or written statements that have any effect on the standards of employment relations matters established by this Collective Bargaining Agreement unless such directives or statements have been agreed upon with the Association. Nothing in this Article is intended to inhibit the Employer from issuing directives and/or statements which interpret or effectuate a contractual obligation; however, a copy of such statements and directives shall be sent to the Association.

#### **ARTICLE 1.7 ADMINISTRATION OF THE AGREEMENT (Prior Article 7)**

Section 1. Except as provided in ~~Article 36~~3.6 – Grievance and Arbitration, the parties retain all remedies provided to them by law, including but not limited to complaints to the Employment Relations Board or resort to the courts. However, it is agreed that before either of the parties makes use of these remedies, it will make a reasonable effort to settle the matter through such procedures as may be provided by the Agency.

Section 2. Any personnel action taken by the Employer, which is thereafter agreed by that Employer or found by an arbitrator, the Employment Relations Board or a Court to have been improper or contrary to a provision contained in this Agreement, shall be fully corrected after fully exhausting the appeal remedies.

**ARTICLE 1.8 EQUAL OPPORTUNITY & AFFIRMATIVE ACTION (Prior Article 20)**

Section 1. The Employer and the Association agree not to discriminate in any way against employees covered by this agreement on account of race, color, religion, sex, marital status, national origin, age, mental or physical disability or any other protected class as defined by state or federal law. Neither will the Employer discriminate based on gender identity or sexual orientation.

Section 2. The Agency agrees to take affirmative action to ensure equal employment opportunity in the employment of all qualified applicants for employment and all employees. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, recruitment advertising, lay-off, termination, rates of pay, other forms of compensation, or the selection for training.

Section 3. The Employer and the Association further agree that there will be no discrimination because of membership in the Association or activities on behalf of the Association which are considered protected activities under ORS 243.672.

Section 4. The Employer shall not be arbitrary or discriminatory in the application of, or failure to act pursuant to the terms of this Agreement or the Personnel Policies, Procedures and Regulations of either the Department of Administrative Services, Chief Human Resource Office or the Agency nor shall the Employer take action contrary to law or for political reasons.

Section 5. Any alleged violations of this Article with respect to the protected classes listed in Section 1 and Section 3 may only proceed to the Agency Head or designee level, and are not arbitrable. Grievances alleging any form of discrimination as listed in Section 1 and Section 3 will be submitted in writing within thirty (30) days of the date the grievant or the Association knows or by reasonable diligence should have known of the alleged grievance, directly to the Agency Head or designee as defined in the grievance article. The Agency Head or designee shall respond within fifteen (15) calendar days after receipt of the grievance. Nothing in this Article shall preclude an employee from filing a charge of discrimination with the Bureau of Labor and Industries or the EEOC at any time.

[SEE LOA: Pay Equity](#)

**ARTICLE 1.9 WHISTLEBLOWER PROTECTIONS (Prior Article 77)**

A public employee who may wish to file a “whistleblowing” complaint against an agency should review the provisions of Oregon BOLI (Bureau of Labor and Industry) statutes (ORS 659A.199 through 659A.224).

**DIVISION 2 – MANAGEMENT RIGHTS**

**ARTICLE 2.1 MANAGEMENT’S RIGHTS (Prior Article 13)**

Except as may be specifically modified by the terms of this Agreement, the Employer retains all rights of management in the direction of its work force. These rights of management shall include, but not be limited to, the right to:

- A. Direct employees.
- B. Hire, promote, transfer, assign and retain employees.
- C. Suspend, discharge or take other proper disciplinary action against employees.
- D. Reassign employees.
- E. Relieve employees from duty because of lack of work or other reasons.
- F. Schedule work.
- G. Determine methods, means, and personnel by which operations are to be conducted.

### **DIVISION 3 – ASSOCIATION RIGHTS AND REPRESENTATION**

#### **ARTICLE 3.1 ASSOCIATION PRIVILEGES AND LIMITATIONS (Prior Article 9)**

Section 1. The internal business of the Association shall be conducted by the employees during their non-duty hours, unless by special permission of the Agency in limited instances involving the mutual benefit of the Agency and the employees.

Section 2. The Association's Retirement Committee Chairman and Insurance Committee Chairman or their delegate will be allowed thirty-six (36) hours of Agency time annually for attending regular meetings of their appropriate Retirement Board or Employee Benefit Board. Transportation and other expenses resulting from attendance at these meetings shall be borne by the Association.

Section 3. Chapters or Committees of the Association shall be allowed the use of the facilities of the Agency for meetings at the discretion of the Agency and when such facilities are available and the meetings would not conflict with the business of the Agency. Employees may conduct business during their lunch period.

Section 4. The Agency shall provide reasonable bulletin board space for the use of the Association in communicating with the employees.

Section 5. The Agency shall, semi-annually, furnish the Association a listing of names, headquarters and complete addresses of the employees in the bargaining unit, and will, upon request, furnish supplemental lists required by special elections or other unusual circumstances.

Section 6. Time Off for Association Business. The Employer recognizes the right of the Association to conduct its own affairs and that the Association's President and 1<sup>st</sup> Vice President may desire to be easily accessible to the Employer, the Agency and the employees alike. To maintain this accessibility, the Association's President and 1<sup>st</sup> Vice President shall be allowed up to one hundred (100) hours a year (each) of vacation, compensatory time, or leave without pay to conduct this business, when requested by the individual employee. When assistance is requested by the Employer, time required for such assistance will not be considered to be leave.

Section 7. The President, 1<sup>st</sup> Vice President or Grievance Committee Chairman may assume responsibility for a grievance at any level but normally not until the grievance is at the second (2<sup>nd</sup>) step or above. Each will be allowed up to forty (40) hours per month of total time on vacation, compensatory time, or leave without pay for time spent during the regularly scheduled hours of employment or the appropriate Job Representative may assign in writing to the President, 1<sup>st</sup> Vice President or Grievance Committee chairman a portion of his/her twenty-four (24) hours paid time per month for handling grievances from their region. In no event shall the paid time exceed the twenty-four (24) hours per month allocated to the Job Representative.

Section 8. In the event that notice of layoff is given, the President and 1<sup>st</sup> Vice President and/or their delegate shall be allowed up to eight (8) hours per day of vacation, compensatory time, or leave without pay for Association business commencing with the date of notice and for the duration of the layoff process. When assistance is requested by the Employer or the Agency, time required for such assistance will not be considered to be leave.

Section 9. Appropriate personnel referred to in this Article shall maintain a monthly record of dates and time spent during working hours on activities described in this article. Upon request a copy of this monthly record shall be furnished to the immediate supervisor.

Section 10. Fair Share

- ~~A. All employees in the bargaining unit who are not members of the Association shall make fair share payments in lieu of dues to the Association. Fair share payments shall not exceed regular Association monthly dues assessment.~~
- ~~B. An employee shall have fair share deducted from his/her check for each month the employee has any paid hours.~~
- ~~C. Bargaining unit members who exercise their right of non-association, only when based on a bona fide religious tenet or teaching of a church or religious body of which such employee is a member, shall pay an amount of money equivalent to regular monthly Association dues to a nonreligious charity or to another charitable organization mutually agreed upon by the employee and the Association and such payment shall be remitted to that charity by the employee in accordance with ORS 243.666. At time of payment, notice of such payment shall simultaneously be sent to the Agency and the Association by the employee.~~
- ~~D. An alphabetical listing of Association fair share deductions for the previous month by Agency shall be forwarded to the Association by the 3<sup>rd</sup> workday of each month with the month's remittance. The listing shall be compiled and mailed by the Joint Payroll and shall show employee's name (last, first, middle initial), Oregon Employee ID Number, amount deducted, base pay, classification number, and representation code.~~
- ~~E. Fair Share Adjustment Summaries for Association Members. Summaries will be forwarded by the Agency payroll office to the Association by the 10<sup>th</sup> workday of the following month. The fair share adjustment summary will~~

~~reconcile the previous month's remittance with the current month's remittance. The Fair Share Adjustment Summary will be an alphabetical listing and shall show the following:~~

- ~~▪ Name (last name first, full first name, middle initial)~~
- ~~▪ Formatted Oregon Employee ID Number (OR000000000)~~
- ~~▪ Prior month deduction~~
- ~~▪ Current month deduction~~
- ~~▪ Variance (difference between prior month deduction and current month)~~
- ~~▪ Reason for change in fair share amount (correction for previous month's error and explanation: salary increase, salary decrease, hourly, part time, new member, cancellation, transfer to or from which Agency, layoff, retirement, termination, name change, leave of absence without pay, end or beginning of season for seasonal employee).~~

~~The Association recognizes that the above information may require hand editing and/or notations. Therefore, only repeated errors or omissions will be considered a violation of this section.~~

- ~~F. The Association shall indemnify and hold the Employer and Agencies or persons acting on behalf of the Employer and Agencies harmless against any and all claims, damages, suits, proceedings or any other forms of liability which may arise out of any action taken or not taken by the Employer and Agencies for the purposes of complying with provisions of this section.~~

~~SEE LOA's: [Appointments Committee](#), [OPRD Labor Management Committee](#)~~

~~REV: 2017,2019~~

## **ARTICLE 3.2 REPRESENTATION (Prior Article 10)**

**Section 1.** The Association is recognized and shall serve as exclusive representative of all employees in the bargaining unit heretofore described, except temporary employees and those employees properly excluded from the unit in accordance with the rules of the Employment Relations Board or by agreement of the parties.

**Section 2.** The Employer shall not enter into any agreements regarding employment relations matters with any other organization or individual purporting to represent any group of employees in the bargaining unit, and shall not furnish any facilities or engage in any type of conduct which would imply recognition of any group other than the Association as a representative of the employees in the unit.

**Section 3.** Reference to the – ASSOCIATION – as representative of the employees means the Association of Engineering Employees of Oregon and the Employer shall have no obligation to bargain with and shall not bargain or enter into agreements with any committee or district organization of the Association in matters covered by this contract, unless such persons or bodies are specifically designated by the Association as authorized representatives for such purposes.

**Section 4.** Nothing in this Agreement shall preclude an individual employee from representing himself in individual personnel matters. However, this does not include the right for employees to proceed to grievance arbitration without representation or

authorization of the Association.

Section 5. It is agreed by the Employer and the Association that excluded employees shall not engage in or participate in the bargaining unit activities nor hold a position on any employee representation committee.

Section 6. In the event the Agency allocates bargaining unit employees into new/revised classifications not covered in the Association bargaining unit, the Agency will give written notice to the Association within fourteen (14) calendar days of reporting allocations to the Department of Administrative Services.

Section 7. The Agency shall give written notice to the Association when a bargaining unit employee's representation status changes as a direct result of a change in the employee's classification. \*Intent Note: Notice to the Association will be prior to or at the same time that the documentation or paperwork is given to DAS for consideration.

### **ARTICLE 3.3 NO STRIKE OR LOCKOUT DURING TERM OF AGREEMENT (Prior Article 12)**

Section 1. The Employer agrees that during the term of this Agreement the Agency shall not cause or permit any lockout of employees from their work. In the event an employee is unable to perform his/her assigned duties because equipment or facilities are not available due to a strike, work stoppage or slowdown by any other employees, such inability to provide work shall not be deemed a lockout.

Section 2. The Association agrees that neither it, nor its officers or employees covered by this Agreement will encourage, sanction, cause, support or engage in any strike, walkout, refusal to report to work, picketing, or other interruption of work during the term of this Agreement provided, however, that if at the expiration of this Agreement, the Employer and the Association have not reached agreement on a renewal extension or new Agreement, the Association, and its officers and employees covered by this Agreement may engage in any type of strike activities which is not unlawful.

Section 3. Upon notification, confirmed in writing by the Employer to the Association that certain bargaining unit employees covered by this Agreement are engaging in strike activity in violation of this Article, the Association shall, upon receipt of a mailing list, advise such striking employees in writing (with a copy to the Employer) to return to work immediately. Such notification by the Association shall not constitute an admission that it has caused or counseled such strike activity. The notification to employees covered by this Agreement by the Association shall be made solely at the request of the Employer.

Section 4. Employees covered by this Agreement who engage in strike activity prohibited by this Article will be subject to disciplinary action by the Agency.

### **ARTICLE 3.4 JOB REPRESENTATION REPRESENTATIVES (Prior Article 16)**

Section 1. The Employer agrees there shall exist a Job Representative system for employee representation available to all employees. The Job Representatives shall be selected by the Association within the following limitations:

- A. (ODOT only.) Two (2) Job Representative for Regions 1-5 and two (2) Job Representatives for Headquarters.

(Forestry/OPRD only) One (1) Job Representative for Forestry and Two (2) Job Representatives for ORPD.

- B. (ODOT only.) An individual designated as a Job Representative may continue this function only as long as he/she continues to be employed in the region which he/she represents.

(Forestry/OPRD only.) An individual designated as a Job Representative may continue this function only as long as he/she continues to be employed in the bargaining unit which he/she represents.

- C. (ODOT only.) Job Representatives may delegate time and responsibility, when circumstances require, upon written notification to the appropriate Region/ Division Manager.

(Forestry/OPRD only.) Job Representatives may delegate time and responsibility, when circumstances require, upon written notification to the Local Forestry Manager or OPRD Director.

Section 2. The Association shall provide the Agency with a list of authorized Job Representatives and shall update that list as necessary to insure that the Agency has a current list of authorized Job Representatives.

Section 3. The Job Representative shall notify their immediate supervisor and the Agency Personnel Section when representing employees in the investigation and resolution of a grievance after the grievance has been discussed with the immediate supervisor at Step 1 of the grievance procedure.

Section 4. Job Representatives will notify the immediate supervisor before engaging in the activities permitted during working hours. If the permitted activity would interfere with the work the employee is expected to perform, the supervisor will arrange a mutually satisfactory time for the requested activity.

Section 5. Each Job Representative shall maintain a monthly record of dates and time spent during working hours on activities described in this Article. The Job Representative shall, upon request, furnish to his immediate supervisor a copy of the monthly record.

Section 6. The Association agrees to notify all Job Representatives in writing of the provisions of this Article, together with the fact that they will not perform during working hours any activity not cited in Section 3 above.

Section 7. The Agency will pay only up to twenty-four (24) hours per calendar month of total time, and this will be at the regular rate of pay for time spent during the regularly scheduled hours of employment. Time which the Job Representative believes necessary beyond that will be leave with or without pay. Only one (1) Job Representative will be in pay status for any one (1) grievance. Association may designate two (2) Job Representatives for OPRD, however the twenty-four (24) hours will be the cap for the combined efforts of the Job Representative. The Association may designate an additional Job Representative for ODOT to serve at the Mill Creek office; however, the twenty-four (24) hours will be the cap for the combined efforts of the two (2) Job Representatives at

that location.

Section 8. The Agency is not responsible for any compensation of employees or Job Representatives for time spent processing grievances outside their regularly scheduled hours of employment. The Agency will not be responsible for any travel or subsistence expenses incurred going to and returning from a formal step of the grievance hearing.

Section 9. Job Representatives shall be assured freedom from reprisal, coercion, intimidation, or discrimination in any manner.

### **ARTICLE 3.5 EMPLOYEE REPRESENTATIVE (Prior Article 17)**

Section 1. Employees covered by this Agreement are at all times entitled to act through an Association representative in taking any action or following any procedure under this Agreement.

Section 2. Once a bargaining unit member files a grievance, he/she shall not be required to discuss the subject matter of the grievance without the presence of the Association representative, if the employee elects to be represented by the Association.

### **ARTICLE 3.6 GRIEVANCE AND ARBITRATION (Prior Article 36)**

Section 1. Grievances are defined as acts, omissions, applications or interpretations alleged to be violations of the terms or conditions of this Agreement. Grievances shall be initiated in writing within forty-five (45) calendar days of the time the employee knows, or by reasonable diligence should have known, of such alleged violation of the Agreement. Grievances shall be reduced to writing, stating the specific Article(s) alleged to have been violated, a clear explanation of the alleged violation and the requested remedy, sufficient to allow processing of the grievance.

#### Section 2.

- A. If the Association or an employee desires a formal resolution of any grievance as defined in Section 1 (except complaints of unlawful discrimination), such grievance shall be processed as provided under Section 3 of this Article.
  
- B. Employees have the right to appeal a disciplinary action within thirty (30) calendar days of the effective date of the action when the following disciplinary actions are taken:
  - (1) Disciplinary Action Appeals (other than Dismissal): Initiated at step 2.
  
  - (2) Dismissal Appeals: Initiated at step 3.

#### Section 3. Grievance Steps

##### Step 1 – Supervisory Level

The employee or his/her Association representative on behalf of the employee shall submit a written grievance to the grievant's immediate supervisor for resolution within the timeframes outlined in Section 1 of this Article. The immediate supervisor shall meet and discuss the grievance with the employee and/or his/her Association representative. Failing to resolve the grievance, the immediate supervisor will respond to the grievance in writing within thirty (30) calendar days

of receipt of the grievance. If the member's immediate supervisor's actions led to the grievance, as defined in Section 1, then the Step 1 grievance shall be filed with the immediate supervisor's manager.

### Step 2 – Agency Personnel Services

- A. The employee or the Association representative on the employee's behalf, may appeal an unresolved grievance within fifteen (15) calendar days of receipt of the step 1 response to the Human Resources Manager or designee.
- B. The Human Resources Manager or designee and the employee's supervisor shall meet at a mutually agreeable date and time within fifteen (15) days of receipt (see above) with the Association representative and employee to discuss the grievance. The parties may mutually agree to not have a meeting, however if one of the parties desires to meet, then a meeting shall be scheduled. The Human Resources Manager or designee shall respond within fifteen (15) calendar days from the date of the grievance meeting or receipt of the grievance, whichever is later. A conference call can substitute for a meeting at this step of the grievance procedure.
- C. Grievances raised by the Association representative and confirmed by the signatures of three (3) or more employees which are of general Region or Section concern shall be initiated at this step (Step 2) of the grievance procedure. The spokesperson for the three (3) or more employees or their Association representative must give the names of at least three (3) employees involved to verify that it is a group grievance. If the group grievance is of general concern throughout the Agency the Association may introduce, by mutual agreement with the Agency, the petition at Step 3.

### Step 3 – Labor Relations Unit.

- A. If the grievance is not resolved at step 2, the employee or the Association may file, within fifteen (15) calendar days after receiving the response from the Agency Personnel Services Section Manager or designee, the grievance with the Department of Administrative Services, Labor Relations Unit, for determination. The State Labor Relations Manager or designee, shall meet at a mutually agreeable date and time with the Association representative and employee to discuss the grievance. The State Labor Relations Manager or designee shall respond within fifteen (15) calendar days from the date of the grievance meeting. A conference call can substitute for a meeting at this step of the grievance procedure.
- B. Copies of the original Grievance Forms shall be submitted to the applicable party at all steps of the grievance procedure. Any amendments or clarifications consistent with this Section shall be submitted via cover letter.

### Step 4 – Arbitration

- A. If the grievance is not satisfactorily resolved by the Labor Relations Unit, the Association may submit the issue to arbitration within forty-five (45) calendar days after receiving the response from the Labor Relations Unit.
- B. The parties shall select an Arbitrator from the lists(s) requested from the State Mediation and Conciliation Service. The parties shall name a mutually acceptable Arbitrator from the requested list. If the parties do not select an Arbitrator from the list, additional lists shall be requested until a mutually acceptable Arbitrator is named.
- C. Any arbitrable grievance arising out of or relating to the interpretation or the application of this Agreement shall be submitted by either the Employer, or the Association. If the grievance is to be submitted to arbitration, a pre-arbitration meeting shall be held between the Employer, the Association, and the Arbitrator in order to discuss a framing of the issues for a consolidation of cases, or such other procedural matters as the Arbitrator deems pertinent. A hearing will be scheduled with the parties at a mutually agreeable time.
- D. The Arbitrator shall act in a judicial, not legislative capacity and shall have no right to recommend to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. The Arbitrator shall only consider and make a decision with respect to the specific issue submitted, and shall have no authority to make a decision on any other issue not so submitted to the Arbitrator.
- E. In the event the Arbitrator finds a violation of the terms of this Agreement, the Arbitrator shall fashion an appropriate remedy. The Arbitrator shall be without power to make a decision contrary to or inconsistent with or modifying or varying in any way the application of laws and rules and regulations having the force and effect of law.
- F. The Arbitrator shall submit in writing the decision within forty-five (45) calendar days following the close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties agree to a written extension thereof. The decision shall be based solely upon the Arbitrator's interpretation of the meaning or application of the express terms of this Agreement to the facts of the grievance presented. A decision rendered consistent with the terms of this Agreement shall be final and binding.

Section 4. Where a grievance involves two (2) or more supervisors and is confirmed by the signatures of three (3) or more employees, such grievances shall be filed and processed at step 2 of the grievance procedure. When a grievance involves employees in more than one (1) Agency, such grievance shall be filed and processed in accordance with step 3 of this Article. The grievance shall specifically enumerate, by name, the affected employees and the Grievance Form shall show the employees' signatures.

Section 5. The Association will not expand upon the elements of the original grievance

unless agreed to by both Parties.

Section 6. Time limits specified in this procedure must be observed, unless either party requests a specific extension of time, which, if agreed to, must be stipulated in writing and shall become part of the grievance record. The employee may appeal a grievance to the next step if the Employer fails to meet time lines prescribed herein.

Section 7. The Arbitrator's fees and expenses shall be equally shared by the parties.

Section 8. An employee shall be on paid status during their normal working hours to attend the following meetings:

- A. Investigatory interviews and pre-disciplinary meetings, in accordance with Article 244.1, and
- B. Grievance meetings, mediation sessions, and arbitration hearings scheduled in accordance with Article 363.6, Grievance Procedure.
- C. An employee will be allowed reasonable time to travel to and from management scheduled investigatory interviews, pre-disciplinary meetings, grievance meetings, mediation sessions, and arbitration hearings conducted during his or her normal work hours. Time spent traveling during the employee's non-work hours in order to attend the meetings will not be considered work time.

An employee must notify his or her supervisor prior to attending any meeting in accordance with this Article. Notification must include the approximate amount of time the employee expects the meeting to take.

Section 9. Upon request, an employee shall have the right to Association representation during an investigatory interview that an employee reasonably believes will result in disciplinary action. An employee has the right to Association representation during meetings with management if the employee reasonably believes the facts gathered during those meetings may result in discipline, and if management cannot assure the employee that discipline will not result. The employee will have the opportunity to consult with an Association Job Representative or Association staff member before the interview but such designation shall not cause an undue delay.

REV: 2017

### **ARTICLE 3.7 ASSOCIATION OFFICERS (Prior Article 18)**

If any Association Officer is promoted or reclassified into a management service position, the employee shall formally resign from his or her position in the Association. A copy of the formal resignation shall be submitted to the Agency prior to the effective date of the promotion or reclassification.

### **ARTICLE 3.8 ASSOCIATION USE OF E-MAIL (Prior Article 71)**

E-Mail Messaging System. Association representatives and Association-represented employees may use an Agency's e-mail messaging system to communicate about Association business provided that all of the following conditions are followed:

1. Use shall not contain false, unlawful, offensive or derogatory statements against any person, organization or group of persons. Statements shall not

contain profanity, vulgarity, sexual content, character slurs, threats or threats of violence. The content of the e-mail shall not contain rude or hostile references to race, marital status, age, gender, sexual orientation, religious or political beliefs, national origin, health or disability.

2. Except as modified by this Article, Agency shall have the right to control its e-mail system, its uses or information.
3. The Agency reserves the right to trace, review, audit, access, intercept, recover or monitor use of its e-mail system without notice.
4. Use of the e-mail system will not adversely affect the use of or hinder the performance of an Agency's computer system for Agency business.
5. E-mail messages sent simultaneously to more than five (5) people shall be no more than approximately one (1) page and in plain or rich text format. Such group e-mails shall not include attachments or contain graphics (except for the Association logo). Recipients of such group e-mails shall not use the "Reply All" function.
6. E-mail usage shall comply with Agency policies applicable to all users such as protection of confidential information and security of equipment.
7. The Agency will not incur any additional costs for e-mail usage including printing.
8. The Association will hold the Employer and Agency harmless against any lawsuits, claims, complaints or other legal or administrative actions where action is taken against the Association or its agents (including Association staff, Association officers and Key Members) regarding any communications or effect any communications that are a direct result of the use of e-mail under this Agreement.
9. Such e-mail communications shall only be between Association-represented employees and/or managers, within their respective Agency, and the Association. However, for purposes of negotiations, bargaining team members may communicate across agencies. Additionally, DAS recognized joint multi-agency labor/management committee members and the Association Board of Directors may communicate across agencies. The Association shall provide the names of its Board of Directors to DAS.
10. Use of Agency's e-mail system shall be on employee's non-paid time.
11. E-mail communications may include links to the Association website, which may be accessed on non-paid time.
12. Nothing shall prohibit an employee from forwarding an e-mail message to his/her home computer.
13. E-mail shall not be used to lobby, solicit, recruit, persuade for or against any

political candidate, ballot measure, legislative bill or law, or to initiate or coordinate strikes, walkouts, work stoppages, or activities that violate the Contract.

14. Should the Employer believe that the Association's staff has violated this Article of the Agreement, the Employer will notify the Association's ~~Executive Director~~ President, in writing, within thirty (30) calendar days from the date of the alleged misuse of an Agency's e-mail system. The ~~Executive Director~~ Association's President shall respond, in writing, within thirty (30) days and include the action that will be taken to enforce this Article of the Agreement. If, despite these actions, the violation continues, the Employer will notify the Association, in writing, within thirty (30) calendar days that the alleged misuse may be arbitrated.

### **ARTICLE 3.9 DUES DEDUCTION (Prior Article 22)**

Section 1. The Agency shall deduct monthly the Association membership dues from the pay of those employees who individually request in writing that such deductions be made. The amounts to be deducted shall be certified to the employee's designated payroll office by the Association. The aggregate deductions of all employees, including the prior month's adjustments, shall be remitted together with the itemized payroll computer printout by the Agency to the Association no later than the fifteenth (15<sup>th</sup>) of the month following the month for which the deductions were made. Any discrepancy in the amount remitted to the Association shall be identified insofar as possible by a coded itemized statement sent to the Association no later than the twenty-fifth (25<sup>th</sup>) of the month following the month for which the deductions were made. Employees on Agency deductions and not on the Association billing shall have a copy of their membership application furnished to the Association with the Agency's coded itemized statement.

Section 2. The written request for dues deduction is not terminated when an employee is placed on a leave of absence without pay or placed on lay-off status. The Agency shall reactivate the monthly Association dues authorization commencing with the first (1<sup>st</sup>) paycheck following the employee's return to paid status.

Section 3. The Agency shall continue to deduct dues from employees as long as the employee remains on the same designated payroll.

Section 4. The Association shall indemnify and save the Employer harmless against claims, demands, suits or other forms of liability which may arise out of actions taken by the Agency for the purpose of complying with the provisions of this Article.

### **ARTICLE 3.10 EMPLOYEE STATISTICS (Prior Article 19)**

Section 1. Upon request, the Employer shall make the latest copy of the following computer reports available:

- A. Number of Employees by Appointment, Type, Status and Pay Type: Data display for Classified and Unclassified services with subtotals for each. Within each of these categories, data sequenced by Base Rates within class, within agency.
- B. Number of Employees by Sex, Race and Age Groupings: Data displayed for Classified and Unclassified services. Within each of these categories,

data sequenced by Base Rates within class, within agency.

- C. Number of Separations by Class within Agency: Data categorized by separation totals, resignation reasons and layoff reasons. Within these categories, data sequenced by class within agency. Only those classes experiencing separations are displayed. In addition to number of separations, the data will include number of employees in the class and state employment turnover percent with explanation of the method of computation.
- D. Monthly New Hire List by Agency and Location: To be furnished by the Agencies.
- E. Number of college engineering graduates hired by class and step.
- F. Exit interview survey information collected by DAS.

All reports shall include explanations for all codes, column headers and abbreviations.

Section 2. Upon development, the Employer shall make the latest copy of the report of statistical and expenditure data relative to employment and benefits available to the Association upon request.

The Association will be billed for the costs incurred in copying and/or postage for mailing these statistical reports, if hard copies are requested by the Association.

### **ARTICLE 3.11 – LABOR MANAGEMENT COMMITTEES**

Section 1. To facilitate communication between the Parties, a joint Labor-Management Committee may be established at the Agency level by mutual agreement by the Association and the Agency. The purpose of joint Labor-Management Committees is to address issues of mutual concern, such as work processes and efficiencies.

The Committees shall not be construed as having the authority to negotiate. The Committees shall have no power to contravene any provision of the Collective Bargaining Agreement or resolve issues or disputes surrounding the implementation of the Contract. Matters that should be resolved through the grievance and arbitration procedure shall be handled pursuant to that procedure. Matters which may require a Letter of Agreement shall not be implemented until a Letter of Agreement has been signed by the Labor Relations Unit and AEE.

The number of members, meetings, schedules, agendas, and training needs of the Labor-Management Committee will be determined jointly by the Agency and the Association.

Section 2. Composition. The Committee will be composed of equal numbers of bargaining unit and management service members, unless mutually agreed to otherwise. Each side shall select their own representatives.

Section 3. Meetings. Committees shall meet when necessary, but not more than once each calendar quarter.

Section 4. Pay Status. Employees appointed to the Labor-Management Committee shall be in pay status during travel to and from the meeting, as well as time spent in Committee meetings, provided the meeting and/or travel occurs during their regularly scheduled duty time. When available, employees may use state vehicles for travel which occurs during their regularly scheduled duty time. Approved time spent in meetings shall not be considered as overtime worked. Appointed employees may choose to attend these meetings on their own time. The Association will be responsible for all other employee expenses related to lodging and/or travel.

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## **DIVISION 4 – EMPLOYMENT PRACTICES**

### **ARTICLE 4.1 DISCIPLINE AND DISCHARGE (Prior Article 24)**

Section 1. The Employer and the Association agree that the conduct of employees must reflect the best interest of the public. The principles of progressive discipline shall be used when appropriate. Discipline shall include, but not be limited to, written reprimands, reduction in pay, demotion, suspension without pay, and dismissal. Discipline shall be imposed only for just cause.

Regular status FLSA exempt employees who are suspended without pay will only be suspended without pay in full work week increments.

Every letter of reprimand, suspension, demotion, reduction in pay or dismissal for disciplinary reasons given to any employee shall have attached or shall include a statement that the employee has thirty (30) calendar days from the effective date of the action in which to exercise the right of appeal. Such letters and statements will be hand delivered and/or sent by certified return- receipt mail to the employee, ~~and a copy sent to the Association.~~ The Agency will attempt to send a copy of the disciplinary action to the Association by email within twenty-four (24) hours of the discipline being issued to the employee.

Section 2. Suspension. The Appointing Authority or his authorized representative may suspend a regular status FLSA non-exempt employee for disciplinary reasons and without pay for a period not exceeding thirty (30) calendar days in any twelve (12) months for just cause. An FLSA exempt employee suspended without pay will be consistent with the salary status requirements of the FLSA. Notice of suspension, with specific reasons for the action, shall be in writing and may be given personally by the Appointing Authority or his/her representative to the employee or may be mailed to the employee seventy-two (72) hours prior to the suspension.

Section 3. Termination. An employee may be terminated for just cause. A written pre-dismissal notice shall be given to a regular status employee against whom a charge is presented. Such notice shall include the known complaints, facts and charges, and a statement that the employee may be dismissed. The Agency will attempt to send a copy of the pre-dismissal notice to the Association by email within twenty-four (24) hours of being issued to the employee. The employee shall be afforded an opportunity to refute such charges or present mitigating circumstances to the Employer or his/her designee at a time and date set forth in the notice which date shall not be less than seven (7) calendar days from the date the notice is received. The employee shall be permitted to have an

Association representative present. At the discretion of the Employer, the employee may be suspended with or without pay or be allowed to continue to work, as specified within the pre-dismissal notice consistent with the salary requirements of the FLSA for FLSA exempt employees.

Section 4. All appeals relative to the administration of this Article shall be resolved by using the grievance procedure as outlined in Article 36-3.6 (Grievance and Arbitration).

Section 5. Duty Station Pending Investigation. An Appointing Authority may duty station an employee with pay for a period of up to thirty (30) calendar days to permit the Appointing Authority to investigate or make inquiries into charges and allegations concerning the employee, if in the judgment of the Appointing Authority the employee's continued presence at work during the period of investigation is detrimental to the best interests of the State, the public, the ability of the office to perform its work in the most efficient manner possible, or well-being or morale of persons under their care. The period of Duty Station may be extended with pay by the Appointing Authority. An employee who is duty stationed shall be notified in writing within seventy-two (72) hours of the initiation and/or extension of such leave with specific reasons given as to the nature of the investigation, charges, allegations, reporting requirements and whether the employee is restricted from their workplace or other state property.

While duty stationed and during normal work hours, the employee must be available by phone.

A complaint by an employee who has not attained regular status concerning any type of disciplinary action or dismissal shall not be grievable under the provisions of this agreement.

Section 6. Absence Without Leave. Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be made grounds for disciplinary action by the Appointing Authority. In the absence of such disciplinary action, any employee who absents himself for five (5) consecutive work days without authorized leave shall be deemed to have resigned. Such absence may be covered, however, by the Appointing Authority by a subsequent grant of leave with or without pay, when extenuating circumstances are found to have existed.

Section 7. Valid Driver's License Required.

If an employee loses his/her driver's license or commercial driver's license, the Employer will take one or both of the following actions at the Employer's discretion:

- take disciplinary action pursuant to the Agreement.
- identify and assign non-driving work duties if available as determined by the Employer.

Section 8. Investigatory Interviews. Upon request, an employee shall have the right to Association representation during an investigatory interview that an employee reasonably believes will result in disciplinary action. The employee will have the opportunity to consult with a local Association Representative before the interview, but such request shall not cause an undue delay.

The Employer will attempt to conduct the initial interview with the employee within thirty

(30) calendar days. The investigation shall be completed within one hundred twenty (120) calendar days. However, if the investigation is not concluded within the timeline, the Employer will notify the Association and the employee of the specific reason(s) and the amount of additional time needed which shall be no more than thirty (30) days at a time.

Upon request, the Employer shall give the employee under investigation, and the job representative of record, notification of the status of the Employer's investigation, every thirty (30) days until completed. Upon completion of the investigation, the Employer shall provide the employee and the job representative of record with written notification of the disposition of the investigation.

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## **ARTICLE 4.2 PERFORMANCE APPRAISALS ~~AND POSITION DESCRIPTIONS~~**

### **(Prior Article 23)**

Section 1. Employees shall be granted annual performance pay increases on their eligibility date provided the employees are not at the top of the salary range of their classification and provided the employee's work performance has not been deficient. The Agency shall give notification in writing of withholding of performance increases to all employees at least fifteen (15) days prior to the employee's eligibility date. Any grievances for denial of annual performance pay increases will be processed under **Article 3.6**, however the substantive judgment of the rater cannot be grieved if there is no impact on the salary of the employee.

Performance shall include the following criteria:

- A. Classification specifications developed and promulgated by the Employer.
- B. A written position description, delineating specific duties consistent with the classification specification. A copy of the position description shall be given to the employee. The position description shall be subject to at least one (1) annual review with the employee and any changes shall be developed by his/her supervisor. Position descriptions shall reflect the actual duties performed by the employee. A copy of the current specifications shall be available to the employee at any time at the employee's request. Nothing contained herein shall compromise the right or the responsibility of the Agency to assign work consistent with the classification.
- C. Written memoranda including letters of instruction and disciplinary actions.
- D. Positive customer, peer, or Agency feedback within the same appraisal period.
- E. Coaching and performance feedback given to the employee.
- F. This should also be the opportunity to review goals and employee development.

Section 2. The performance appraisal shall be prepared in the following manner:

All regular status, full-time employees must be rated annually each year by the employee's salary eligibility date (SED). If the performance appraisal was not completed by the employee's SED, the manager may request in writing to complete

a performance appraisal. If the employee agrees in writing, the performance appraisal will be completed and placed in their personnel file for the same time period.

If the Department fails to rate the employee by their SED, the employee's next rating cannot include the prior time period that was not rated. No criticism or derogatory remarks can be included in the performance appraisal that is not based upon the criteria in section 1 of this Article.

Employees who have not had an evaluation within the previous twelve (12) months period, may request, and shall be granted a written performance evaluation. Such evaluation shall be completed within sixty (60) days of such request. The evaluation period under this review shall be the twelve (12) months immediately prior to the date the evaluation was requested. Future performance appraisals will continue to be coordinated with the SED.

If an employee is on medical or extended leave during the time their performance appraisal is due (i.e., their SED), the manager will have sixty (60) calendar days following the employee's return from medical or extended leave, to provide a performance appraisal to the employee.

Section 3. The above criteria shall be the primary factors upon which an employee's performance is judged and upon which annual performance pay decisions are determined. All performance appraisals shall be prepared by the employee's immediate supervisor. When an employee has been supervised by two (2) or more immediate supervisors during the appraisal period, the performance appraisal shall reflect the evaluations of the current supervisor following consultation with the previous supervisor(s). The immediate supervisor shall discuss the evaluation with the employee and both shall sign the copy to be retained in the personnel file, indicating that the evaluation has been discussed. If the employee disagrees with any portion of the evaluation, the employee may contact the immediate up-line manager. If the immediate up-line manager changes the evaluation after the employee has seen the evaluation, notification thereof and reason therefore shall be given to the employee. If the employee desires to submit a written statement in explanation or mitigation of any remark on the performance appraisal, the statement shall be submitted within ninety (90) days of receiving the appraisal, and shall be attached to the performance appraisal. Salary denial based upon any factor other than those listed above, except those based upon a statutorily defined disciplinary action, shall be invalid. Every employee shall receive a performance appraisal at the end of a trial service period and annually each year by the employee's SED.

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### **ARTICLE 4.3 APPOINTMENTS (Prior Article 28)**

Section 1. (ODOT and OPRD only.) Seasonal Appointments. Positions which occur, terminate and recur periodically and regularly regardless of the duration thereof shall be designated as seasonal positions, and employees regularly certified for and serving satisfactorily in such positions for six (6) full calendar months shall be entitled to regular status as regular seasonal employees.

The Agency's Personnel Services Section shall maintain a record defining the normal

duration of all seasonal positions commonly in use in that Agency and shall provide eligible lists and establish procedures necessary for the certification and appointment of employees to such positions.

Section 2. Limited Duration Appointment. Persons may be hired for special studies and projects of uncertain or limited duration which are subject to the continuation of a grant, contract or award or legislative funding for special projects. Persons may also be hired to backfill behind an employee on approved leave including illness, injury, temporary reassignment to a developmental or rotational opportunity or for workload issues. Such appointments shall be for a stated period not exceeding two (2) years, but shall expire: 1) upon the earlier termination of the special study or project, 2) when the permanent employee returns to his position, or 3) when the workload issue is resolved. Successive appointments may be approved by the Agency. No newly hired person for a limited duration appointment shall be entitled to layoff rights. A person who accepts a limited duration appointment who was formerly a classified employee is entitled to rights under the layoff procedure starting from the prior classification. A person accepting such appointment shall be informed of the conditions of the appointment and acknowledge in writing that he/she accepts the appointment under these conditions.

Section 3. Job-Sharing. "Job-sharing position" means a full-time position that may be held by more than one (1) individual on a shared time basis whereby each of the individuals holding the position works less than full time.

- A. Job-sharing is a voluntary program. Any employee who wishes to participate in job-sharing may submit a written request to the Appointing Authority to be considered for job-share positions. The Appointing Authority shall determine if job-sharing is appropriate for a specific position and will recruit and select employees for job-share positions. Where job-sharing is determined appropriate, the Appointing Authority agrees to provide written notification to all job-share applicants of available job-share positions in their office in the Agency.
- B. Job-sharing employees shall accrue vacation leave, sick leave, and holiday pay based on a proration of hours worked in a month during which the employee has worked thirty-two (32) hours or more. Individual salary review dates will be established for job-share employees.
- C. Job-sharing employees shall be entitled to share the full Employer paid insurance benefits for one full-time position based on a proration of regular hours scheduled per week or per month whatever is appropriate. In any event, the Employer contribution for insurance benefits in a job-share position is limited to the amount authorized for one (1) full-time employee. Each job-share employee shall have the right to pay the difference between the Employer paid insurance benefits and the full premium amount through payroll deduction.
- D. If one (1) job-sharing partner in a job-sharing position is removed, dismissed, resigns or is otherwise separated from State service, the Appointing Authority has the right to determine if job-sharing is still appropriate for the position. If the Appointing Authority determines that job-sharing is not appropriate for the position or the Appointing Authority is

unable to recruit qualified employees for the job-sharing position, the remaining employee shall have the right to assume the position on a full-time basis. Upon approval of the Appointing Authority, the remaining employee may elect to transfer to a vacant part-time position in the same classification or to voluntarily demote. If the above conditions are not available or acceptable, the employee agrees to resign.

#### **ARTICLE 4.4 PERSONNEL RECORDS (Prior Article 25)**

Section 1. There will be one (1) official personnel file maintained by the Employer for each employee. The location of personnel files will be determined by the employing agency. All references to “supervisory file” in the Agreement refer to a file kept by the employee’s supervisor.

Section 2. Upon reasonable notice, an employee may examine his or her own personnel file, medical file, and/or supervisory file. Review of these files will be in the presence of an Employer representative during business hours, unless otherwise arranged. If any of the files listed above are kept at a location different than the employee’s work station, the employee shall, at the agency’s discretion, either be allowed to go where the file is kept or the file (or a copy of the file) will be brought to the employee for review. Written authorization from the employee is required before any representative of the employee will be granted access to these files. The employee and/or representative may not remove any contents from the official personnel, medical and/or supervisory file.

Section 3. No information reflecting negatively upon an employee shall be placed in the employee’s official personnel file unless the employee is notified. The employee shall be entitled to prepare a written explanation or response regarding negative information believed to be incorrect or a misrepresentation of facts. The written explanation shall be included as part of the employee’s official personnel file and retained until the related negative documents are removed. If the employee believes that such specific information should be removed entirely from the official personnel file, he/she may petition for consideration beginning with Step 2 of the established grievance procedure.

Section 4. The employer will abide by State Archivists records retention schedule. Nothing in this Article prevents the Employer and the Association from agreeing to remove disciplinary actions before the end of three (3) years.

#### **ARTICLE 4.5 OUTSIDE EMPLOYMENT (Prior Article 14)**

Section 1. No employee shall pursue any outside employment which will in any way reduce his/her efficiency during working hours or interfere in any way with his/her availability during emergencies or that would give any ground for suspicion or criticism by the public. For example, no employee may work for a highway contractor on the ODOT list of pre-qualified contractors.

Section 2. (ODOT only.) Any employee involved in the acceptance of a gift, loan or any other item of value, or who accepts employment with a contractor on the ODOT list, will be subject to appropriate discipline. No employee may participate in, or arrange for, the renting, leasing, or purchasing of equipment, supplies or materials for such a contractor.

#### **ARTICLE 4.6 CONTRACTING OUT [ODOT ONLY] (Prior Article 68)**

~~The parties will establish a labor/management committee that will meet periodically to~~

~~discuss contracting out and its effects upon the bargaining unit. Membership in the committee will be limited to three (3) members of labor and three (3) members of management.~~  
Section 1. The Association recognizes that the Employer has the management right, during the term of this Agreement, to decide to contract out work performed by bargaining unit members.

Section 2. The Employer shall provide the Association with no less than thirty (30) days' notice that it intends to request bids or proposals to contract out bargaining unit work where the decision would result in displacement of bargaining unit members. During this thirty (30) day period, the Employer shall not request any bids or proposals and the Association shall have the opportunity to submit an alternate proposal.

Section 3. Should any full-time bargaining unit member become displaced as a result of contracting out, the Employer and the Association shall meet to discuss the effect on bargaining unit members. "Displaced" as used in this Article means when the work an employee is performing is contracted to another entity outside state government and as a result, the employee will no longer be employed.

Section 4. Once the Agency makes a decision to contract out, any displaced employees will be considered laid off and the provisions in Article 6.5 shall apply.

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#### **ARTICLE 4.7 CRIMINAL RECORDS CHECK (Prior Article 76)**

Section 1. Except as provided by Governor's executive order or state or federal law as implemented by Agency rule or policy, the Employer will not require a criminal records check on any current employee in his or her current position if the requirement was not in place when the employee was appointed to the position. Agencies will send Agency rules, policies and subsequent changes to the Association Headquarters.

#### **Section 2. Position Descriptions and Recruitment Announcements.**

If a criminal records check is required for a position, such requirement shall be included in the recruitment announcement. As a position description is revised, the requirements for a criminal records check shall be included, however, this does not apply where all agency positions required a criminal records check.

#### **Section 3. Determination in Current Position.**

- A. If an employee is found to be unfit for his/her current position based on a new criminal records check and the Agency proceeds under **Article 24.1**, the employee retains all **Article 24.1** rights.
- B. If a regular status employee is determined to be unfit for his/her current position based on a new requirement, then the employee shall be notified of the determination and upon request will be informed of the information from the criminal record used in the determination. The employee will be provided options, including layoff.

#### **Section 4. Promotions, Transfers, and Voluntary Demotions.**

If through a promotion, transfer, or voluntary demotion process a criminal records check is required and an employee is found to be unfit, upon request, the employee will be informed of the information from the criminal record used in the determination.

The appointment to the position will not be delayed. Fitness determination based on information from the criminal record checks shall not be subject to the grievance/arbitration procedures.

**Section 5. Layoffs/Recall.**

- A. Layoff. In the event of a layoff, a criminal records check will not be required as a condition of employment, for displacing an employee from another job, bumping into another job, demotion to another job, or being recalled to a position, unless specified in the position description. If required, the employee will be notified before the criminal records check commences. Once notified, the employee can waive his/her right to that position and may displace the lowest seniority employee in a position where no criminal record check is required, pursuant to **Article 37-6.5** and the prioritization of his/her option(s) as previously communicated to the Agency.

If all positions in the Agency require a criminal record check, this information will be included in the notification of pending layoff given the Agency is not required to reflect the criminal record check in the position description.

- B. Recall from Layoff. If in the recall process an employee is determined to be unfit for a position, upon request the employee will be informed of the information from the criminal record used in the determination. Any appointment to the recall position will be delayed until the conclusion of the meeting.

**Section 6.** Regardless of whether the fitness determination was based on an accurate or inaccurate criminal record, the employee may request a meeting to discuss the information from the criminal record used in the determination. Such discussion, if requested, shall be within five (5) working days of the notification. Upon the request of the employee, a job representative may accompany the employee during the meeting. In the event the fitness determination changes as a result of the information provided, the Agency will notify the employee in writing. If an employee is not satisfied with the results of the meeting, he or she may appeal the fitness determination as outlined in the Agency rule or policy.

**Section 7.** Fitness determinations based on information from the criminal record checks shall not be subject to the grievance/arbitration procedures, except as provided in Section 3(A).

**Section 8.** Information received as a result of a criminal records check shall be secured in a file separate from the employee's official personnel file. Destruction of the information received as a result of a criminal records check shall be consistent with state or federal law.

**Section 9.** Employees shall not be required to pay the Employer's/Agency's criminal records check fee(s) or Employer/Agency representation costs.

**ARTICLE 4.8 WORKLOAD (Prior Article 78)**

Employees are encouraged to discuss workload issues with supervisors.

Any employee may request assistance from his/her immediate supervisor in establishing or adjusting priorities in order to carry out his/her work assignment. The supervisor will take into account variables that impact the difficulty of assignments to the employee. The employee may request to have the responses provided orally or in writing and the immediate supervisor will respond in no later than ten (10) calendar days.

## **DIVISION 5 – WORKPLACE SAFETY**

### **ARTICLE 5.1 SAFETY AND HEALTH (Prior Article 26)**

#### **Workplace Behavior:**

The Employer is committed to ensuring that the workplace is respectful, professional and free from inappropriate workplace behavior for all employees pursuant to the statewide Maintaining a Professional Workplace policy (50.010.03).

Any alleged violations of this section shall be filed at Step 2 of the grievance procedure and may only proceed up to the Labor Relations Unit of the Department of Administrative Services (DAS) (Step 3 of the grievance procedure) and are not arbitrable.

ODOT and OPRD: A complaint form to report violations of the applicable Agency Policy will be accessible to all employees. No employee shall be subject to retaliation for filing a complaint, providing a statement, or otherwise participating in the administration of this process.

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### **ARTICLE 5.2 SAFETY AND HEALTH [ODOT ONLY] (Prior Article 26A)**

Section 1. The Agency agrees to abide by and maintain in its facilities and work operations standards of safety and health in accordance with the Oregon Safe Employment Act (ORS 654.001 to 654.991). In the event the Agency is cited for compliance failure, the Association shall be provided a copy of the citation and notices relating to the incident.

Section 2. Proper safety devices and special protective clothing shall be provided by the Agency as required by the Agency and/or the Oregon Safe Employment Act. Lab coats and other apparel currently being provided under clothing rental contracts will continue to be provided during the term of this Agreement. Such items, where provided, must be used. Employees shall report to work clothed to carry out their normal duties.

In the event an employee feels that he/she is arbitrarily and unnecessarily required to wear safety apparel, he/she may appeal to the Safety Committee and the Agency and the employee shall comply with the findings of the Committee.

The Agency shall provide sufficient tools for the performance of incidental or routine minor mechanical maintenance and other duties of the employee. Specialty tools and equipment which fall outside the normal tools of the trade shall be provided by the Agency.

#### **Section 3.**

- A. If an employee claims that an assigned job or vehicle is unsafe or might unduly endanger his/her health and, for that reason, refuses to perform the work or use the vehicle, the employee shall immediately give specific

reason(s) to the supervisor in writing. The supervisor shall request an immediate determination by the Agency Safety Representative or, if none is available, a safety representative of the Workers' Compensation Department as to whether the job or vehicle is safe or unsafe. At the discretion of the Association, an Association staff member, a Job Representative or key member on the immediate crew may accompany the Agency or Workers' Compensation Department representative conducting the safety inspection. Salary and expenses of the Job Representative will be borne by the Association. Salary and expenses, if any, of the key member will be paid by the Agency.

- B. Pending determination provided for in Section 3(A), the employee shall be provided with a suitable vehicle or assigned suitable work elsewhere if such work is available. If no suitable work is available, the employee shall be sent home.
- C. Time lost by the employee as a result of any refusal to perform work on the grounds that it is unsafe or might unduly endanger his health, or time lost from being sent home under Section 4(B) shall not be paid for by the Agency unless the employee's claim is upheld.
- D. Employees shall not perform hazardous work or to operate hazardous equipment without at least one (1) other person in the area, although such other person may be performing other related duties.

Section 4. A Safety Committee shall be maintained in each of the Agency's geographical regions. The Association will continue to have representation on these committees.

Members of these Committees will meet monthly, if necessary, to review vehicle accidents and personal injuries. Reported violations of safety or health conditions will be considered and recommendations submitted to ODOT Administration for consideration.

Section 5. The Association shall be represented on the Safety Leadership Team (or equivalent) and meet in accordance with Safety Leadership Team charter.

Section 6. Travel expenses incurred by all personnel assigned to this Committee shall be paid at the current rates.

### **ARTICLE 5.3 SAFETY AND HEALTH [FORESTRY ONLY] (Prior Article 26B)**

Section 1. The Employer agrees to abide by and maintain in its facilities and work operations standards of safety and health in accordance with the Oregon Safe Employment Act (ORS 654.001 to 654.991). In the event the Agency is cited for compliance failure, the Association shall be provided with a copy of the citation and notices relating to the incident affecting employees in the bargaining unit.

Section 2. Proper safety devices and clothing shall be provided by the Employer for all employees engaged in work where such devices are necessary. Such equipment, where provided, must be used.

Section 3.

- A. If an employee claims that an assigned job or vehicle is unsafe or might unduly endanger his/her health and, for that reason, refuses to do the job or use the vehicle; the employee shall immediately give specific reason(s) in writing to the supervisor. The supervisor shall request an immediate determination by the Agency Safety Representative or, if none is available, a Safety Representative of SAIF as to whether the job or vehicle is safe or unsafe. At the discretion of the Association, an Association staff member or authorized Job Representative shall accompany the Agency or SAIF representative conducting the safety inspection.
- B. Pending determination provided for in this Section, the employee shall be given suitable work elsewhere if such work is available. If no suitable work is available, the employee shall be sent home.
- C. Time lost by the employee as a result of any refusal to perform work on the grounds that it is unsafe or might unduly endanger his/her health shall not be paid for by the Employer unless the employee's claim is upheld.
- D. The Employer will not require the employee to perform hazardous work or to operate hazardous equipment without at least one (1) other person in the area although such other person may be performing other related duties.

#### **ARTICLE 5.4 SAFETY AND HEALTH [OPRD ONLY] (Prior Article 26C)**

Section 1. The Agency agrees to abide by and maintain in its facilities and work operations standard of safety and health in accordance with the Oregon Safe Employment Act (ORS 654.001 to 654.991). In the event the Agency is cited for compliance failure, the Association shall be provided a copy of the citation and notices relating to the incident.

Section 2. Proper safety devices and special protective clothing shall be provided by the Agency as required by the Agency and/or the Oregon Safe Employment Act. Such items, where provided, must be used. Employees shall report to work clothed to carry out their normal duties.

In the event an employee feels that he/she is arbitrarily and unnecessarily required to wear safety apparel, he/she may appeal to the Safety Committee and the Agency and the employee shall comply with the findings of the committee.

The Agency shall provide sufficient tools for the performance of incidental or routine minor mechanical maintenance and other duties of the employee. Specialty tools and equipment which fall outside the normal tools of the trade shall be provided by the Agency.

#### **Section 3.**

- A. If an employee claims that an assigned job or vehicle is unsafe or might unduly endanger his/her health and, for that reason, refuses to perform the work or use the vehicle, the employee shall immediately give specific reason(s) to the supervisor in writing. The supervisor shall request an immediate determination by the Agency Safety Representative or, if none is available, a safety representative of the Workers' Compensation Department as to whether the job or vehicle is safe or unsafe. At the

discretion of the Association, an Association staff member, a Job Representative or key member on the immediate crew may accompany the Agency or Workers' Compensation Department representative conducting the safety inspection. Salary and expenses of the Job Representative will be borne by the Association. Salary and expenses, if any, of the key member will be paid by the Agency.

- B. Pending determination provided for in Section 3(A), the employee shall be provided with a suitable vehicle or assigned suitable work elsewhere if such work is available. If no suitable work is available, the employee shall be sent home.
- C. Time lost by the employee as a result of any refusal to perform work on the grounds that it is unsafe or might unduly endanger his health, or time lost from being sent home shall not be paid for by the Agency unless the employee's claim is upheld.
- D. The Agency will not require the employee to perform hazardous work or to operate hazardous equipment without at least one (1) other person in the area, although such other person may be performing other related duties.

Section 4. The Association will continue to have a representative on the Salem Headquarters Safety Review Board provided an Association represented employee volunteers for such committee membership.

Members of the Safety Review Board will meet monthly, if necessary, to review vehicle accidents and personal injuries. Reported violations of safety or health conditions will be considered and recommendations submitted to the Agency safety manager.

Section 5. Travel expenses incurred by all personnel assigned to this Committee shall be paid at the current rates.

## **DIVISION 6 – VACANCIES, TRANSFERS, TRIAL SERVICE AND LAYOFF**

### **ARTICLE 6.1 VACANCY AND PROMOTION LISTS [ODOT/OPRD ONLY] (Prior Article 27A,C)**

Section 1. Any vacancy to be filled within the Agency shall be filled first by hiring from the Agency Union Layoff List, second by the Secondary Recall List. The Agency shall then consider candidates from the Open Competitive List and the Agency Transfer List; the order of lists being at the discretion of the Agency. Direct appointments shall only be made when the previous options are exhausted and in accordance with the criteria outlined in DAS Policy 40-010-02.

Section 2. Selection of employees and positions for developmental assignments, cross training, and career development shall be made by the Agency and Section 1 above will not apply. Employees interested in these opportunities may notify the Agency's Human Resource office and will be considered for such assignment. Developmental assignments shall not exceed one (1) year; however, extensions of these assignments may be agreed to by the Association and the Agency.

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## **ARTICLE 6.2 FILLING OF VACANCIES [FORESTRY ONLY] (Prior Article 27B)**

Section 1. Vacancies will be filled based on merit principles with a commitment to upward mobility through the use of lists of eligible candidates, except for direct appointments, transfers, demotions, or reemployments. Lists shall be established through the use of tests which determine the qualifications, fitness and ability of the person to perform the required duties.

Section 2. Except for the Agency Layoff List, the Agency retains all rights to fill a vacancy using any of the following methods or lists as appropriate. The appropriate Agency Layoff List shall take precedence over all other lists and reemployment, direct appointment, and severely handicapped appointments.

AGENCY LAYOFF LISTS: Names of regular status employees of the Agency who have separated from the service of the State in good standing by layoff or who have demoted in lieu of layoff shall be placed on lists established by classification from which the employee was laid off or demoted in lieu of layoff.

The term of eligibility of candidates placed on the lists shall be two (2) years from the date of their separation from the classification in which they earned layoff rights.

Section 3. The Employer will provide promotional announcements on bulletin boards and shall give employees a minimum of two (2) weeks' notice regarding open examinations. The notice shall include duties and pay of the positions, the qualifications required, the time, place, and manner of making application, and other pertinent information. The Employer further agrees to notify employees of their examination results. Application forms shall be available to all employees who wish to apply for these examinations.

Section 4. Selection of employees and positions for limited duration developmental assignments, cross-training, and career development shall be made by the Agency and Sections 1, 2, and 3 above will not apply. Employees interested in these opportunities may notify the Agency's Personnel Section and will be considered for such assignment. Limited duration assignments shall not exceed two (2) years; however, extension of these assignments may be agreed to by the Association and the Agency.

## **ARTICLE 6.3 EMPLOYEE TRANSFER, DEMOTION AND PROMOTION (Prior Article 29)**

Section 1. Promotions. Employees shall be eligible for promotions, within the Agency, to any position for which they meet the minimum qualifications.

Section 2. (ODOT only.) When opportunities for transfer or promotion of employees become open, those employees eligible for interview shall receive notice at least five (5) days before the scheduled date of interview. The employee, after receiving such notice, will be allowed a maximum of two (2) working days to accept or reject the interview offer. Fair consideration for the promotion or transfer shall be given to employees who are eligible. All transfers shall be considered to be for the benefit of the employer except those covered by Section 4 of this Article.

Section 3. (ODOT only.) When the position is filled, each unsuccessful employee

applicant shall be mailed notification within five (5) days of the appointment that the position has been filled.

Section 4. (ODOT only.) Employees may volunteer for transfer. It is the responsibility of any employee wishing to transfer to another location to make a written request to the Agency Personnel Operations Section clearly indicating the reasons for desiring a transfer. Requests based on medical or family welfare situations will be given priority and, at the discretion of the Agency, may be considered to be for the benefit of the Agency.

Section 5. (ODOT only.) In filling vacancies, excepting lack of work situations, and except in career development, cross-training or other developmental situations, as defined in Article 27A6.1, Section 2, ~~Vacancy and Promotions~~, it is the intent of the Agency to fill such vacancies by promotion rather than by transfer. All transfers shall be at the discretion of the Agency. Requests for transfer may be considered separately or in combination with candidates for promotion at the discretion of the Agency.

Section 6. Any transfer or promotion granted as the result of a competitive interview will be considered to be for the benefit of the Agency. A request for transfer which is granted without the competitive interview procedure, or without a notice of vacancy being circulated to eligible employees, shall be considered to be for the benefit of the employee and any employee desiring this type of consideration shall agree to this condition when requesting transfer.

Section 7. (ODOT only.) If, because of lack of work, it is necessary to geographically transfer an entire crew, it shall be considered "at the request of or for the benefit of the Agency" and the crew may be transferred as a unit with no seniority consideration to individual members of that crew.

Section 8. If, because of lack of work, it is necessary to transfer an individual employee out of the work unit, it shall be done as follows:

- A. The Agency shall first select from the list of volunteer employees who hold equivalent positions. The Agency may deny a request if the employee does not possess the basic skills for the position or is currently essential to the job he/she is presently on.
- B. If there are no employees on the volunteer list for transfer, the Agency shall identify the least senior employee for transfer. Seniority shall be computed only for those qualified employees in the equivalent position at the geographical location, and the one (1) with the least seniority shall be transferred. If there is more than one (1) crew or work unit at the geographical location, then the seniority in a particular equivalent position would apply to all the crews treated as one (1) unit.

Section 9. In any other non-voluntary geographic transfer situation an employee selected who does not want to transfer shall be entitled to a meeting at Step 2 of the grievance procedure to determine if the transfer is appropriate. Such meeting shall occur at the employee's option and shall be held prior to the transfer becoming effective.

Section 10. A transfer requested by an employee because of a medical condition

resulting from job connected injury shall be considered to be a transfer for the benefit of the Employer.

Section 11. Any change of an employee from a position in one (1) class to a position in a class of lower rank shall be considered a demotion.

Section 12. Voluntary Demotion. An employee may make a request in writing to the Appointing Authority for demotion from a position in one (1) class to a position in a class of lower rank. If an employee is qualified, the Administrator or Appointing Authority may approve the request, provided it would not result in the layoff of a regular employee in the lower class. An employee so demoted may at a later date request that his/her name be placed on an appropriate reemployment list for the higher class in which he/she has gained status as a regular employee.

Section 13. Transfer of employees from and to work units within the same geographic area may be at the discretion of the Agency and shall not require seniority consideration or a meeting. For the purposes of this Article, a geographical area is that area within a radius of thirty-five (35) miles from the assigned official work station.

Section 14. Except in the case of an emergency, the Agency shall give the employee a minimum of three (3) days' notice in advance of the reporting date when the employee is being assigned to work at a temporary headquarters. The employee shall be given maximum possible notice when returning to permanent headquarters.

Section 15. An employee not presently represented by this Agreement who transfers to a bargaining unit position represented by the Association shall be covered by the terms of this Agreement as of the effective date of the appointment. Unless otherwise determined in advance by the Agency, a voluntary transfer into a position represented by the Association of Engineering Employees Bargaining Unit shall be considered to be for the benefit of the employee.

#### **ARTICLE 6.4 TRIAL SERVICE (Prior Article 30)**

Section 1. Each employee appointed to a position in the bargaining unit by initial appointment, promotion, lateral transfer inside his/her Agency and between agencies, reinstatement or reemployment shall, with each appointment, serve a trial service period.

Section 2. The trial service period is an extension of the selection process and is the time immediately following appointment and shall not normally exceed six (6) full calendar months of actual service in the position. Trial service may last less than six (6) months or may be extended up to an additional six (6) months. Trial service may be extended only in instances where a trial service employee may need additional training, verification of licensure, or certification to qualify for the position or when the employee has been on a cumulative leave with pay or without pay for fifteen (15) days or more and then only by the number of days the employee was on such leave. An employee's trial service may also be extended for the purpose of developing skills and/or knowledge necessary for competent job performance. Written notice of the extension will be provided to the employee and a copy of the extension shall be forwarded to the Association and the DAS Labor Relations Unit.

Section 3. When, in the judgment of the Employer, performance has been adequate to

clearly demonstrate the competence and fitness of the trial service employee, then, at the end of three (3) months, the employer may appoint the employee to regular status. In these cases, salary adjustments will be made according to **Article 5211.3, Section 1 (B) (Salary Administration)**.

**Section 4.** Trial service employees may be removed from service when, in the judgment of the Employer in accordance with ORS 240.410, the employee is unable or unwilling to perform his/her duties satisfactorily or his/her habits and dependability do not merit continuance in the service. Removals under this Article are not subject to appeal or to the grievance procedure.

**Section 5.** An employee who is transferred to another position in the same class or a different class at the same or lower level in the same agency prior to the completion of his/her trial service period, shall complete his/her trial service period by adding the service time in the former position.

**Section 6.** An employee who is transferred to another position in the same class, or a different class at the same or lower level in another agency prior to the completion of his/her trial service period, shall serve a six (6) month trial service period in the latter position without regard to service in the former position.

**Section 7.** A bargaining unit employee who accepts a promotion or a lateral transfer and is removed during trial service shall be returned to the Agency and his/her former classification, unless terminated under **Article 24 4.1—Discipline and Discharge**.

**Section 8.** Nothing in this Article shall limit an employee's eligibility for a salary increase.  
*REV: 2017, 2019*

#### **ARTICLE 6.5 LAYOFF [ALL AGENCIES] (Prior Article 37)**

**Section 1.** A layoff is defined as a separation from service for involuntary reasons, other than resignation, not reflecting discredit on an employee.

**Section 2.** Layoffs shall be implemented in the following manner:

- A. The Agency shall give the Association written notice of an impending layoff at the same time the employees are notified of the layoff as stated in section 3 of this Article. Upon request, the Agency will meet with the Association to discuss the factors causing the layoff.
- B. As soon as possible and upon request, the Agency and Association shall meet to discuss the need for an implementation of job search services.
- C. Seniority will be calculated for all employees within the Agency in accordance with Section 6 of this Article, and lists for each classification series shall be prepared for:
  - (1) Part-time employees
  - (2) Full-time employees
  - (3) Seasonal employees

### Section 3.

- A. The Agency shall determine the specific position to be vacated and employees in those positions shall be notified of layoff. The Agency shall notify in writing all affected employees of his/her seniority and his/her contractual bumping rights. The Agency shall notify the Association of the seniority of all employees in all affected positions in writing. In addition the Agency shall provide each Job Representative in the geographic area affected by layoff with one (1) written copy of the seniority of the employees in all affected positions in that geographic area. The Agency shall also post a copy of the seniority of all affected positions in the geographic area on the employee bulletin board.
- B. An employee notified of a pending layoff shall have one (1) opportunity to prioritize the following options and communicate such choices in writing to the Agency within ten (10) calendar days from the date the employee is notified in writing. If the date the employee's response is due falls on a Saturday, Sunday, or holiday or regularly scheduled day off, the employee will provide his/her choice to the Agency on the next business day.
- Option (1) The employee may displace the employee in the Agency with the lowest seniority in the same classification for which he/she is qualified in the same geographic area in the Agency where the layoff occurs.
- Option (2) If no positions are accessible under option (1), the employee may displace the employee in the Agency with the lowest seniority in the same geographic area in any classification with the same salary range in which the employee previously held regular status, including any predecessor classification; or, if this choice is not available to the employee, the employee may move into vacant positions in classifications with the same salary range that the Agency intends to fill in the same geographic area.
- Option (3) The employee may identify and prioritize up to three (3) classifications in lower salary ranges for which he/she is qualified within the Agency and same geographic area. The employee may demote to the lowest seniority position in one of the identified classifications considered in the order listed by the employee, pursuant to this Section. Employees who elect to demote shall be placed on any geographic area layoff list of his/her choice within the Agency for the classification from which he/she demoted.
- Option (4) The employee may elect to be laid off. An employee who elects to be laid off shall be placed on any geographic area layoff list of his/her choice within the Agency for the classification from which he/she was laid off.
- C. The definition of geographic area shall be defined in Appendix A of this agreement. For all options, there shall be no cross bumping between the Association and any other union in the Agency.

Section 4. To facilitate the process, employees electing to demote in lieu of layoff who do not have the lowest seniority in their classification, shall have all rights to return to their

former classification via the layoff list.

An employee may volunteer to accept another employee's transfer under Options 1, 2, 3 or 4 if acceptable to the Agency.

The employee may request to go on the Agency layoff list, the order of which shall be in inverse order of seniority.

- A. Before exercising any of the options under Section 3, the employee must meet the minimum qualifications and any special qualifications for the position for the classification, and must satisfactorily perform the duties of the position in ninety (90) calendar days.
- B. Any regular status employee displaced by another employee exercising his/her options under Section 3 may also exercise any option available under Section 3.
- C. Employees refusing to accept the option to a position made available by the Agency in accordance with the employee's selected option shall be considered to have been laid off.
- D. Executive Service and Management Service employees removed from positions excluded from collective bargaining and restored to classifications that are represented by the Association shall immediately be covered by the terms of this Agreement.

#### Section 5.

- A. Temporary employees working in the classification and geographic area in which a layoff occurs must be terminated prior to the layoff of trial service or regular status employees.
- B. An initial trial service employee cannot displace any regular status employee. Initial trial service employees (new hires) must be removed prior to the reduction in force of regular employees. The order in which initial trial service employees are removed shall be based on seniority. Initial trial service employees who are removed, or demoted in lieu of layoff, will not be placed on the Agency layoff list, but shall be restored to the eligible list from which certification was made, if the eligible list is still active. Restoration to the list shall be for the remaining period of eligibility that existed at the time of appointment from the list.
- C. Regular status employees shall be laid off in the following order:
  - (1) Seasonal employees
  - (2) Part-time employees
  - (3) Full-time employees

Job share employees shall be treated as part time employees.

#### Section 6. Computation of seniority shall be made as follows:

- A. Seniority Definition: Seniority is the layoff service date (LSD) which is the date the employee began state service (except as a temporary employee) as adjusted for break(s) in service.
- B. Breaks in Service: A break in State service is a separation or interruption of employment with the State without pay of more than two (2) years. If an employee has a break in service that does not exceed two (2) years, he/she shall be given credit for the time worked prior to the break in service. Seniority will also be adjusted for leaves without pay in excess of one (1) year.
- C. Seniority Date Fixed: When the Agency intends to initiate a layoff, the Agency will notify the Association in writing that all seniority will be fixed and will not change from the date of notice for a period not to exceed three (3) months. However, during the period when seniority is not changed, the employee will continue to accumulate time toward seniority for purposes of future computations. The three (3) month period may be extended by mutual written agreement of the Agency and Association.
- D. Equal Seniority: If it is found that two (2) or more employees in the Agency in which the layoff is to be made have equal seniority, then the greatest length of continuous service in the Agency shall be used. If ties between employees still exist, the order of layoff shall be determined by the Agency in such a manner as to conserve for the State the services of the most qualified employee.

Section 7. Regular status employees laid off, or demoted in lieu of layoff, shall be placed, in order of seniority on the Agency layoff list for the geographic area in which the layoff occurs. The term of eligibility of candidates placed on the lists shall be two (2) years from the date of their separation from the classification in which they earned layoff rights. Should an employee be recalled from an Agency layoff list, the employee will not be eligible for moving expenses.

Section 8. Regular status seasonal employees laid off prior to the end of the season shall be placed, in order of seniority, on the Agency layoff list for seasonal reappointment, and shall be limited so as to encompass only those seasonal employees in a class who are employed at a specific geographical location where the layoff occurs. The eligibility of such seasonal employees shall be canceled at the end of each season. At the completion of a season, all seasonal employees shall be terminated without regard to seniority computation. Regular status seasonal employees terminated at the end of the season shall be placed on the reemployment list in order of seniority, and shall be recalled by geographical area the following season, in order of seniority, to the extent that work is available to be performed.

Section 9. Employees who are on an Agency layoff list shall be recalled by geographic area in seniority order beginning with the employee with the greatest seniority.

- A. Same Geographic Area Recall/Recall to a Permanent Position. If an employee is certified from a layoff list and is offered a permanent position in the geographic area from which he/she demoted in lieu of layoff or was laid off, he/she shall have one (1) right of refusal. Upon a second refusal,

however, the employee's name will be removed from the layoff list in that geographic area.

- B. Different Geographic Area Recall/Recall to a Permanent Position. If an employee is certified from a layoff list and is offered a permanent position in a different geographic area from which he/she demoted in lieu of layoff or was laid off, he/she shall have one (1) right of refusal. Upon a second refusal, which must be more than fifteen (15) day period shall not have his/her name removed from the list. An employee who has other refusals during this fifteen (15) day period shall not have his/her name removed from the list.
- C. An employee appointed to a permanent or seasonal position from a layoff list shall be removed from all layoff lists for that classification.
- D. Moving expenses will not be paid by the Agency for any moves associated with displacement, demotion in lieu of layoff, or return from a layoff list.

#### Section 10. Secondary Recall Rights.

- A. Application: These rights apply to all employees and Agencies represented by the Association except employees who are laid off during initial trial service.
- B. Definitions:
- C. The definition of geographic area shall be defined in Appendix A of this agreement. For all options, there shall be no cross bumping between the Association and any other union in the Agency.
- D. Secondary Recall List is an inter-Agency layoff list, which consists of regular status employees who have been separated by layoff from Association-represented positions in Association-represented Agencies and who have elected to be placed on such list, consistent with the definitions of geographic areas in Appendix A.
- E. The recall options shall be consistent with the priority of recall to positions from layoff within an Agency, except that recall from Agency Layoff Lists shall take precedence over recall from the Secondary Recall List.
- F. Procedures:
  - (1) Placement on the Secondary Recall List.
    - (a) Regular status employees and eligible limited duration employees, who are separated from the service of the State in good standing by layoff shall, in addition to their right to be placed on Agency Layoff Lists, be given the option of electing placement on the Secondary Recall List by geographic area for other Association represented Agencies which utilize the same classification from which they were laid off. The term of eligibility of candidates placed on the list shall be two (2) years from the date of placement on the list or the termination of this

Agreement whichever occurs first.

- (b) Employees who elect to be placed on the Secondary Recall List shall specify in writing the Agencies and geographic areas of their choice.

(2) Use of the Secondary Recall List.

- (a) After the exhaustion of any Agency Layoff List for a specific classification within a geographic area, the Secondary Recall List shall be used to fill all positions within a specific classification and geographic area consistent with Section 10(c) above, until such secondary list is exhausted.
- (b) To be eligible for appointment from the Secondary Recall List, a laid off employee on such list must meet the minimum qualifications from the classification and any special qualifications for the position.
- (c) Agencies shall utilize the Secondary Recall List to fill positions by calling for certifications from the list of the five (5) most senior employees who meet the minimum qualifications for the classification and any special qualifications for the position to be filled by selecting one of the five (5) so certified. Seniority for this purpose shall be computed as described in Section 6 of this Article.
- (d) Where fewer than five (5) eligible employees remain on the Secondary Recall List, the Agency shall select one (1) of these employees who meets the minimum qualifications for the class and any special qualifications for the position.

(3) Appointments/Refusals of Appointments from the Secondary Recall List.

- (a) Recall to a Permanent Position. A laid off regular status or eligible limited duration employee on the Secondary Recall List who is offered a permanent appointment from the list and refuses to accept the appointment shall have his/her name removed from the Secondary Recall List.
- (b) Employees appointed to positions from the Secondary Recall List shall have their names removed from all other Agency Layoff Lists and the Secondary Recall List.
- (c) Employees appointed to positions from the Secondary Recall List shall serve a trial service period not to exceed ninety (90) calendar days. Employees who fail to successfully complete this trial service period shall have their names restored only to the Agency Layoff Lists on which they previously had standing. Restoration to the Agency Layoff List shall be for the remaining period of eligibility that existed at the time of

appointment from the Secondary Recall List.

- (d) Employees appointed to positions from the Secondary Recall List shall not be entitled to moving expenses.

Section 11. When the Employer declares that a lack of funds will necessitate a layoff, the Parties may meet, if requested by either the Employer or the Association, to consider such alternatives to layoffs as: voluntary reductions in hours; voluntary paid leaves of absence; other voluntary programs and/or temporary interruptions of employment. Such alternatives shall be subject to mutual agreement by the Association and the Employer. In the absence of such mutual agreement, the Employer may implement layoff procedures consistent with this Agreement. The Parties agree that any and all discussions that take place under this Section shall not be subject to Article 2-1.2 and 31.3, or constitute interim negotiations under PECBA. In addition, the Parties will not be required to use the dispute resolution processes contained in PECBA.

## **DIVISION 7 – EMPLOYEE ORIENTATION AND TRAINING**

### **ARTICLE 7.1 NEW EMPLOYEE ORIENTATION (Prior Article 15)**

The Agency shall provide a program during the trial service period giving each new employee an orientation to State service. Such orientation shall include, but not necessarily be limited to, an explanation of the Employer's merit system, and compensation programs. Reasonable time shall be granted for a representative of the Association to make a presentation on behalf of the Association for the purpose of identifying the organization's representation status, organizational benefits, facilities, related information and distribution and collection of membership applications. This time is not to be used for discussion of labor management disputes. If the Association representative is an employee of the Agency, the employee shall be given time off with pay for the time required to make this presentation. The time required to make these presentations shall not keep the Association Representative from performing his/her regular duties.

### **ARTICLE 7.2 EDUCATION AND TRAINING [ODOT/OPRD ONLY] (Prior Article 21A,C)**

Section 1. Basic Agreement. The Oregon Department of Transportation and Parks and Recreation Department will make training and education available to its personnel to ensure top level job performance throughout the Department and to respond to developmental needs of the individual employee. When the Agency provides Agency-based training and education to the employee with professional and or technical qualifications, approval shall be in accordance with the remainder of this Article. This will be accomplished through on-the-job training, in-house classes, and external training and education.

The Agency and the Association believe that opportunity for training and education should be available to employees regardless of race, creed, color, national origin, sex, age or handicap, and will actively affirm and enforce that belief.

Self-improvement and development efforts of employees will be encouraged and supported. When education and training is determined to be appropriate by the supervisor

and employee and as funds are available, employees may receive financial assistance in these efforts.

Section 2. Guidelines, Training and Education Budget. The budget may be used in a variety of ways: to contract for in-house instruction; to enhance on-the-job training; to design, develop, and deliver ODOT/OPRD conducted in-house programs; and to enroll employees in courses at external training or educational sources.

A. ACCEPTABLE EXPENSES:

- (1) Tuition and registration fees.
- (2) Course materials, except textbooks.
- (3) Workbooks (non-reusable).
- (4) Rental of classroom facilities.
- (5) Rental and purchase of training aids and devices.
- (6) Salaries, fees, transportation, meals and lodging of instructors. Usually this applies only to non-employees, but special cases may include ODOT/OPRD employees used as instructors.
- (7) Instructor's guides or textbooks used as instructor's guides.
- (8) Services such as graphics, slide development, script-writing, etc., used in connection with production of training programs.

B. UNACCEPTABLE EXPENSES: (NOTE: This means that the items below cannot be paid for from the Training and Education budget; however, this does not preclude their being paid for from other Department funds.)

- (1) Most of the tools, equipment, textbooks, etc., that are retained by course participants at the conclusion of training.
- (2) Salaries, transportation, meals, and lodging of course participants.

C. METHODS OF PAYMENT: Either purchase orders or expense statements may be used for training and education expenditures. In either case, prior written approval must be obtained before funds are committed, or the employee committing such funds may be obligated to pay for the training.

Section 3. External Training and Education. To supplement on-the-job training and in-house classroom training, employees may be directed to attend training or educational programs outside of ODOT, or may request to do so. When an employee is directed to attend, the Department will pay all costs. When the employee requests such training, a determination must be made by the responsible manager, whether the Department will share in the cost, and to what extent.

This determination can be affected by too many variables to list here. However, a major consideration will be the amount of money available, versus the priority of the various training needs, and number of people requesting financial assistance. And, unless it can

be shown that there will be benefit to the Department, either through job improvement or career development within ODOT/OPRD, the Department will not participate in the cost. The Department may provide financial assistance and/or paid leave to employees who request to participate in job-related training and/or educational programs subject to operating requirements, training/educational priorities, and budget limitations. The Department encourages employees and supervisors to utilize the benefits of any training obtained by the employee when relevant to their position or for job development.

A. Following are some general guidelines for determination of amount of assistance:

- (1) If the proposed training or study is job related, and can be applied to work that the employee is engaged in, the Department may pay one hundred percent (100%) of acceptable expenses. (See Section 2 for definition of suitable expenses.)
- (2) If the training is not related to the current job, but is related to the employee's career progression within the Agency or to a developmental assignment within the Agency, the Department may pay up to fifty percent (50%) of acceptable expenses.
- (3) Every case will be unique in some aspect; therefore, it will be incumbent upon managers, supervisors, and training teams to use logic and good common sense in determining the amount of financial assistance to be given. Additionally, they shall see that educational assistance money is utilized equitably among employees in the organizational unit, so that a small percentage of employees are not using a large percentage of available funds.

B. ELIGIBILITY: There are two (2) major criteria for obtaining educational assistance money:

- (1) Employees must obtain prior approval in writing from their supervisor before registering or enrolling. Approval is limited to proposals for courses of no more than four months duration, unless approved by the Agency.
- (2) Employee must successfully complete the course, as evidenced by one (1) or more of the following:
  - Passing score;
  - Certificate of completion;
  - Satisfactory attendance, in those cases where neither grades nor certificates of completion are given. Failure to attend a major portion of the course, without good cause, may result in the employee's having to pay for the training.

C. TIME LIMIT ON REIMBURSEMENT:

- (1) When an employee has paid for training and education services, and is to be reimbursed, the expense statement must be submitted no later than three (3) months after services have been received.

D. EDUCATIONAL LEAVE: In special instances, and with the approval of the Agency, an employee may be granted educational leave. Eligibility shall be

limited to those who have been employed in the State service for a period of at least one (1) year. Leave may be granted for a period of up to one (1) calendar year. The following shall apply:

- (1) Without Pay
  - The proposed studies must be Agency related;
  - The employee must be attending an accredited institution;
  - The employee shall be entitled to return to the same, or equal, position held prior to the leave.
  
- (2) With Pay
  - There must be showing that the proposed studies will serve a specific need of ODOT/OPRD;
  - The employee must be attending an accredited institution;
  - There must be a showing that the need can best be served by granting education leave with pay, as opposed to alternate methods, such as hiring someone with the necessary skills, or contracting for the service;
  - There must be a signed agreement between ODOT/OPRD and the employee, which shall discuss ODOT's/OPRD's commitment to the employee, and the employee's obligation to ODOT/OPRD upon completion of studies. Each request shall be considered on its own particular merits, and such things as amount of pay, amount of tuition, reinstatement rights, employee's work commitment after educational leave, etc., shall be governed by circumstances of the individual case.

- E. EDUCATIONAL REQUEST RESPONSE: Requests for educational reimbursement shall be considered and responded to within thirty (30) calendar days. If a request is denied, management will specify the reason for denial in writing.

REV: 2017

### **ARTICLE 7.3 EMPLOYEE EDUCATION AND TRAINING [FORESTRY ONLY] (Prior Article 21B)**

**Section 1. Agreement.** The Oregon Department of Forestry will make training and education available to its employees to ensure top level job performance and to respond to developmental needs of the individual employee. This may be accomplished through on-the-job training, special assignments, department courses, State Personnel Division courses, College, University and Community Colleges, or technical training through correspondence.

**Section 2.** Self-improvement and development efforts of employees will be encouraged and supported. When education and training is determined to be appropriate by the Agency, and as funds are available, employees will receive financial assistance in these efforts.

#### **Section 3. Responsibilities.**

- A. SUPERVISORS: Individual supervisors have responsibility to see that employees receive whatever training is necessary to adequately perform their job and keep pace with changes in technology.

- B. EMPLOYEES: Employees have a responsibility to inform their supervisors of any training they feel they need to help them better perform their job or to prepare them for possible future job assignments. Employees also have a responsibility to actively participate in any training session they attend, and to apply their new information, knowledge, or skill to their job assignment.

Section 4. Assistance.

- A. EMPLOYEE REQUIRED TO ATTEND: If an employee is required or directed to attend a training program, the Agency will pay full salary plus appropriate travel expenses and any tuition and books required by the course. If an employee is directed to attend a training session outside of regular work hours, the employee will be eligible for overtime as defined in the overtime Article.
- B. VOLUNTARY ATTENDANCE: If a course or training program has direct application to the employee's present position, the Agency will pay full tuition and books. Travel, meals and associated expenses, and overtime provision will not apply. Reimbursement for tuition and books may be made when the employee presents evidence of satisfactory completion of the training.
- C. COURSES NOT RELATING TO PRESENT ASSIGNMENT: If a course or training program has no direct application to the employee's present job but may prepare the employee for future assignments within the Agency, the Agency will pay one-half (1/2) of the tuition. Books, travel, meals, and overtime provisions will not apply. Reimbursement for one-half (1/2) the tuition may be made when the employee presents evidence of satisfactory completion of the training.

Section 5. Approval. All applications, where reimbursement for education and training expense is involved, must have received prior approval of the employee's immediate supervisor, the Program Director, and the Administrative Services Division Chief.

**DIVISION 8 – CLASSIFICATIONS**

**ARTICLE 8.1 REVIEW OF CLASSIFICATION SERIES (Prior Article 32)**

Section 1. The Agency shall notify the Association of intended classification studies at least sixty (60) calendar days prior to submitting the proposal under Section 2 of this Article.

Section 2. Whenever a change in class specifications or a new classification is proposed, it is agreed that the Employer will submit the proposal to the Association to provide opportunity for its review and comments. In the development of new or revised classification specifications, the Employer shall give full consideration to recommendations of the Association.

Within thirty (30) days of its receipt of the proposal, the Association will meet with the Employer and may present arguments and recommendations where there are objections raised on behalf of the represented employees. Any extension of time specified shall be mutually agreed upon in writing.

Section 3. Reclassification must be based on a finding that the duties and responsibilities of a position have been significantly enlarged, diminished, or altered, which may or may not require a similar change in the knowledge, skills and abilities required. Appeals of denied upward reclassifications shall be processed under the procedures and timeframes outlined in **Article 338.2, Section 3** of this Agreement.

Section 4. The parties shall negotiate the salary range for new proposed classifications and for revisions in existing classifications which would substantially revise the existing classification specification. Negotiations shall commence no later than sixty (60) days after the initial receipt by the Association of the proposed class specifications. The amount of time may be extended by mutual written agreement.

Section 5. Implementation of a salary adjustment or rate change agreed upon in the salary negotiations shall be effective no later than thirty (30) days from the date of the Agreement unless otherwise specified in the negotiated Agreement.

Section 6. Any agreement reached during the term of this Agreement on a salary range or a new rate for classification will be submitted to the Legislative Review Agency for approval as prescribed in ORS 291.371.

Section 7. The Association may recommend classification studies to be conducted by the Department indicating the reasons for the need for such studies.

## **ARTICLE 8.2 UPWARD RECLASSIFICATION (Prior Article 33)**

Section 1. The parties shall use the following procedure to process upward reclassification requests:

A completed Chief Human Resource Office Position Description form and written explanation for a proposed reclassification request and any additional supporting documentation shall be submitted by the employee, or the supervisor on the employee's behalf, to the Agency's Personnel Operations Section. If the request is submitted by the employee, the employee will provide ~~with~~ a copy to the immediate supervisor.

Section 2. The Agency shall review the merits of the request within sixty (60) days after receipt of the reclassification request. The Association shall be entitled during the sixty (60) day review period and prior to issuance of the Agency decision to meet with the Agency or to present further written arguments in support of the request. The Agency shall notify the employee, the supervisor, and the Association of its decision, unless otherwise mutually agreed in writing to extend the time limit. Should the duties of the position support the proposed reclassification, the Agency shall make a determination whether to seek legislative approval for reclassification or remove selected duties within one hundred twenty (120) days, however, this time period may be extended upon mutual agreement of the Parties.

Section 3. If a reclassification request approved by the Agency does not receive the legislative approval required by ORS 291.371, the employee will receive a lump sum payment for the difference between the current salary rate and proposed salary rate, for the time period beginning the date ~~the first of the month following the month in which~~ the reclassification request was received by the Agency's Personnel Services Section to the

date the duties were removed.

Section 4. If approved by the Legislative Review Agency, the effective date shall be the ~~first of the month following the month~~<sup>date</sup> in which the reclassification request was received by the Agency's Personnel Services Section.

Section 5. Rate of pay upon upward reclassification shall be in accordance with the provision of ~~Article 5211.3, Section 76—Salary Administration.~~

Section 6. The Agency's Personnel Operations Section shall furnish position description forms at the request of the Association.

#### Section 7. Reclassification Appeals Process

- A. Appeal: If the Agency denies an employee's reclassification request, the Association may appeal the decision to DAS Labor Relations. The appeal must be in writing and submitted within thirty (30) calendar days from the date of the Agency's denial. All appeals must be supported with copies of documents originally provided to the Agency for the reclassification request, including written explanation of the request and all relevant documentation. No new documentation or information will be considered by the Classification Appeal Committee.
- B. Classification Appeal Committee: When the Association submits an appeal per the section above, the Association and Employer will each appoint a designee to serve on the Classification Appeal Committee. If an Association designee is a bargaining unit member, the employee shall be granted paid leave for Committee meetings which occur during the employee's scheduled workday. The Committee's sole mission will be to consider appeals pursuant to this section of the article and make decisions which maintain the integrity of the classification system by correctly applying the classification specifications.
- C. Appeal Decision Process: The Committee will attempt to resolve the appeal by jointly determining whether the current or another classification more accurately depicts the overall assigned duties, authorities and responsibilities of the position. In this process, each of the designees may identify one (1) alternate class that the designee determines most accurately depicts the purpose of the job and overall assigned duties. The Committee will send an initial written decision to the Agency and Association within sixty (60) calendar days from receipt, which will include the reasons for the decision or the specific items on which the Committee members did not agree. The Agency or the Association may ask the Committee to reconsider its decision by sending a written reconsideration request which must be based on incorrect or incomplete information in the initial decision. The reconsideration request must be submitted to DAS Labor Relations and the other party within fifteen (15) calendar days from the date of receipt of the decision. The Committee will reconsider its initial decision and issue a final decision within forty-five (45) calendar days from the date of receipt by DAS Labor Relations of the reconsideration request. In the even the Committee concludes that he proposed or alternate class if

more appropriate, the Agency retains the right to modify the work assignment on a timely basis to make it consistent with the Agency's allocation. If there is no timely request for reconsideration, the Committee's decision will be final and binding.

- D. The Committee may extend, up to thirty (30) days, the time to issue its decision to the Association through notification to the Parties. The Committee may request an additional extension of time to issue its decision to the Association, which, if agreed to, must be stipulated in writing with copy to DAS Labor Relations and shall become part of the grievance record.
- E. Arbitration: If the Committee process does not result in resolution of the matter, the Association may request arbitration, in accordance with **Article 363.6**, in writing within forty-five (45) calendar days from the date of receipt of the Committee's final written decision. The Association's request must be sent to the DAS Labor Relations Unit.

Each Party may go forward with only one (1) class. Each Party may choose to take to arbitration either the current class, class appealed to, or an alternate class identified by a committee member.

The Parties agree upon a permanent appointment of one (1) arbitrator to hear grievances arising from this Article. This Arbitrator shall have special qualifications to hear these matters; however, each side retains the right to initiate a change in that assignment upon notice to the other side. The change in the assigned Arbitrator shall be effective for any case not yet scheduled for arbitration.

The Arbitrator shall allow the Agency's decision to stand unless he/she concludes that the proposed classification more accurately depicts the overall assigned duties, authority, and responsibilities using the criteria specified below. In the even the Arbitrator finds in favor of the proposed or alternate classification, the Agency may elect to remove/modify duties consistent with the employee's current classification. However, if the Agency removes the higher level duties, the employee will receive a lump sum payment for the difference between the current salary rate including work out of classification pay already paid, if any, and the appropriate salary rate for the classification as determine by the Committee or Arbitrator. This payment shall be for the time period beginning the date the reclassification request was received by the Agency to the date the duties are removed.

- F. Classification Criteria: For purposes of this section, a reclassification must be based on findings that the purpose of the position is consistent with the concept of the proposed classification and that the class specification for the proposed classification more accurately depicts the overall assigned duties, authority and responsibilities of the position.

*REV: 2017,2019*

### **ARTICLE 8.3 DOWNWARD RECLASSIFICATION (Prior Article 34)**

**Section 1.** Sixty (60) days in advance of downward reclassification of any filled position,

the Agency shall notify the employee and the Association in writing of the action and the specific reasons for doing so.

Section 2. When an employee is reclassified downward, the employee's rate of pay shall be equal to his or her current salary, provided it is within the salary range of the new classification. In those cases where the employee's current salary exceeds the maximum amount of the salary range for the new classification, the employee will continue to be compensated at the salary he or she was receiving prior to the reclassification downward, until such time as the employee vacates the position or his or her salary falls within the new salary range.

#### **ARTICLE 8.4 ALLOCATIONS APPEAL PROCESS (Prior Article 69)**

This Article shall only apply to the allocation of positions into new and revised classifications.

##### **Section 1. Initial Appeal Step.**

- A. An appeal may be filed by an individual employee or Association representative on behalf of the employee, to the Agency Human Resources Office within thirty (30) calendar days of written notification of the final reallocation by the Agency into the new classification. Employees sharing the same or substantially similar position descriptions or employees the Agency agrees to treat as a group may file an appeal as a group. The initial filing shall describe the individual or group, including the names of affected employees, identify the proposed placement, and the placement believed to be correct by the affected employees.
- B. The appeal must include current, signed position descriptions. Because the old classifications are to be abolished, correct placement cannot be back to the prior classification.
- C. The Agency shall conduct a review of the allocation using the following criteria:
  - (1) The purpose of the position shall be determined by the statement of purpose and assigned duties of the position description and other relevant evidence of duties assigned by the Agency;
  - (2) The concept of the proposed classification shall be determined by the general description and distinguishing features of its class specifications; and,
  - (3) The overall duties, authority and responsibilities of the position shall be determined by the position description and other relevant evidence of duties assigned by the Agency. This decision shall be made within thirty (30) calendar days of receipt of the appeal and provided to the affected employees in writing and with a summary of the classification analysis.

##### **Section 2. Appeal Committee Review.**

- A. If denied, the Association may appeal the Agency's decision in writing to the Labor Relations Unit within fifteen (15) calendar days of receipt of the written

denial. Appeals will be considered by the Employer designee or alternate and the Association designee or alternate who shall form the committee charged with the responsibility to consider appeals and make decisions which maintain the integrity of the classification system by correctly applying the classification specifications. Additionally, the committee may use two resource persons, one designated by each party, to provide technical expertise concerning a specific series.

- B. The committee will attempt to resolve the matter by jointly determining whether the current or proposed classification more accurately depicts the overall assigned duties, authorities and responsibilities of the position using the criteria specified above. In this process each of the designees may identify one (1) alternate class that he/she determines most accurately depicts the purpose of the position and overall assigned duties. If an alternate class is identified, both the Association and Labor Relations Unit shall be notified.
- C. If the parties concur that shall end the allocation appeal. In the event the committee concludes that the proposed class or alternate class is more appropriate, the Agency retains the right to modify the work assignment on a timely basis to make it consistent with the Agency's allocation. Appeals shall be decided in order of receipt by the Labor Relations Unit. Decisions shall be rendered by the designees not later than sixty (60) calendar days of receipt of the appeal by the committee. The decision of the committee shall be binding on the parties. However, the Agency may elect to remove/modify duties at any point during the appeal process.

### Section 3. Arbitration.

- B. If the appeals committee cannot make a decision, the Association may request final and binding arbitration by a written notice to the Labor Relations Unit within the next fifteen (15) calendar days from receipt of written notice that the committee did not reach an agreement on the appeal. Each party may go forward with one (1) class. Each party may choose to take to arbitration either the current class, class appealed to, or an alternate class identified by a committee member. The arbitrator shall allow the decision of the Agency to stand unless he/she concludes that the proposed classification more accurately depicts the overall assigned duties, authority and responsibilities of the position. This Agreement shall supersede **Article 36-3.6 (Grievance/Arbitration)** regarding the authority of the arbitrator. However, **Article 36-3.6** shall control regarding the selection of the arbitrator and the timeframes when the arbitrator shall issue an award.
- C. Where a position is vacated after the filing of the initial appeal, the Association may continue the appeal process and such appeals will be reviewed by the committee only after the review of all filled position appeals is completed and where the Agency indicates that no change in duties is anticipated before refilling the position.
- D. This process terminates upon completion of the allocation process.

## **DIVISION 9 – WORK SCHEDULES AND RELATED COMPENSATION**

### **ARTICLE 9.1 WORK SCHEDULES (Prior Article 56)**

Section 1. Work schedules shall be established by the Agency. The Agency may establish more than one (1) type of work schedule; however, no employee shall be assigned more than one (1) type of schedule at any one time.

- A. Regular Work Schedules – The regular work schedule for overtime-eligible employees will not be more than forty (40) hours in a workweek. Regular schedules may have starting and stopping times which vary on a daily basis, however, these are set schedules which do not vary week to week. Regular work schedules are determined by the requirements of the position and the Employer. The regular work schedule will include a minimum of two (2) consecutive scheduled days off, except as required by operational necessity or as modified in this Article. The Employer may adjust the regular work schedule with written prior notice of no less than seven (7) calendar days.
- B. Non-regular Work Schedules – A non-regular work schedule is a work schedule which varies the numbers of hours worked on a daily basis, but not necessarily each day, or a work schedule in which starting and stopping times vary on a daily basis, but not necessarily each day, but which does not exceed forty (40) hours in a workweek. A non-regular work schedule is agreed upon in advance by the employee and supervisor.

### **Section 2. Employer Required Schedule Changes**

- A. (ODOT ONLY) The employer may adjust an employee's daily start time(s) by two (2) hours or less. Employees shall not have their start time changed more than two (2) hours without seven (7) calendar days advance notice, except when work scheduling is controlled by a contractor or other conditions that are beyond the control of the immediate supervisor. Non-regular scheduling, including splitting a shift, may be necessary to fulfill the Agency's responsibility for field inspection activities. In a split shift, the time an employee works in a day after twelve (12) hours from the time the employee initially reports for work is overtime. If the employee's reporting time is changed without the required notice, the employee shall be entitled to a penalty payment of three (3) hours straight time pay in addition to the appropriate pay for the hours worked. The penalty payment shall continue until the notice requirement is met or the employee is returned to his/her prior reporting time(s), whichever occurs first.
- B. (FORESTRY/OPRD only.) It is the intent of the Agency to give employees advance notice of work schedule changes. In keeping with this intent, the Agency will attempt to give employees twelve (12) hours prior notice of work schedule changes.

Section 3. Employee-Requested Schedule Changes – Employee's work schedules may be changed at the employee's request and with the Employer's approval. Any increased benefits and/or compensation which may be associated with the changed schedule shall be waived by the employee.

Section 4. Employees normally performing similar work at the same location may mutually agree to exchange days, shifts, or hours of work with the approval of their supervisor provided such change does not result in the payment of overtime or a disruption of the normal routine of duties. Such request shall not be considered as schedule changes.

~~Section 5. During any calendar week involving a holiday, if the holiday falls on the employee's scheduled day off, the workday nearest to the holiday shall be taken off. The workday that is taken off has to fall in the same calendar month and year as the holiday recognized in Article 39, Section 4.~~

Section 65. All lunch periods shall be taken as near as possible to the middle of the shift, unless this is disruptive to the orderly operation of the work unit. Employees who are instructed not to leave their work stations and are required to continue working shall have such time counted as hours worked.

Section 76. The Agency will grant rest periods whenever possible on a twice daily basis scheduled at the supervisor's discretion. Rest periods shall not be more than fifteen (15) minutes duration for every four (4) hours of work, and shall be taken as work will allow in the middle part of the work period. If the Agency requires a scheduled ten (10) hour day, then a rest period of twenty (20) minutes shall be taken in the middle of the five (5) hour period. The Agency will attempt to relieve an employee during the rest period so that he/she may take rest periods away from his/her duty assignment.

Section 87. When an employee needs to use sick leave and has not given his/her supervisor prior notice, the employee will call his/her supervisor prior to the beginning of his/her scheduled shift, except for circumstances beyond the control of the employee, such as a traffic accident. Unauthorized absence from work shall be on leave without pay.

Section 98. In the event of an emergency situation, such as, but not limited to, an unanticipated storm; a declared emergency by duly elected officials of local, state or federal governments; flood; fire or other situations where the resources of the Agency are called upon with little or no notice, the working hours of all employees may be altered as required by the Agency to fulfill the Agency's responsibilities to the public.

Section 109. Employees shall be at their assigned work location at the beginning of their assigned shift and shall be available at such location through the end of the assigned shift, including scheduled or unscheduled overtime, except when on leave or break. Employees shall provide efficient, effective and courteous service to the public during their performance of duties as assigned by the Agency.

Section 1110. Safety. Except under emergency situations employees will not be required to work in excess of sixteen (16) hours in any twenty-four (24) hour period. After working sixteen (16) hours in any twenty-four (24) hour period (meal and rest periods notwithstanding), the Agency shall allow an unpaid rest period of at least eight (8) hours off.

REV: 2017, 2019

## **ARTICLE 9.2 REPORTING TIME OR SHOW-UP TIME (Prior Article 62)**

Section 1. Except for ~~Article 50-10.12—Inclement Conditions~~, an employee who reports to his/her regular shift shall be paid for all hours of their regularly scheduled shift, and be available to work during that time during the current workday. All Benefits, including vacation and sick leave accruals shall not be affected when calculating the pay.

Section 2. When an employee performs work, or is scheduled to work on a day that would entitle that employee to overtime pay, the minimum recorded hours shall be two (2). The minimum shall not apply to overtime which is an extension at the end of a regularly scheduled shift.

## **ARTICLE 9.3 ON-CALL DUTY (Prior Article 57)**

Section 1. Employees shall be paid one (1) hour of pay at the regular straight time rate for each six (6) hours of assigned on-call duty. Employees who are assigned on-call duty for less than six (6) hours shall be paid on a prorated basis.

Section 2. An employee shall be on on-call duty when specifically required by the Agency to be available for work outside his/her normal working hours and not subject to restrictions which would prevent the employee from using their own time while on on-call duty effectively for the employee's own purposes.

Section 3. When a work site or duty station is also an employee's private residence during off-duty hours, time spent at home shall be considered on-call duty only when the following conditions exist:

- A. The Agency requires that an employee be restricted to a work site or duty station for a specific period of time; and
- B. The employee is required and must be prepared to commence full-time work if the need arises.

Section 4. An employee shall not be on on-call duty once he/she actually commences performing assigned duties and receives the appropriate rate of pay for time worked.

Section 5. No employee is eligible for any premium pay compensation while on on-call duty except as expressly stated in this Article.

Section 6. On-call duty time shall not be counted as time worked in the computation of overtime hours worked but on-call pay shall be included in the calculation of the overtime rate of pay.

Section 7. The employer shall give employees as much advance notice as possible of on-call duty. If an employee requested to do on-call duty has a personal conflict, the employer shall try to find another qualified employee for the duty. If no employee agrees voluntarily to assume the on-call duty, the assignment shall be made to the qualified employees and shall be rotated starting with the employee with the least seniority in the Agency.

## **ARTICLE 9.4 OVERTIME (Prior Article 61)**

Section 1. All employees of the Agency shall be subject to overtime work when the efficiency or effectiveness of the Agency's operations require that such work be

performed. No employee shall refuse to work overtime unless such overtime can be shown to be an unusual burden on the employee. When such circumstances do exist, the employee shall not be required to work unless his/her absence would cause the Agency to be unable to meet its responsibilities.

Section 2. The Agency shall give as much notice as possible of overtime to be worked. (Assignment of overtime work, which is essentially a condition of extending the employee's workday or involves working on a scheduled day off, shall not be considered a change of shift.)

Section 3. (ODOT Only)

- A. For all employees, all ~~time for which an employee is compensated at the regular straight time rate of pay including~~ hours worked, vacation leave, holidays, sick leave, compensatory time off and other paid leave shall be counted as time worked.
- B. Daily overtime for regular work schedules will be time worked in excess of scheduled hours worked per day. Overtime for non-regular work schedules will be time worked in excess of forty (40) hours in the workweek. Employees scheduled for less than eight (8) hours in a day or a total of forty (40) hours per week within the employees work week shall be paid overtime when work exceeds eight (8) hours per day or a total of forty (40) hours per week. When a modification or temporary change in schedule is required by an employee and approved by the immediate supervisor or designee, overtime shall be in excess of forty (40) hours per work week.

Section 4. (ODF and OPRD Only)

- A. ~~Except for FLSA exempt~~ For all employees, all ~~time for which an employee is compensated at the regular straight time rate of pay including~~ hours worked, vacation leave, holidays, sick leave, compensatory time off and other paid leave shall be counted as time worked. ~~For purposes of calculating overtime pay for FLSA exempt employees, hours worked shall be defined as time actually worked during a work week.~~
- B. Paid sick leave shall ~~not be counted~~ as time worked for the purposes of overtime calculation, ~~except that paid sick leave used shall be counted toward overtime calculation~~ if the employee is mandated to work on a regularly scheduled day off.
- C. ~~FLSA Non-Exempt Employees~~ Daily overtime for regular work schedules will be time worked in excess of scheduled hours worked per day. Overtime for non-regular work schedules will be time worked in excess of forty (40) hours in the workweek. Employees scheduled for less than eight (8) hours in a day or a total of forty (40) hours per week within the employees work week shall be paid overtime when work exceeds eight (8) hours per day or a total of forty (40) hours per week. When a modification or temporary change in schedule is requested by an employee and approved by the immediate supervisor or designee, overtime shall be in excess of forty (40) hours per work week.

~~D. FLSA-Exempt Employees. Overtime for full- and part-time FLSA-exempt employees is time actually worked in excess of forty (40) hours in a work week.~~

Section 5. The work week shall be the same as a calendar week starting at 12:00 a.m. on Monday and ending the following Sunday at 11:59 p.m.

Section 6. The workday shall be a twenty-four (24)-hour period starting at the start of the employee's assigned shift and shall remain fixed at that period for the whole of the work week except for non-regular schedules.

Section 7. All employees in positions that are overtime eligible represented by the Association shall be compensated for overtime worked at the rate of time and one-half (1-1/2) their regular ~~straight time~~ rate of pay.

~~Any disputes over overtime may be filed with the appropriate jurisdiction and are not grievable through the Collective Bargaining Agreement.~~

Section 8. Payment of Overtime.

- A. Payment for overtime shall be no later than one (1) month following the pay period in which overtime is worked except as provided in subsection (D) below. The employee may have the choice of accepting the overtime payment in cash or as accrued compensatory time dependent upon operational needs.
- B. (Forestry only.) All employees shall receive cash for overtime worked. If the employee wishes to receive compensatory time off in lieu of cash, he/she shall have the option of maintaining a maximum of one hundred (100) hours of compensatory time for overtime hours worked.
- C. (ODOT and OPRD only.) Compensatory time off may be scheduled by the Agency. Accrued compensatory time off above eighty (80) hours not taken by the close of business on April 30, including that earned in April, will be paid in cash as if it had been earned during April. Such payments shall be made on the June 1 payroll. Employees may request to have all or a portion of their compensatory time cashed out at one other time during the year, and these requests shall be granted and paid on the next regular paycheck cycle.
- D. Employees traveling for the purposes of participating in transfer or promotional interviews are ineligible for overtime pay.

Section 9. Employees may not schedule overtime without the approval of their immediate supervisor.

Section 10. Overtime shall be distributed as equally as feasible among qualified employees customarily performing the kind of work required, and assigned to the work unit in which the overtime is to be worked. Employees who refuse the offer to work overtime under this Article, shall have the hours offered, but not worked, counted for the sole purpose of equalizing total overtime distribution.

## Section 11.

The Employer shall provide the Association with no less than twenty (20) calendar days written notice of its intent to exempt a filled bargaining unit position for FLSA overtime compensation. The Employer will not change the position's designation during this twenty (20) calendar day period.

- A. Should the Association decide to challenge the proposed status designation, the Association shall notify the Employer in writing within twenty (20) calendar days of its receipt of the notice. Should notice be given, the Employer shall forego implementing the change in status designation for an additional forty (40) calendar days beyond the initial twenty (20) calendar day period. The purpose of the forty (40) calendar day period will be for the Association to investigate whether there is a basis to challenge the status designation. If the Association decides to pursue challenging the status designation, the Association will file a grievance with the relevant Agency at Step 2 of the Grievance Process (~~Article 36-3.6—Grievance and Arbitration~~) before the end of the forty (40) calendar day period. In such event, the Employer will forego implementing the designation change until the matter is resolved.
- B. If timely notice to challenge the status designation is not received during the initial twenty (20) calendar day period or the Association does not proceed forward during the forty (40) calendar day period, the position's designation shall be changed.
- C. For purposes of this agreement, written notice may occur by personal delivery, fax or mail (postmark) or email within the timeframes cited above.
- D. To resolve challenges to FLSA status designation changes, the Parties will utilize Steps 2 and 3 of the ~~Article 36-3.6 Grievance Procedure~~ and then proceed to arbitration (Step 4). Arbitration proceedings under this provision shall differ from the arbitration procedures set forth in ~~Article 36-3.6~~ in the following respects:
  - a. The Parties will mutually select a person to serve as Arbitrator to hear all grievances appealed to arbitration for the purposes of determining an individual's FLSA status. Such appointment will continue through the life of the Collective Bargaining Agreement. If the Parties are unable to agree to an Arbitrator or if the selected Arbitrator is unavailable to hear a particular case, the Parties will follow the ~~Article 36-3.6~~ procedure to determine the Arbitrator.
  - b. The Arbitrator must use the FLSA to determine whether a person is Non-Exempt or Exempt for overtime purposes.
  - c. Arbitration of FLSA status designation cases is limited to one (1) day per hearing, whether the expedited grievance is regarding an individual or a class of individuals within a specific job classification. If the Parties anticipate that a particular case will require more than one (1) day of hearing time, they may agree to extend the hearing. The Parties may also mutually agree to limit the hearing time to one

(1) day for multiple job classification.

REV: 2017,20197

### **ARTICLE 9.5 OFF DUTY PHONE CALLS**

Section 1. An employee who responds to a telephone call at home outside their work schedule hours and the employee is required to perform assigned duties, by a management representative or their designee, at their home will be compensated for actual time worked at the appropriate overtime rate of pay/compensatory time but no less than fifteen (15) minutes per call.

Section 2. The employee will not receive additional compensation if the employee receives multiple telephone calls during the same fifteen (15) minute period.

Section 3. This Article shall not apply where the employee is called and there is no assignment of work but rather information is requested to locate items, such as, but not limited to, keys, reports, files, or paperwork.

Section 4. This Article shall not apply to employees assigned to on-call status.

Section 5. This Article shall not apply to phone calls where the Agency calls to direct the employee to report to work or modifies an employee's work schedule.

Section 6. This Article shall not apply where the Agency calls the employee to work overtime.

NEW: 2019

## **DIVISION 10 – LEAVE TIME**

### **ARTICLE 10.1 HOLIDAYS (Prior Article 39)**

Section 1. The following holidays shall be recognized and paid for at the straight time rate of pay:

- A. New Year's Day on January 1.
- B. Martin Luther King, Jr.'s Birthday on the third (3<sup>rd</sup>) Monday of January.
- C. President's Day on the third (3<sup>rd</sup>) Monday in February.
- D. Memorial Day on the last Monday in May.
- E. Independence Day on July 4.
- F. Labor Day on the first (1<sup>st</sup>) Monday in September.
- G. Veteran's Day on November 11.
- H. Thanksgiving Day on the fourth (4<sup>th</sup>) Thursday in November.
- I. The Friday after Thanksgiving Day on the fourth (4<sup>th</sup>) Friday in November;
- J. Christmas Day on December 25.

K. Every day appointed by the Governor as a holiday.

Part-time employees will be paid a pro rata share of the holiday pay based on the calculation stated in Article ~~54~~11.1, Section 2(C)(2) (Payday and Payroll Computation Procedure).

Section 2. In addition to the holidays specified in this Article, the Agency agrees to grant eight (8) hours of paid leave to each employee. Part-time, hourly, seasonal and job share employees shall receive a prorated share of eight (8) hours of paid leave based on the calculation stated in Article 11.1, Section 2(c)(2) (Payday and Payroll Computation Procedure). This paid leave shall be accrued by all employees employed no later than December 24 of each year and will be granted on the basis which will preclude the closure of State facilities. Employees may request the option of using the eight (8) hours of paid leave on the workday from the day before Thanksgiving through January 31 or, when these days are not available to an employee, on another day of the employee's choice. The eight (8) hours of paid leave shall be taken in a single block of time.

Section 3. Employees required to work on days recognized by this Agreement as holidays which fall within their regular work schedules shall be entitled to, in addition to their regular monthly salary, compensatory time off, or be paid in cash, according to the overtime election provided in Article ~~64~~9.4 – Overtime. Compensatory time off or cash paid for all time worked shall be at the rate of time and one-half (1-1/2). The rate at which an employee shall be paid for working on a holiday shall not exceed the rate of time and one-half (1-1/2) his/her straight time rate of pay.

Section 4. When a holiday specified in Section 1 of this Article falls on Saturday, the preceding Friday shall be recognized as the holiday. When a holiday specified in Section 1 of this Article falls on Sunday, the following Monday shall be recognized as the holiday.

Section 5. For employees who work schedules other than Monday through Friday, when a holiday specified in Section 1 falls on a regular workday, that day will be recognized as the holiday. If the holiday falls on a day in which the employee is scheduled to work more than an eight (8) hour workday, the employee will receive eight (8) hours of holiday pay and shall use accrued vacation, personal leave, compensatory time or leave without pay for the remaining hours. When the holiday specified in Section 1 falls on a regularly scheduled day off, the employee will receive an alternate eight (8) hours of compensatory straight time or straight-time pay, to be taken off on a day mutually agreed between the employee and the supervisor. Part-time, hourly, seasonal and job share employees will receive a prorated amount of compensatory time or straight time pay based on the calculation in Article 1.1, Section (C)(2).

Section 56. An employee's leave account shall not be charged for a holiday which occurs during the use of earned vacation or earned sick leave.

Section 67. Holiday Work.

A. Employees shall normally be notified of holiday work schedules at least fourteen (14) calendar days in advance of the holiday, but in no instance shall there be less than seven (7) calendar days advance notice of such work schedules except in situations over which the Agency has no control.

- B. When holiday work is necessary, employees shall be given an opportunity to request to work or not to work. Such requests shall be granted to the extent possible in keeping with the operating needs of the Agency and the work unit.
- C. The Agency may require employees to work on holidays to assure service to the public.

*REV: 2019*

**ARTICLE 10.2 VACATION LEAVE (Prior Article 40)**

Section 1. After having served in the State service for six (6) full calendar months, full time employees shall be credited with six (6) days of vacation leave and thereafter vacation leave shall be accumulated as follows:

After six (6) months through fifth (5 <sup>th</sup> ) year	Twelve (12) work days for each twelve (12) <del>full calendar</del> months of service (eight (8) hours per month).
After fifth (5 <sup>th</sup> ) year through tenth (10 <sup>th</sup> ) year	Fifteen (15) work days for each twelve (12) <del>full calendar</del> months of service (ten (10) hours per month).
After tenth (10 <sup>th</sup> ) year through fifteenth (15 <sup>th</sup> ) year	Eighteen (18) work days for each twelve (12) <del>full calendar</del> months of service (twelve (12) hours per month).
After fifteenth (15 <sup>th</sup> ) year through twentieth (20 <sup>th</sup> ) year	Twenty-one (21) work days for each twelve (12) <del>full calendar</del> months of service (fourteen (14) hours per month).
After twentieth (20 <sup>th</sup> ) year	Twenty-four (24) work days for each twelve (12) <del>full calendar</del> months of service (sixteen (16) hours per month).
After twenty-fifth (25 <sup>th</sup> ) year	Twenty-seven (27) work days for each twelve (12) <del>full calendar</del> months of service (eighteen (18) hours per month).

Employees with twenty-five (25) years or more of State service will start to accrue the higher accrual rate effective 9/1/07.

Additionally, twenty-four (24) hours of vacation leave shall be accrued, twelve (12) hours on February 1 and twelve (12) on July 1 by each regular status, full-time employee who has successfully completed trial service following initial appointment to State service.

Section 2. Compensation for use of accrued vacation shall be at the employee's prevailing straight time rate of pay.

Section 3. In the event of termination, any accrued vacation credits will be paid in cash to the employee.

Section 4. In the event of an employee's death, all monies due the employee for accrued vacation credits and/or salary shall be paid as provided by law.

Section 5. An employee who has lost work because of job-related illness or injury will not suffer a reduction in vacation credits. Vacation credits will continue to be earned while an employee is using earned sick leave.

Section 6. Service with a jury will be considered time worked, based upon time actually spent at Court plus adequate travel time to and from the Courthouse and employee's assigned work station.

Section 7. The accumulation of vacation hours shall not be in excess of two hundred fifty (250) hours on May 1 of each year.

Section 8. Time spent by an employee in actual State service or on Peace Corps, military, education or job incurred disability leave without pay shall be considered as time in the State service in determining length of service for computation of vacation credits.

Section 9. Employees who have been separated from the State service and return to a permanent position within two (2) years shall be given credit toward additional vacation credits for service prior to their separations. All time in the exempt or unclassified service, including periods with academic rank, shall be counted as long as there is not a break in service of more than two (2) years.

Section 10. Employees who work a partial month of at least thirty-two (32) hours will accrue vacation leave on a pro rata basis. Actual time worked and all leave with pay shall be included in determining the pro rata accrual of vacation credits each month.

Section 11. Vacation Scheduling. Subject to the operating requirements of the Agency, employees shall have their choice of vacation time if requested three (3) full calendar months in advance. If two (2) or more employees request the same period of time and the matter cannot be resolved by agreement of the parties concerned, the employee having the greatest length of service with the Agency shall be granted the time.

- A. All requests for vacation shall be reviewed and approved or rescheduled by the Immediate Supervisor within seven (7) calendar days of receiving request.
- B. Employees shall be allowed to use at least one (1) full week of vacation each year during the calendar season of their choice. The Agency shall grant requests for more than one (1) week when the work load of the unit will permit.
- C. Employees who have scheduled vacations and made nonrecoverable deposits on reservations shall not have such vacation canceled.
- D. Employees shall request in writing the use of vacation so the two hundred fifty (250) hours of accumulated vacation are not exceeded on May 1 of each year. If an employee fails to request vacation and their vacation accumulation exceeds two hundred fifty (250) hours on May 1<sup>st</sup>, the amount

above two hundred fifty (250) hours shall be forfeited. If the Agency cancels a scheduled vacation or denies a requested vacation and such cancellation or denial results in the Agency's inability to schedule the use of the excess vacation by May 1, the employee shall receive cash payment for the amount of vacation credit lost.

E. Vacation Cash Out. In each calendar year, an employee may make a one-time request to cash out and receive payment for up to forty (40) hours of vacation. In order to be eligible to cash out vacation hours, the employee must be a regular status employee and have a remaining vacation balance of sixty (60) hours or more. Vacation leave that has been pre-approved will be considered when the request is made in order to determine if they will maintain the minimum vacation balance requirement.

F. Vacation changes for different time periods are permissible and will be approved if conflict does not exist and work load permits.

E.

F.G. Subject to the operating requirements of the Agency, unscheduled vacations of three (3) days or less will be granted.

REV: 2019

#### **ARTICLE 10.3 UTILIZATION OF ACCRUED VACATION (Prior Article 41)**

No employee may be placed on vacation leave and no accrued vacation time may be utilized without specific authorization of the employee except:

- A. That an employee shall have his/her vacation time paid in full when he/she is laid off or terminated.
- B. Upon termination of employment, if a claim has been filed with the Appointing Authority charging that the employee has damaged or misappropriated State property equipment, payment for accrued vacation shall be withheld until the claim has been settled. If the employee takes no action toward settlement of the claim within sixty (60) days of the date his/her employment terminated, the Appointing Authority may declare the cash value of the accrued vacation forfeited.
- C. An employee may elect to have his/her vacation paid in full when he/she takes educational leave without pay in excess of thirty (30) days, subject to Management Approval.

#### **ARTICLE 10.4 SICK LEAVE (Prior Article 42)**

Section 1. Sick Leave With Pay. ~~Except for temporary employees, sick~~Sick leave with pay for State employees shall be determined in the following manner:

- A. **Eligibility for sick leave with pay.** Employees shall be eligible for sick leave with pay immediately upon accrual.
- B. **Determination of service for sick leave with pay.** Actual time worked and all leave with pay, except for education leave, shall be included in determining the pro rata accrual of sick leave credits each month, provided that the employee works thirty-two (32) hours or more in that month.

~~C. **Accrual rate of sick leave with pay credits.** Employees shall accrue eight (8) hours of sick leave with pay credits for each full month worked. Employees who work less than a full month but at least thirty-two (32) hours shall accrue sick leave with pay on a prorated basis. **Temporary employees shall not earn nor be eligible to use any previously earned sick leave except that a temporary employee appointed to a permanent position without a break in service of more than fifteen (15) calendar days shall accrue sick leave credits from the initial date of appointment to the temporary position.**~~

C.

Section 2. Utilization of Sick Leave With Pay. Employees who have earned sick leave credits shall be eligible for sick leave for any period of absence from employment which is due to the employee's illness, bodily injury, disability resulting from pregnancy, necessity for medical or dental care, exposure to contagious disease, any FMLA/OFLA protected leave, attendance upon members of the employee's or the employee's spouse's immediate family, or the equivalent of each for domestic partners, (parent, wife, husband, children, brother, sister, grandmother, grandfather, grandchild, son-in-law, daughter-in-law, or another member of the immediate household) where the employee's presence is required because of illness or death in the immediate family of the employee or the employee's spouse. The Agency has the duty to require that the employee make other arrangements, within a reasonable period of time, for the attendance upon children or other persons in the employee's care. Certification of an attending physician or practitioner may be required by the Agency to support the employee's claim for sick leave, if the Agency has evidence that the employee is abusing sick leave privileges. The Agency may also require such certificate from an employee to determine whether the employee should be allowed to return to work where the Agency has reason to believe that the employee's return to work would be a health hazard to either the employee or to others.

Section 3. Sick Leave Without Pay.

If an employee is receiving payments from a disability provider at the same time that he or she is on FMLA, OFLA or both leaves, the employee must choose if he or she will use paid leave. ~~However, the disability provider may require the employee to use some or all leave prior to receiving a full disability payment. The~~ if the employee chooses to use leave without pay, the employee resumes use of accrued paid leave when disability payments end.

After earned sick leave has been exhausted, the Agency shall grant sick leave without pay for any job-incurred injury or illness for a period which shall terminate upon demand by the employee for reinstatement accompanied by a certificate issued by the duly licensed attending physician that the employee is physically and/or mentally able to perform the duties of the position. After earned sick leave has been exhausted, the Agency may grant sick leave without pay for any non-job-incurred injury or illness to any employee upon request for a period up to one (1) year. Extensions of sick leave without pay for any non-job- incurred injury or illness beyond one (1) year must be approved by the Agency and the Department. The Agency or the Department may require that the employee submit a certificate from the attending physician or practitioner in verification of disability resulting from a job- incurred or non-job-incurred injury or illness. Any cost associated with the supplying of a certificate concerning a non-job incurred injury or

illness or concerning a job-incurred injury or illness that is not covered by Worker's Compensation benefits shall be borne by the Agency. In the event of a failure or refusal to supply such a certificate, or if the certificate does not clearly show sufficient disability to preclude that employee from the performance of duties, such sick leave may be canceled and the employee's service terminated.

#### Section 4. Medical Examination and Immunization.

- A. Employees who request time off from work for the purpose of taking a physical examination shall be granted time off for this purpose. Leave time granted for this purpose shall be charged to accrued sick leave.
- B. If in the conduct of official duties, an employee is exposed to serious communicable diseases which would require immunization against or testing for such exposure, or if required by the Agency, the employee shall be provided immunization against or testing for such communicable disease without cost to the employee and without deduction from accrued sick leave. Where immunization or testing will prevent or help prevent such disease from occurring, employees shall be granted accrued sick leave with pay for the time off from work required for the immunization or testing.

#### Section 5. Federal Family Medical Leave Act (FMLA), the Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA).

B. Oregon state government provides leave to employees according to the FMLA, OFLA, OMFLA, and in accordance with the Agreement. The provisions shall be provided in the DAS Statewide Policy 60-000-15, "Family and Medical Leave" in effect on July 1, 2019. IN the event of a conflict between the Policy and the terms of the Agreement, the Agreement will prevail.

*REV: 2019*

#### **ARTICLE 10.5 RESTORATION OF SICK LEAVE CREDITS (Prior Article 43)**

Employees who have been separated from State service and return to a position (except as temporary employee) within two (2) years shall have unused sick leave credits accrued during previous employment restored.

#### **ARTICLE 10.6 TRANSFER OF VACATION AND SICK LEAVE CREDITS (Prior Article 44)**

Section 1. Upon transfer of an employee with six (6) full months of State service to a different State agency, the employee may elect to have a maximum of eighty (80) hours of accrued vacation credits transferred to the gaining agency, except, the gaining agency may agree to accept a greater amount of accrued vacation credits. The employee shall be paid in cash for that portion of accrued vacation credits not transferred.

Section 2. An employee with six (6) full months of State service shall have all of the employee's accrued sick leave credits transferred when the employee is transferred to a different State agency.

Section 3. Upon transfer of an employee with less than six (6) full months of service to a different agency, all vacation credits accrued and all accumulated sick leave shall be transferred to the gaining agency.

**ARTICLE 10.7 WORKERS' COMPENSATION APPLICATION (Prior Article 45)**

Section 1. Compensation for on-the-job injuries shall be paid by the State's Workers' Compensation Insurer. Sick leave resulting from a condition incurred on the job and also covered by Workers Compensation shall, if elected to be used by the employee, be used to equal the difference between the Workers Compensation for lost time and the employee's regular salary rate. In such instances, prorated charges will be made against accrued sick leave.

Section 2. Employees wishing to continue current payroll deductions, must pay the Agency the total amounts in advance or cancel the deductions.

**ARTICLE 10.8 LEAVE OF ABSENCE WITH PAY (Prior Article 46)**

Section 1. Any employee holding a position in the classified service shall be granted a leave of absence with pay for the following:

- A. Service with a jury. The employee may keep any money paid by the court for serving on a jury.
- B. When any employee is not the plaintiff or defendant, he/she shall be granted leave with pay for appearance before a court, legislative committee, or judicial or quasi-judicial body as a witness in response to a subpoena or other direction by proper authority for matters other than the employee's officially assigned duties. When the employee is granted leave with pay, the employee shall turn into the Agency any money paid in connection with the appearance.
- C. An employee shall be on Agency time for attendance in court in connection with an employee's officially assigned duties, including the time required going to court and returning to his/her official station. The Agency shall provide appropriate travel and per diem allowances if applicable. When the employee is granted Agency time, the employee shall turn into the Agency any money received for such attendance during duty hours.
- D. Taking part, without pay, in a search or rescue operation at the request of any law enforcement agency, the Administrator of the Department of Aviation, the United States Forest Service, or any local organization for civil defense, for a period of no more than five (5) days for each operation.
- E. Other authorized duties in connection with State business.
- F. An employee who has served with the State of Oregon or its counties, municipalities, or other political subdivisions for six (6) months or more immediately preceding an application for military leave, and who is a member of the National Guard or of any reserve components of the armed forces of the United States, is entitled to a leave of absence with pay for a period not exceeding fifteen (15) calendar days or eleven (11) work days in any federal fiscal year, October 1 through September 30. The time is for the purpose of discharging his/her obligation of annual active duty for training in the military reserve or National Guard. Initial service orientation does not qualify as active annual duty.

- G. Any time proclaimed by the Governor as leave of absence with pay.
- H. Employees taking professional examinations required for their current position for the first time shall be allowed the use of worktime. In addition, a supervisor may grant paid leave time for an employee to take a professional examination for another position in the Agency if, by taking the professional examination, it contributes toward the Agency meeting its operational needs. Subsequent examinations shall be on personal time. Supervisors shall be notified at least five (5) days in advance.
- I. Employees who have regular official positions with either the State or county civil defense agencies and who are required to participate in exercises or alerts.
- J. Sufficient time off with pay to enable them to donate blood when drawing is in the immediate vicinity.
- K. Educational leave in which his/her Agency may defray a part or all of the cost, either through allotment or payment of a salary. Such leave shall be granted only when the benefits to be realized by the State will outweigh the cost and inconvenience to the State. Each request for leave must be approved by the administrator, who normally shall not approve such leave for more than one (1) year. Vacation leave shall not accrue during an educational leave with pay, the duration of which exceeds fifteen (15) calendar days.
- L. Job Interview Leave.
- (1) Employees, subject to providing reasonable notice and receiving prior management approval, shall be allowed Agency paid time including travel to interview for positions within their Agency when such interview(s) occurs during their work hours. An Appointing Authority or designee shall determine the appropriate amount of time for the interview and whether the time taken for interviews is excessive.
- (2) Employees, subject to providing reasonable notice and receiving prior management approval, shall be allowed up to two (2) hours of Agency paid time to interview for positions with another State Agency when such interview(s) occur during their work hours. An Appointing Authority or designee shall determine whether the amount of time requested for the interview is appropriate and whether the time taken for interviews is excessive. Such determination is not subject to the grievance procedure.
- Interview leave time approved and taken to interview with another State agency that exceeds the two (2) hours of Agency paid time must be recorded as accrued leave, leave without pay or managed through approved flex time within the same workweek.
- (3) All interview leave time including travel approved under subsections

1 and 2 above must be recorded as IT (Interview Testing/Time) on the employee's timesheet/time reporting record.

- (4) Interview leave used shall not count as time worked for purposes of overtime.
- (5) An Agency shall not incur any employee reimbursement costs.

Section 2. Retirement Counseling Leave. Employees shall be granted up to twenty-eight (28) hours leave with pay to pursue bona fide pre-retirement counseling programs. Employees shall request the use of leave provided in this Article at least five (5) days prior to the intended date of use. Requests for leave on shorter notice may be allowed subject to the operating needs of the Agency.

Authorization for the use of retirement counseling leave shall not be withheld unless the Agency determines that the use of such leave shall handicap the efficiency of the employee's work unit.

When the dates requested for retirement counseling leave cannot be granted for the above reason, the Agency shall offer the employee a choice from three (3) other sets of dates. The leave herein discussed may be used to investigate and assemble the employee's retirement program, including PERS, Social Security, Insurance and other retirement income.

REV: 2017

#### **ARTICLE 10.9 LEAVE OF ABSENCE WITHOUT PAY (Prior Article 47)**

Section 1. In instances where the work of the Agency will not be seriously handicapped by the temporary absence of an employee, the employee may be granted a leave of absence without pay or educational leave without pay not to exceed one (1) year. Request for such leave must be in writing and must establish reasonable justification for approval.

Time spent on leave without pay in excess of fifteen (15) consecutive calendar days shall not be considered as service in determining the employees' eligibility date for a salary increase unless such time has been spent on leave resulting from a job-incurred disability.

Section 2. For family emergencies an employee may be granted a leave without pay for a period of time mutually agreed upon by the employee and the Agency. The personnel action placing an employee on such leave should state the reasons for and the expected duration of such leave.

Section 3. Military leave without pay shall be granted subject to the provisions of ORS 408.240. Upon the termination of any leave granted by ORS 408.240, the employee shall be restored to his/her position without loss of seniority or other benefits in accordance with ORS 408.270. Military Family Leave shall be granted as per FMLA laws as described in DAS Policy 60.000.15 (effective 9/7/10).

Section 4. Peace Corps Leave. Leaves of absence without pay may be granted to all regular employees who serve in the Peace Corps as volunteers. Upon expiration of the leave the employee shall have the right to be reinstated to the position held before the

leave was granted and at the salary rates prevailing for such positions on the date of resumption of duty without loss of seniority or other employment rights. Failure of the employee to report within ninety (90) days after termination of service shall be cause for dismissal.

Section 5. Court Appearance Leave Without Pay. An employee may request and shall be granted leave without pay for the time required to make an appearance as a plaintiff or defendant in a civil or criminal court proceeding that is not connected with the employee's officially assigned duties. When any employee represents an outside business interest and/or acts as an independent expert, he/she shall be granted accrued vacation and/or compensatory leave for appearance before a court, legislative committee or judicial or quasi-judicial body as a witness in response to a subpoena or other direction by proper authority for matters other than the employee's officially assigned duties. Leave without pay may be granted, if requested. The employee may keep any money paid in connection with the appearance.

Section 6. Subject to the operational requirements of the Agency, employees of the bargaining unit shall be granted a leave of absence without pay of not less than three (3) months and no more than one (1) year to work for the Association. Such requests shall be made by the Association. Both minimums as well as extensions of leaves shall be subject to mutual agreement.

A shorter period of no less than two (2) weeks may be requested and release shall be subject to the Agency's operational requirements, provided sufficient notice is received and there is no increased cost to the Agency, e.g., penalty payments, overtime.

All Leave requests under this section shall be made directly to the Agency's Human Resource Manager.

Upon return to service, the employee shall be returned to the same class and the same work location as held when the leave was approved. Where return to the employee's former position can be reasonably accommodated such return shall be made.

**ARTICLE 10.10 DONATION OF LEAVE TIME (Prior Article 49)**

These provisions shall apply for the purpose of allowing employees to donate accrued vacation leave and accrued compensatory time off for use by eligible recipients as sick leave. Agencies will allow employees to make irrevocable donations of accumulated vacation leave and compensatory time to a coworker in that Agency or a different Executive Branch state agency. To donate to a specific employee in a different Executive Branch state agency, the employee (donor) must submit a written request to his/her appointing authority. Such donation is subject to approval by both the donor's and recipient's appointing authority. For purposes of this Agreement, hardship leave donations will be administered under the following stipulations and the terms of this Agreement shall be strictly enforced with no exceptions.

- A. The recipient and donor must have obtained regular status in the Agency.
- B. The employer shall not assume any tax liabilities that would otherwise accrue to the employee.
- C. Use of donated leave shall be consistent with those provisions found under

Article ~~42~~10.4, Section 2.

- D. Applications for hardship leave shall be in writing and sent to the Agency's personnel section and accompanied by the treating physician's written statement certifying that the illness or injury will continue for at least fifteen (15) days following recipient's projected exhaustion of accumulated leave and the total leave is at least thirty (30) consecutive calendar days of absence in combination of paid and/or unpaid leave. Donated leave may be used intermittently for the same event after the employee has satisfied the eligibility requirements to receive donated leave.
- E. Donations shall be credited at the recipient's current regular hourly rate of pay.
- F. Accumulated leave includes but is not limited to sick, vacation, personal, and compensatory leave accruals.
- G. Employees otherwise eligible for or receiving ~~disability benefits, workers' compensation, or on parental leaves~~ will not be considered eligible to receive donations under this Agreement.

*REV: 2019*

**ARTICLE 10.11 BEREAVEMENT LEAVE (Prior Article 73)**

Section 1. Employees shall be eligible for a maximum of twenty-four (24) hours paid bereavement leave per immediate family member. Paid bereavement leave shall run concurrently with OFLA when applicable. If additional bereavement time is needed, an employee may request to use accrued leave, or leave without pay, at the option of the employee.

Regular and trial service employees may be eligible to receive up to fifty-six (56) hours of donated leave, to be used consecutively. The employee must have exhausted all available accumulated leave and qualify to receive hardship leave.

The definition of "immediate family" shall include the employee or the employee's spouse's parent (includes one who stood in loco parentis (in place of a parent) when the employee was a child), wife, husband, child (and child's spouse)(includes a child whom the employee stood in loco parentis), brother, sister, grandmother, grandfather, grand child, aunt, uncle, niece, nephew or the equivalent of each for domestic partners, or other member of the immediate household. Immediate family shall include the current in-laws and step family members who qualify per the above list.

The Agency may request documentation. Bereavement shall be prorated for part time employees.

*REV: 2017*

**ARTICLE 10.12 INCLEMENT ~~WEATHER~~OR HAZARDOUS CONDITIONS (Prior Article 50)**

Section 1.

- A. The Employer/Agency designated official(s) may close or curtail offices, facilities, or operations because of inclement or hazardous conditions. The

Employer/Agency will announce such closure or curtailment to employees no later than 5:00 a.m., and may accomplish this through pre-designated internet web site, telephone trees, radio stations and/or television media. The Agency shall notify employees of these designations and post the notices on Agency bulletin boards by November 1<sup>st</sup> of each year. Notifications do not apply to employees who are required by the Employer/Agency to report to work.

- B. Where the Employer/Agency has announced a delayed opening pursuant to Section 1(a), employees are responsible for continuing to monitor the reporting sites for updated information related to the delay or potential closure.

Section 2. Employees required to report to work during closure or curtailment of offices because of inclement weather or hazardous conditions shall be notified in writing of their designations no later than November 1<sup>st</sup> of each year. Such designations may be modified with two weeks advanced notice to the affected employees.

Section 3. For Employees with existing teleworking or telecommuting agreements.

To limit disruptions to Agency services, employees may request the ability to telecommute or telework from their immediate supervisor when the employee's work is curtailed due to inclement or hazardous conditions. An employee request may be granted on a daily basis and the employee shall notify their immediate supervisor of the request prior to the start of their regularly scheduled shift. If the employee is unable to make contact with their immediate supervisor the employee will be authorized the optional use of accrued vacation, compensatory time or leave without pay for that shift. This section does not apply to employees required to report to work under Section 2.

Section 4.

- A. A FLSA-exempt employee who is not otherwise approved to be on pre-scheduled leave or authorized to report to work at another location, shall be paid for the work shift. However, a FLSA-exempt employee may be required to use paid leave where the closure applies to that employee for a full work week.
- B. FLSA non-exempt employees will be treated per Inclement Weather Letter of Agreement.

SEE LOA: Inclement Weather

REV: 2017

**ARTICLE 10.13 DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING VICTIM LEAVE (Prior Article 74)**

An employee is allowed to use accumulated leave or leave without pay if the employee or his/her dependent (including their adopted child, foster child or stepchild) is the victim of domestic violence, sexual assault or stalking, pursuant to State policy (DAS, HRSD Statewide Policy 60.000.12), ~~effective date 4-9-2010~~.

**ARTICLE 10.14 CRIME VICTIM LEAVE (Prior Article 75)**

If an employee or a member of their immediate family has suffered financial, social, psychological or physical harm as a result of a person-to-person felony, he/she may take

leave to attend a criminal proceeding pursuant to State Policy (DAS, HRSD Statewide Policy 60.000.12), (effective 4/9/2010).

**ARTICLE 10.15 FIRE ASSIGNMENTS LEAVE [ODF ONLY] (Prior Article 79)**

Employees on fire assignments away from their official work station for twenty-one (21) consecutive days or more shall receive eight (8) hours off at straight compensation upon return to their official work station for rest and recovery.

**ARTICLE 10.16 ELECTION DAYS (Prior Article 38)**

On recognized Federal and State Election Days, work will be arranged to allow employees the opportunity to vote.

**ARTICLE 10.17 LEAVE FOR WORLD, PAN AMERICAN, OR OLYMPIC EVENTS (Prior Article 48)**

An employee may be granted, upon request, a leave of absence with pay, not exceeding ninety (90) days per calendar year, to participate in official training camps and competitions for World, Pan American or Olympic events as a group leader, coach, official or athlete of a United States amateur team. The purpose of the leave shall be preparation for and participation in competition and preliminary competition.

Upon expiration of the leave, the employee shall be reinstated to the position held before the leave was granted and at the salary rate prevailing for the class to which the position is allocated without loss of seniority or other employment rights. Failure by an employee to report for duty within thirty (30) calendar days after termination of official competition shall be cause for dismissal.

To be eligible for leave with pay under this rule, the employee shall have been a resident of the State of Oregon for a period of not less than five (5) years and shall have been an employee of the State of Oregon for a period of not less than one (1) year prior to being granted the leave.

Employees who are granted leave with pay shall reimburse the employing agency in full through monetary payment, with no interest charge, or through hours worked equivalent to the number of hours spent on leave with pay or a combination of both. Full reimbursement shall be accomplished at a time not later than two (2) years following the last day of leave with pay granted under this Article.

**ARTICLE 10.18 BONE MARROW/ORGAN DONOR**

1. An employee shall be granted paid donor leave for the time specified for the following purposes:

- Up to forty (40) hours to serve as a bone marrow donor if the employee provides the Agency written verification that the employee is to serve as a bone marrow donor; and
- Up to one hundred sixty (160) hours to serve as a human organ donor if the employee provides the Agency written verification that the employee is to serve as a human organ donor.

2. Employees may only utilize these paid donor leaves one (1) time throughout their employment with the State.

*NEW: 2019*

## **DIVISION 11 – GENERAL COMPENSATION AND BENEFITS**

### **ARTICLE 11.1 PAYDAY AND PAYROLL COMPUTATION PROCEDURE (Prior Article 51)**

#### **Section 1. Pay.**

- A. Pay for the employees in the bargaining unit shall be in accordance with the Compensation Plan adopted by the Chief Human Resource Office and approved by the Governor as modified by this Agreement. No change shall be made in the Compensation Plan which affects Association bargaining unit employees unless the parties to this Agreement have negotiated the changes and reached agreement on what changes will be made. This is not intended to prevent mechanical changes, or other minor changes necessary to administer the Compensation Plan.
- B. All employees shall be paid no later than the first (1<sup>st</sup>) day of the month. When a payday occurs on a Monday through Friday, payroll checks shall be released to employees on that day. When a payday falls on a Saturday, Sunday, or holiday, employee paychecks shall be made available on the last working day of the month. When an employee is not scheduled to work on the payday, the paycheck shall be released prior to payday if the paycheck is available and the employee has completed the “Request for Release of Payroll Check” Form AD-20. However, the employee may not cash or deposit the check prior to the normal release time. Any violation of this provision may be cause for disciplinary action. A check released early under this Article shall be accompanied by written notice from the employer as to the normal release time and date for that employee and a statement that by cashing or depositing of the check may be cause for disciplinary action. The release day for December paychecks dated January 1 shall be the first (1<sup>st</sup>) working day in January to avoid the risk of December’s paychecks being included in the prior year’s earnings for tax purposes.
- C. Payroll checks for employees without sufficient leave time. If an employee was absent without pay during the last days of the month, paychecks may be held until sufficient hours/days are worked the following month by the employee during his/her regular work schedule. This shall be for an equal number of hours/days to those without pay hours from the preceding month.
- D. Employees shall be paid no less than the minimum rate of pay for their classification upon appointment to a position in State service. An entrance salary rate may exceed the minimum rate when the Appointing Authority believes it is in the best interest of the State to do so.
- E. Release of sixty (60) percent of an employee’s earned gross wages prior to the employee’s designated payday shall be authorized, subject to the approval of the employee’s supervisor, in emergency cases upon receipt of a written request from the employee that describes the emergency. An

emergency situation shall be defined as an unusual, unforeseen event or condition that requires immediate financial attention by an employee.

Emergencies include but are not limited to the following circumstances:

- (1) Death in family.
- (2) Major car repair.
- (3) Theft of funds.
- (4) Automobile accident (loss of vehicle use).
- (5) Accident or sickness.
- (6) Destruction or major damage to home.
- (7) New employee lack of funds (maximum – one (1) draw).
- (8) Moving due to transfer or promotion.

## Section 2. Payroll Computation Procedures.

### A. DEFINITIONS:

- (1) Regular Status Full-Time – a regular status position equivalent to eight (8) hours per day or forty (40) hours per week. A regular status full-time employee will be paid on a monthly salary basis, and all benefits will be calculated on a monthly basis.
- (2) Regular Status Part-Time – a regular status position less than regular status full-time. A regular status part-time employee will be paid on a fixed partial monthly or hourly salary basis, and all benefits will be calculated on a partial monthly or pay period basis. All regular status part-time employees whose work hours are regularly scheduled (work hours are based on a predetermined schedule) shall be paid on a fixed partial monthly basis.
- (3) Seasonal Full-Time – a seasonal position normally equivalent to eight (8) hours per day or forty (40) hours per week. An employee in such position will be paid on a monthly, hourly or fixed partial monthly salary basis. All benefits will be calculated on a partial, monthly or pay period basis, whichever is appropriate.
- (4) Seasonal Part-Time – a seasonal position normally less than equivalent to eight (8) hours per day or forty (40) hours per week. An employee in such position will be paid on an hourly basis and all benefits will be calculated on a partial pay period basis.
- (5) “Number of workdays in month or pay period” – number of possible workdays in the month or pay period based on the employee’s weekly work schedule, such as Monday-Friday, Tuesday-Saturday, etc. Holidays that fall within the employee’s work schedule are

counted as workdays for that month or pay period except as defined in Section 2. (C) – HOLIDAYS.

- (6) “Hourly rates of pay” – the hourly equivalent of the monthly base rates of pay as published in the Compensation Plan. The hourly rates are computed by dividing the monthly salary by 173.33.
- (7) “Partial month’s pay” – a prorated monthly or pay period salary. The number of days actually worked by an employee divided by the total number of workdays in the month or pay period, times the monthly or pay period salary rate. For example, if the employee works fifteen (15) days in a month or pay period with twenty-one (21) workdays, the partial month’s pay is computed as follows:

$$\frac{15}{21} \times \text{salary rate} = \text{gross pay}$$

- (8) “Days Worked” – includes all days actually worked, all holidays (except as defined in Section 2 (C), and all paid leave, which occur within an employee’s service period.

B. GENERAL COMPENSATION:

- (1) Regular Status Full-Time Employees (FTE):  
Pay and benefits will be computed on a monthly basis.
- (2) Regular Status Part-Time Employees:
  - (a) Pay and benefits will be computed on a prorated monthly or pay period basis, such as one-half (1/2) monthly or pay period pay for a half-time employee. Regular status part-time employees in regular status full-time positions will be treated as regular status part-time for purposes of this Article.
  - (b) Employees paid on a fixed partial monthly basis shall have all extra hours worked over the regular part-time schedule paid at the hourly rate. Employees paid on a fixed partial monthly basis who work less than the regular part-time schedule shall have time deducted at the hourly rate.
- (3) Seasonal Full-Time Employees. Pay and benefits will be computed on a monthly, prorated monthly or an hourly pay period basis.
- (4) Seasonal Part-Time Employees. Pay will be computed on an hourly basis, and pay and benefits will be normally prorated on a pay period basis.
- (5) Job-sharing Employees. The total time worked by all job share employees in one position will not exceed one (1.0) FTE.
- (6) Partial Month’s Pay or Partial Pay Period. Partial month’s pay (or prorated monthly or pay period pay) is applied when:

- (a) A full-time employee is hired on a date other than the first (1<sup>st</sup>) working day of the month or pay period (based on employee's work schedule).
- (b) A full-time employee separates prior to the last workday in the month or pay period (based on the employee's work schedule).
- (c) A full-time employee is placed on leave without pay or returns from leave without pay.
- (d) An employee is appointed to a regular status part-time position.

See definition for partial month's pay under Section 7.(a) for computation procedures.

(7) Changes in salary rate:

- (a) When an employee's salary rate changes in the middle of a month, pay will be computed on the fractional amount of workdays worked at each salary rate during the month. For example, in a month having twenty-one (21) workdays (based on employee's work schedule), the salary of an employee working eleven (11) days at the old rate and ten (10) days at the new rate is computed as follows:

$$\frac{11}{21} \times \text{old rate} + \frac{10}{21} \times \text{new rate} = \text{gross pay}$$

- (b) The percentage conversion chart in the Compensation Plan may be used instead.

C. HOLIDAYS:

(1) General:

- (a) If a holiday falls on what would normally be the first (1<sup>st</sup>) working day of the month or pay period and a new employee begins work the day immediately following the holiday, the employee will not receive holiday pay. An employee's appointment date must precede or begin on this holiday in order to receive compensation for the holiday.
- (b) If a holiday falls on what would normally be the last working day of the month or pay period and the employee separates from State service on the day just prior to the holiday, the employee will not receive holiday pay. An employee's separation date must be subsequent to, or end on, this holiday in order to receive compensation for the holiday.

Separation of an employee may fall on any given day of the month, either as designated by the employee in his/her letter

of resignation or by the Agency in the notice of involuntary separation. If the holiday falls before or on designated separation date, the employee shall be paid for said holiday.

- (c) All employees will receive pay for recognized legal holidays during those months in which they work thirty-two (32) hours or more, except as provided in Sections C(1)(a) and C(1)(b) above.
  - (d) Compensation for a holiday shall be based on an eight (8) hour day.
  - (e) Employees in a leave without pay status shall be granted time off with pay on a prorated basis for the legal holiday providing the employee works thirty-two (32) hours or more during the month or pay period, whichever is appropriate.
- (2) Part-time, hourly, seasonal part-time and seasonal full-time employees will receive a prorated share of the eight (8) hours of holiday pay based on the number of hours actually worked as compared to the total number of possible work hours in the month or pay period. The holiday shall not count as part of the total possible work hours in the month or pay period or the total hours worked and shall be calculated as follows: total hours worked, times holiday hours in the month, divided by total hours in month or pay period.
- (3) Transfers to and from another Agency:
- (a) When compensable, non-workdays such as a holiday, sick leave or vacation leave, come between the separation date in the losing Agency unit and the subsequent hire date in the gaining Agency, the gaining Agency is liable for all of the compensable, non-workdays.
  - (b) The beginning date of employment in the gaining Agency must be the first compensable non-workday following separation from the losing Agency.

D. VACATION:

- (1) New employees who begin work in the middle of a month or pay period earn vacation credits on a prorated basis for the first partial month or pay period provided they work at least thirty-two (32) hours.

Although new employees will earn vacation credits on a prorated basis during the first partial month or pay periods of service, they are not entitled to use vacation credits (or be paid upon separation) until the employee has completed six (6) ~~full calendar months or pay periods~~. The employee must work, or be paid, for at least thirty-two (32) hours in each calendar month or pay period to be eligible.

- (2) Separating employees, who are eligible, will be paid for unused vacation leave accrued through the last full calendar month or pay period of service, based on each employee's work schedule. If the employee does not work (as defined in Section 2 (A)(8)) through the last regularly scheduled workday in the last calendar month or pay period, payment shall be made for unused vacation credits earned up to the end of the preceding month or pay period.

Separation of an employee may fall on any given day of the month, either as designated by the employee in his/her letter of resignation or by the Agency in the notice of involuntary separation.

- (3) Separating employees, who are eligible, will be paid for accumulated vacation leave and compensatory time at the hourly rate equivalent to his/her base rate at the time of separation.

#### **ARTICLE 11.2 WAGE AND BENEFIT OVERPAYMENTS (Prior Article 66)**

Section 1. As soon as the Agency recognizes an overpayment of wages to which the employee is not entitled, regardless of whether the employee knew or should have known of the overpayment, the Agency shall notify the employee in writing of the overpayment and the amount of wages and/or benefits to be repaid.

Section 2. For purposes of recovering overpayments of fifty dollars (\$50.00) or less, notice will be provided on the employee paystub. Separate notice will be provided to the employee.

Section 3. For purposes of recovering overpayments of more than fifty dollars (\$50.00) by payroll deduction, the following shall apply:

- A. The employee and Agency shall meet and attempt to reach mutual agreement on a repayment schedule within thirty (30) calendar days following written notification.
- B. If there is no mutual agreement at the end of the thirty (30) calendar day period, the Agency shall implement the repayment schedule stated in subsection (C) below.
- C. If the overpayment amount to be repaid is more than five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in monthly amounts not exceeding five percent (5%) of the employee's regular monthly base salary. If an overpayment is less than five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in a lump sum deduction from the employee's paycheck. If an employee leaves Agency service before the Agency fully recovers the overpayment, the remaining amount may be deducted from the employee's final check(s).

Section 4. Section 3 (A) through (C) shall not apply to payroll adjustments necessitated by a discrepancy between actual hours of paid time versus hours projected for payroll purposes from one pay period to another. If an employee utilizes leave without pay in the month, but is paid for such time, the employee's pay and benefit entitlements may be

adjusted on the following month's paycheck.

Section 5. An employee who disagrees with the Agency's determination that an overpayment has been made to the employee may grieve the determination through the grievance procedure.

Section 6. The Article does not waive the Agency's right to pursue the other legal procedures and processes to recoup an overpayment made to an employee at any time.

### **ARTICLE 11.3 SALARY ADMINISTRATION (Prior Article 52)**

Across the board Salary Increases: Effective ~~June 15, 2018~~ July 1, 2019, Compensation Plan salary rates shall be increased by ~~one and eighty five hundredths~~ two and fifteen hundredth percent (~~2.15485%~~), to be paid August 1, 2019. Effective October 1, 2020, Compensation Plan salary rates shall be increased by three percent (3%), to be paid November 1, 2020.

Effective July 1, 2020, an additional step shall be added to all salary ranges. Employees who are at the top step of their salary range on the effective date shall have their former salary eligibility date restored for future increases. However, this does not apply to anyone red-circled above the new top step.-

Compensation Plan Changes: Effective ~~September 1, 2017~~ July 1, 2019, the following classifications shall be adjusted as indicated below:

<b>CLASSIFICATION/TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>
<del>Electronic Pub Design Spec 2</del>	<del>Salary Selective</del>	<del>21 22</del>
<del>Electronic Pub Design Spec 3</del>	<del>Salary Selective</del>	<del>23 24</del>
<del>Professional Land Surveyor 1</del>	<del>Salary Selective</del>	<del>30 31</del>
<del>Professional Land Surveyor 2</del>	<del>Salary Selective</del>	<del>32 33</del>
<del>Traffic Systems Technician 2</del>	<del>Salary Selective</del>	<del>25 27</del>
<del>Traffic Systems Technician 3</del>	<del>Salary Selective</del>	<del>27 29</del>
<del>C0108 Administrative Specialist 2</del>	<del>Pay Equity Adjustment</del>	<del>SR 19-20</del>
<del>C0854 Project Manager 1</del>	<del>Class Study</del>	<del>SR 26-27</del>
<del>C0855 Project Manager 2</del>	<del>Class Study</del>	<del>SR 29-30</del>
<del>C0856 Project Manager 3</del>	<del>Class Study</del>	<del>SR 31-32</del>
<del>C3267 Construction Project Mgr 1</del>	<del>Class Study</del>	<del>No Change</del>
<del>C3268 Construction Project Mgr 2</del>	<del>Class Study</del>	<del>No Change</del>
<del>C3269 Construction Project Mgr 3</del>	<del>Class Study</del>	<del>No Change</del>
<del>C3845 Environmental Prog Coord 1</del>	<del>Class Study</del>	<del>No Change</del>
<del>C3846 Environmental Prog Coord 2</del>	<del>Class Study</del>	<del>No Change</del>
<del>C8147 Environmental Prog Coord 3</del>	<del>Class Study</del>	<del>SR 30-31</del>
<del>C3148 Professional Engineer 1</del>	<del>Salary Select</del>	<del>SR 31-32</del>
<del>C3149 Professional Engineer 2</del>	<del>Salary Select</del>	<del>SR 34-35</del>
<del>C3253 Facilities Engineer 3</del>	<del>Salary Select</del>	<del>SR 31-33</del>
<del>C3717 Chemist 3</del>	<del>Salary Select</del>	<del>SR 28-29</del>

All Effective July 1, 2019 all employees will retain their current salary rate in the new range except that employees whose current rate is below the first (1<sup>st</sup>) step of the new range shall be moved to the first (1<sup>st</sup>) step in the new range and a new salary eligibility date will be established twelve (12) months later. For an employee whose rate is within the new

salary range, but not at a corresponding salary step, his/her current salary rate shall be adjusted to the next higher rate closest to his/her current salary upon the effective date.

~~The Department of Administrative Services will complete a market study for the Engineering employees whose specialty is Electrical Engineering.~~

**Section 1. Salary Increase.** Employees shall be eligible for salary increases ~~at the first (1<sup>st</sup>) of the month following the intervals of~~ **as follows:**

- A. Annual periods after the initial date of hire until the employee has reached the top step in his/her salary range. However, should an employee be promoted during the first (1<sup>st</sup>) year of service with the Employer, the employee shall not receive this increase, but shall be eligible for increases in Part B.
- B. At the conclusion of promotional trial service, and annual periods thereafter, until the employee has reached the top step in his/her salary range.
- ~~C. Time spent on leave without pay in excess of fifteen (15) consecutive calendar days shall not be considered as service in determining the employee's eligibility date for a salary increase unless such time has been spent on leave resulting from a job-incurred disability.~~

**Section 2. Seasonal Employees.** A seasonal employee shall be eligible for a salary increase after having worked on a combination of seasonal periods which total a twelve (12) month period and having worked each twelve (12) month period thereafter. Provided, however, that seasonal employees at the top of the pay range for their classification are not eligible for a salary increase under this Section.

~~Section 3. Submission of Salary Increase. Recommendations for salary increases must be made to be effective on the first (1<sup>st</sup>) day of the month and must be submitted prior to the proposed effective date.~~

~~Retroactive trial service and annual salary increases to correct errors or oversights, and retroactive payments resulting from grievance settlements will be authorized. The proposed effective date for retroactive trial service and annual salary increases must be on the first (1<sup>st</sup>) day of the month no more than twelve (12) months prior to the time of submitting the correcting recommendation. Special salary adjustments shall not be made effective prior to the beginning of the current month.~~

**Section 4.3. Denial of Annual Performance Pay.** Increases under this Article may be withheld for just cause as a result of an action taken in accordance with **Article 24.4.1—Discipline and Discharge**. If a salary increase is not granted on the eligibility date, it may be granted on the first (1<sup>st</sup>) of any of the subsequent eleven (11) months but shall not be retroactive.

Grievances resulting from the withholding of salary increase shall be presented directly to Step 2 in the Agency grievance procedure. If, as a result of such a grievance, a decision is made to grant an increase initially withheld, the effective date of the increase shall be retroactive to the original eligibility date.

Section 54. Salary on Demotion. Whenever an employee demotes to a job classification in a lower range that has a salary rate the same as the previous salary step, the employee's salary shall be maintained at that step in the lower range.

Whenever an employee demotes to a job classification in a salary range which does not have corresponding salary steps with the employee's previous salary, but which is within the new salary range, the employee's salary shall be maintained at the current rate until the next eligibility date. At the employee's next eligibility date, if qualified, the employee shall be granted a salary rate increase of one (1) full step within the new salary range, plus that amount that the current salary rate is below the next higher rate in the salary range. This increase shall not exceed the highest rate in the new salary range.

Whenever employees demote to a job classification in a lower range, but their previous salary is above the highest step for that range, the employee shall be paid at the highest step in the new salary range. This Section shall not apply to demotions resulting from official disciplinary actions. In such cases, the rate will be set by the Agency.

If an employee is demoted or removed during trial service as a result of a promotion, his/her salary shall be reduced to the former step, and the previous salary eligibility date shall be restored.

If the employee's salary eligibility date occurs during the promotional trial service period, upon reinstatement to the previous class, the salary eligibility date prior to promotion will be recognized.

Section 65. Salary on Promotion. An employee shall be given no less than an increase to the next higher rate in the new salary range effective on the date of promotion.

Section 76. Rate of Pay Upon Upward Reclassification. When employees are noncompetitively advanced because of reclassification of positions they will be given an immediate increase to no less than the next higher rate in the new salary range. When given an increase at the time of reclassification and at the discretion of Agency management, the employee's salary eligibility date may remain the same or be established twelve (12) months thereafter. Further, to avoid overpayments, the Agency may cease paying work out of classification.

Section 87. Salary Upon Lateral Transfer. An employee's salary shall remain at the same step except where the appointing authority recommends and subject to State policy, that there are exceptional documented circumstances that justify payment of a higher rate.

Section 98. Effect of Break of Service. When an employee separates from State service and subsequently returns to State service (except as a temporary employee), the employee's salary eligibility date shall be determined as follows:

- A. RETURN FROM LAYOFF LIST: The employee's previous salary eligibility date, adjusted by the amount of break in service, shall be restored.
- B. RETURN FROM EMPLOYMENT LIST: The employee's previous salary eligibility date, adjusted by the amount of break in service, shall represent the earliest salary eligibility date following return. However, the salary eligibility date may be established at the first (1<sup>st</sup>) of the month in any future

month up to twelve (12) months from the date of re-employment.

Section 409. Rate of Pay on Appointment from Layoff List. When an individual is appointed from a layoff list to a position in the same class in which the person was previously employed, the person shall be paid at the same salary step at which such employee was being paid at the time of layoff. The salary eligibility date of an individual who is appointed from a layoff list shall be determined in accordance with Section 9 (A) of this Article.

Section 410. Rate of Pay Upon Return to State Service by Reemployment. When a former employee is appointed from a reemployment list to a position in the same class in which he/she was previously employed, or in a related class with the same salary range, he/she may be paid at or below the step at which he/she was being paid at the time of his/her termination. If a person is reemployed in a position in a class with a lower salary range than that of his/her previous position, he/she may be paid at any step in the lower salary range not exceeding the rate he/she was being paid in the higher class, except where exceptional circumstances justify payment of a higher rate. The salary eligibility date of a former employee who is appointed from a reemployment list shall be determined in accordance with Section 98 (B) of this Article.

Section 421. Special Salary Adjustments. Such adjustments may be given under special circumstances. The granting of a special salary adjustment will not affect the employee's eligibility date for a six (6) months or annual increase.

SEE LOAs: [Diving Differential](#), [Recruitment & Retention Differential](#) — [Railroad Compliance Specialist Rail Division](#), [Squaring of the Compensation Plan](#).

REV: 2017, 2019

#### **ARTICLE 11.4 PAYROLL DEDUCTIONS (Prior Article 55)**

Section 1. The Agency agrees to deduct, upon written authorization from the employee, monthly premium payments for health and dental insurance, group indemnity insurance, automobile insurance and life insurance for plans approved by the Benefit Board.

Section 2. If any other insurance plan is approved by the Public Employees' Benefit Board (PEBB) during the life of this Agreement, the Agency will deduct, upon written authorization from the employee, monthly premium payments.

Section 3. The Agency will deduct upon written authorization from the employee, monthly credit Association payments as provided in ORS 292.067.

#### **ARTICLE 11.5 HEALTH AND DENTAL INSURANCE (Prior Article 54)**

Section 1. ~~Notwithstanding any past practice to the contrary, an employer contribution will be made for each employee who has a minimum of eighty (80) paid hours in the month and who is eligible for, and participates in, the flexible benefits program as administered by the Public Employees' Benefit Board (PEBB), unless otherwise required by law. Full time for purposes of this Article is defined as paid time equal to the regular work hours in the month.~~

~~Contributions will be prorated for employees who have at least eighty (80) paid regular hours in a month and less than full-time hours, unless otherwise required by law. This proration shall be based upon the ratio of regular hours to full-time hours, rounded to the~~

~~nearest full percent.~~

Section 12. Full Time Employees. An Employer contribution shall be made for full-time employees who have at least eighty (80) paid regular hours in a month, unless otherwise required by law.

For Plan Years ~~2017, 2018 and~~ 2019, ~~th~~2020 and 2021 the State will pay ninety-five percent (95%) and employees will pay five percent (5%) of the monthly premium rate, as determined by the PEBB, for continuing PEBB health, vision, dental and basic life insurance benefits in effect for employees.

For employees who enroll in a medical plan that is at least ten percent (10%) lower in cost than the monthly premium rate for the highest cost medical plan available to the majority of employees, the Employer shall pay ninety-nine percent (99%) of the monthly premium for PEBB health, vision, dental and basic life insurance benefits and the employee shall pay the remaining one percent (1%).

Section 32. Less-Than-Full-Time-Employees.

- A. For less-than-full-time employees (including part-time, seasonal, and intermittent employees), who have at least eighty (80) paid regular hours in the month, the Employer shall contribute a prorated amount of the contribution for full-time employees, unless otherwise required by law. This prorated contribution shall be based on the ratio of paid regular hours to full-time hours to the nearest full percent, except that less-than-full-time employees who have at least eighty (80) paid regular hours in a month shall receive no less than one-half (½) of the contribution for full-time employees in the employee's coverage tier.
- B. "Regular hours" means all hours of work or paid leave except overtime hours, i.e., those above eight (8) hours in a day or forty (40) hours in a week. Thus, "regular hours" shall include additional non-overtime hours worked above an employee's regular work schedule.
- C. In the event that a less-than-full-time employee, who is regularly scheduled to work half-time or more, fails to maintain at least half-time paid regular hours because of the effect of prorated holiday time or other paid or unpaid time off, he/she shall be allowed to use available vacation or comp time to maintain his/her eligibility for benefits and the Employer's contribution for such benefits.

SEE LOAs: [Part-Time Subsidy](#), [PMAC](#)

REV: 2017,2019

## **ARTICLE 11.6 SALARY/RETIREMENT PICKUP (Prior Article 53)**

Section 1. Public Employees Retirement System ("PERS") Members.

For purposes of this ~~Section 4~~Article, ~~a PERS participating member is an employee who has established membership in PERS (Tier 1, Tier 2, or OPSRP) and who is presently employed in a qualifying position.~~ "employee" means an employee who is employed by the State on August 28, 2003 and who is eligible to receive benefits under ORS Chapter 238 for service with the State pursuant to Section 2 of Chapter 733, Oregon Laws 2003.

Retirement Contributions. On behalf of employees, the State will continue to “pick up” the six percent employee contribution, pursuant to the law. Section 2. PERS Participating Member Contributions.

Effective June 1, 2019, Compensation Plan salary rates for PERS participating members were increased by six percent (6%) and the State ceased “picking up” the six percent (6%) employee contribution. The State will deduct from an employee’s salary and make the six percent (6%) employee contribution to their PERS account or Individual Account Program (“IAP”) account, as applicable. Such employee contributions shall be treated as “pre-tax” contributions pursuant to the Internal Revenue Code, Section 414(h)(2). The parties acknowledge that various challenges have been filed that contest the lawfulness, including the constitutionality, of various aspects of PERS reform legislation enacted by the 2003 Legislative Assembly, including Chapters 67 (HB 2003) and 68 (HB 2004) of Oregon Laws 2003 (“PERS Litigation”). The Parties acknowledge that challenges have been or may be filed that contest the legislation enacted by the 2019 Legislative Assembly, including SB1049. Nothing in this agreement shall constitute a waiver of any party’s rights, claims or defenses with respect to the PERS Litigation above.

Section 2. Oregon Public Service Retirement Plan Pension Program Members. For purposes of this Section 2, “employee” means an employee who is employed by the State on or after August 29, 2003 and who is not eligible to receive benefits under ORS Chapter 238 for service with the State pursuant to Section 2 of Chapter 733, Oregon Laws 2003.

Contributions to Individual Account Programs. As of the date that an employee becomes a member of the Individual Account Program established by Section 29 of Chapter 733, Oregon Laws 2003, and pursuant to Section 3 of that same chapter, the State will pay an amount equal to six percent (6%) of the employee’s monthly salary, not to be deducted from the salary, as the employee’s contribution to the employee’s account in that program. The employee’s contributions paid by the State under this Section 2 shall not be considered to be “salary” for the purposes of determining the amount of employee contributions required to be contributed pursuant to Section 32 of Chapter 733, Oregon Laws 2003.

Section 3. Effect of Changes in Law (Other than PERS Litigation). In the event that the State’s payment of a six percent (6%) employee contribution under Section 1 or under Section 2, as applicable, must be discontinued due to a change in law, valid ballot measure, constitutional amendment, or a final, non appealable judgment from a court of competent jurisdiction (other than in the PERS Litigation), the State shall increase by six percent (6%) the base salary rates for each classification in the salary schedules in lieu of the six percent (6%) pick-up. This transition shall be done in a manner to assure continuous payment of either the six percent (6%) contribution or a six percent (6%) salary increase.

For the reasons indicated above, or by mutual agreement, if the State ceases paying the applicable six percent(6%) pickup and instead provides a salary increase for eligible bargaining unit employees during the term of the Agreement, and bargaining unit employees are able, under then existing law, to make their own six percent (6%) contributions to their PERS account or the Individual Account Program account, as applicable, such employees’ contributions shall be treated as “pre-tax” contributions pursuant to Internal Revenue Code, Section 414(h)(2).

SEE LOA: PERS Pickup \_\_\_\_\_ REV: 2019

## **ARTICLE 11.7 EMPLOYEE ASSISTANCE PROGRAM (Prior Article 8)**

**Section 1.** The Employee Assistance Program is a confidential service:

- A. To help employees identify problems that are or may become a factor in job performance;
- B. To refer employees to proper community agencies for help;
- C. To provide support and follow-up for the employee.

Information obtained by the Employee Assistance Program is not released to anyone without written consent of the employee and it is not recorded in the employee's personnel file. There is no cost to the employee for this assistance. If the employee is referred to other agencies, there may be a fee charged by those agencies. Every effort is made to make referrals compatible with the financial resources of the employee.

**Section 2.** Management recognizes that the most valuable resource the agency has is its experienced employees at all levels in the organization. At the same time, it is recognized these employees can have problems which affect their job performances. These difficulties can be medical, legal, marital, family, alcohol or drug abuse, financial, psychological, or job-related. To retain its employees, the goal is to help those with problems so they can continue to make their valuable contributions to the agency. That goal can be achieved by identifying the problem, referring the employee to the proper treatment agency, and the employee completing the treatment.

**Section 3.** Referrals to the Employee Assistance Program are made as follows:

- A. **SELF-REFERRALS** – employees often recognize they need help before their problems affect their job performances, and they want to discuss the problem with an impartial, confidential individual who is aware of the resources available to help solve the problem. Employees who voluntarily seek or accept referrals to Employee Assistance Programs do not, by doing so, place their jobs or future in jeopardy. By recognizing problems and seeking help early, employees may maintain their good job records and eligibility for promotions;
- B. **SUPERVISOR REFERRALS** – a supervisor's responsibility is to evaluate job performances, not to diagnose the problems or become involved with the problems themselves. However, a supervisor may refer an employee to the Employee Assistance Program because of the employee's job performance;
- C. **ASSOCIATION REFERRALS** – Job Representatives of the Association of Engineering Employees may also refer employees to the Employee Assistance Program when those employees have problems.

## **ARTICLE 11.8 EMPLOYER PAYMENTS FOR LEGAL DEFENSE (Prior Article 72)**

**Section 1.** The purpose of this article is to provide coverage to bargaining unit employees under the terms and conditions stated in Department of Administrative Services Policy ~~4-202 (Criminal Tort Equivalent)~~ Manual Number 125-7-202 (Criminal Tort Equivalent)

Coverage).

Section 2. The Employer's payment or reimbursement for actual, necessary and reasonable costs incurred by a bargaining unit employee for legal defense of a filed criminal complaint shall be pursuant to the Department of Administrative Policy Manual Number 125-7-202 (Criminal Tort Equivalent Coverage) 1-202 (Criminal Tort Equivalent).

Section 3. Providing coverage under the policy for a bargaining unit employee shall not be considered an admission or sanction of the activity that resulted in the criminal complaint being filed. Moreover, providing this coverage will not limit the Agency's authority to take disciplinary action up to and including dismissal.

REV: 2019

## **DIVISION 12 – DIFFERENTIALS AND ALLOWANCE**

### **ARTICLE 12.1 HIGH WORK DIFFERENTIAL (Prior Article 11)**

When an employee is required to perform work more than twenty (20) feet directly above the ground or water and is required to use safety ropes, scaffolds, boatswain chairs, safety harnesses or other safety devices for support, the employee shall receive one dollar and fifty cents (\$1.50) per hour for all hours high work is performed.

When an employee is required to perform bridge condition inspection using rope access or under-bridge inspection truck (UBIT), the employee shall receive four dollars (\$4.00) per hour for all hours worked performing these duties. Employees receiving this differential for rope access inspection must have taken training and received Level 1 certification from the Society of Professional Rope Access Technicians (SPRAT). Work eligible for this differential must involve use of a safety harness. Employees receiving this differential for use of an under-bridge inspection truck (UBIT) must have a National Bridge Inspector (NBI) Certification.

When applied, the differential includes all time worked on the job site, but not travel time to and from the job site. For rope access inspections, this differential applies to all SPRAT certified members of the inspection team who are at the job site and participating in a bridge inspection. For UBIT, this differential applies to all NBI certified members of the inspection team who are at the job site and participating. This differential for rope access or under-bridge inspection truck (UBIT) bridge condition inspection cannot be combined with the differential for work over twenty (20) feet directly above ground or water.

- A. (ODOT) Two Association represented employees will meet with the Agency's Statewide Safety Leadership Committee to discuss and review high work safety standards.
- B. Association represented employees will be on Agency paid time if the meeting coincides with the employees' work schedule.

The Agency will not be liable for mileage, lodging, meals or overtime.

- C. (Forestry) Two Association represented employees will meet with the Agency's Safety Manager to discuss and review high work safety standards.

Association represented employees will be on Agency paid time if the

meeting coincides with the employees' work schedule.

The Agency will not be liable for mileage, lodging, meals or overtime.

ODOT/Forestry meetings shall not be considered bargaining under PECBA and the parties shall not be required to follow the dispute resolution procedures.

REV: 2017

### **ARTICLE 12.2 WORK OUT OF CLASSIFICATION (Prior Article 35)**

Section 1. When an employee has been temporarily assigned for a period of not less than ten (10) consecutive calendar days (or the equivalent thereof for a non-regular schedule) to a position of a higher classification, the employee shall be paid according to Section 2 of this Article.

When assignments are made to work out of classification for more than ten (10) consecutive calendar days (or the equivalent thereof for a non-regular schedule), the employee shall be compensated for all hours worked beginning from the first day of the assignment for the full period of the assignment. No compensation for working out of classification consistent with the provisions of this Article shall be paid by the Agency without the authorization of the Agency's Personnel Section. Employees shall review and sign work out of classification agreements. These agreements will include a starting date and the expected duration of the assignment.

Section 2. Compensation for working out of classification shall be five percent (5%) above the employee's base rate of pay or the bottom step of the class in which the employee is assigned to work, whichever is higher. If the work out of class differential would not result in additional compensation for the employee, the Agency may provide an additional five (5%) percent differential. The Agency must document the reasons for the exception.

Section 3. Assigned duties which constitute work out of classification for the purpose of providing bona fide training and developmental opportunities will not be considered compensable under the terms of this Article. Prior to such assignment, the Agency and the employee will mutually agree on the purpose and duration of the assignment.

Section 4. When an employee is underfilling a position in accordance with the rules and procedures of the Department's Human Resources Services Division, he/she shall not be considered to be working out of classification.

Section 5. Assignments of work out of classification shall not be made in a manner which will subvert or circumvent the administration of this Article. This higher class work will be entered into the official employee's personnel file and may be included in annual performance appraisals. Employees are encouraged to include work out of class assignments on applications for promotional opportunities.

### **ARTICLE 12.3 SHIFT DIFFERENTIAL (Prior Article 63)**

Section 1. In order to qualify for shift differential, an employee must be in a job classification which is allocated to salary range 26 or below and be eligible for overtime.

Section 2. Shift differential shall be paid to all employees at the rate of one dollar (\$1.00) per hour for each full hour worked between 9:00 p.m. and 6:00 a.m.

Shift differential shall not apply to any leave with pay, unless required by law.

REV: 2017

**ARTICLE 12.4 LEAD WORK DIFFERENTIAL (Prior Article 67)**

Section 1. Lead work differential shall be defined as a differential for employees who have been normally assigned by their supervisor in writing, "lead work" duties for two or more employees and ten (10) consecutive calendar days or longer provided the lead work duties are not included in the classification specification for the employee's position. Lead work is where on a recurring daily basis, the employee has been directed by their supervisor to perform substantially all of the following functions for their supervisor's direct reports; to orient new employees, if appropriate; assign and reassign tasks to accomplished prescribed work efficiently; give direction to workers concerning work procedures; transmit established procedures; transmit established standards of performance to workers; review work of employees for conformance to standards; and provide informal assessment of workers' performance to the supervisor. This differential shall not apply to project and program management duties.

Section 2. The differential shall be five percent (5%) beginning from the first day the duties were formally assigned in writing for the full period of the assignment.

Section 3. Lead work differential shall not be computed at the rate of time and one-half (1 ½) for the time worked in an overtime or holiday work situation, or to effect a "pyramiding" of work out of classification payments. However, lead work differential shall be included in calculation of the overtime rate of pay.

Section 4. Lead work differential shall not apply for voluntary training and development purposes which are mutually agreed to in writing between the supervisor and the employee.

Section 5. If an employee believes that he/she is performing the duties that meet the criteria in Section 1, but the duties have not been formally assigned in writing, the employee may notify the Appointing Authority in writing. The Agency will review the duties within fifteen (15) calendar days of the notification. If the Agency determines that lead work duties were in fact assigned and are appropriate, the lead work differential will be effective beginning with the day the employee notified the Appointing Authority of the issue.

If the Agency determines that the lead work duties were in fact assigned but should not be continued the Agency may remove the duties during the fifteen (15) day review period with no penalty.

If the Agency concludes that the duties were not lead work, the Agency shall notify the employee in writing within fifteen (15) calendar days from receipt of the employee's notification of the Appointing Authority.

**ARTICLE 12.5 PROTECTIVE CLOTHING AND UNIFORMS [ODF ONLY] (Prior Article 64)**

Section 1. If an employee is required to wear protective clothing or any type of protective

device, unless normally provided by employees according to industrial practices, protective clothing or devices shall be provided by the Employer. Articles now provided shall continue to be provided by the Employer unless the need is eliminated by changing the nature of the work assignment. Coveralls or other appropriate clothing shall be made available to employees who are required to perform building or equipment maintenance or repair work, where such work will soil clothing beyond normal home-laundry capabilities.

Section 2. All permanent employees required to wear boots shall be eligible for reimbursement for the purchase or repair of boots and applicable boot maintenance supplies, up to two-hundred ~~thirty~~ fifty dollars (\$~~23~~50) each biennium. Employees must request reimbursement no later than the end of the biennium. The Agency will designate those employees required to wear uniforms and/or boots. These employees will be covered by Department Directive (0-3-3-380). The Agency will determine the color, type and quality of the uniform and the type, style and composition of the boots.

Section 3. The Agency shall provide sufficient tools for the efficient performance of incidental or routine preventative maintenance and other duties by the employee. Tools of the trade (hand tools), specialty tools, and equipment shall be provided by the Agency. Employees must receive prior authorization from management for all initial and replacement tool purchases. The employee will be required to produce the worn or broken tool, or any other tool requiring inspection to be replaced, unless the tool has been lost or stolen. The Agency will not be responsible for such tools covered under a guarantee or warranty and repaired or replaced free of charge by the manufacturer or supplier. A committee of management and CSA employees will review and agree upon the required tool list, any increases in tool inventory, and upgrades no later than February 1 on an annual basis.

REV: 2017,2019

## **ARTICLE 12.6 OUTERWEAR REIMBURSEMENT [ODOT ONLY] (Prior Article 65)**

### **Section 1.**

- A. Eligible employees shall receive an outerwear reimbursement of up to four hundred dollars (\$400) per biennium to purchase, maintain, or repair rain jackets, rain pants, insulated jackets, ANSI-approved shirts, insulated coveralls, rain boots and insulated boots, as appropriate for the employee's job duties
- B. An employee may not make a claim for the same pair of boots under **Article 7012.7**.
- C. When employees are required to perform field work in inclement conditions, safety equipment and supplies will be provided to protect the employee from environmental hazards/elements.

Section 2. An employee is eligible for the outerwear reimbursement when assigned to perform outdoor work a significant portion of the year during conditions that require protective clothing as determined by management and included in the position description. For the purpose of this article, a significant portion of the time is thirty percent (30%) or greater of a full-time work schedule as noted in the position description.

Section 3.

- A. Eligible full-time regular status employees shall be provided the full amount of the reimbursement.
- B. Part-time regular status employees that are eligible under section 2 of this article shall be allowed a prorated amount of the biennial reimbursement based on their regularly scheduled hours compared to a forty (40) hour work schedule.

Section 4. The outerwear reimbursement shall be paid to eligible employees who submit claims for reimbursement through the Agency Travel Expense process.

Approved outerwear shall be claimed as an Other Expense with receipts and may be submitted by the employee at any time during the biennium. Each biennium begins on July 1 and ends two (2) years on June 30<sup>th</sup>. The total of reimbursement paid to any one eligible employee shall not exceed four hundred dollars (\$400) in any biennium.

REV: 2017

**ARTICLE 12.7 BOOT REIMBURSEMENT [ODOT ONLY] (Prior Article 70)**

Section 1. Types and Frequency of Reimbursement. The parties agree that eligible bargaining unit employees will receive a biennial boot reimbursement for purchase, repair or maintenance of ASTM/ANSI-approved boots, except for the conditions outlined in Section 3 of this article. Reimbursement shall be limited to the following items:

- 1. New ASTM/ANSI-approved boot
- 2. Pre-owned ASTM/ANSI-approved boot
- 3. ASTM/ANSI boot repairs, which include sole replacement, toe repairs, stitching repair, upper and lower boot repair
- 4. Boot/shoe laces or zippers if designed for use with the boot
- 5. Mud Flaps and lace protectors
- 6. Boot cleaner
- 7. Boot sealer/grease
- 8. Boot toe protector (liquid or pre-made form)
- 9. Insoles/orthopedic inserts
- 10. Water repellent

Section 2. Eligibility and Application of the Reimbursement. Eligibility will be determined by management and included in the position description as identified in the Agency's Job Hazard Analysis Questionnaire.

- A. Full-Time Regular Status Employees.  
Eligible employees of record on July 1 of each odd-numbered year shall be eligible to receive reimbursement, provided the employee is assigned and

performs work that requires ASTM/ANSI-approved boots. If an employee is on leave without pay or not required to wear ASTM/ANSI-approved boots for the entire biennium, the employee will not be eligible for the reimbursement.

**B. New Hire Full Time Employees.**

If an employee is hired during the biennium, the employee shall receive the biennial reimbursement.

**C. Seasonal Employees.**

Seasonal employees who are scheduled to work at least six (6) calendar months per biennium shall be eligible to receive the biennial boot reimbursement, provided the employee is assigned and performs work that requires ASTM/ANSI-approved boots.

**Section 3. Payments By Other Organizations.** A reimbursement shall not be paid if an employee receives a payment from another agency or organization for ASTM/ANSI-approved foot protection during the biennium. Employees who receive such payments must notify their supervisor.

**Section 4. Reimbursement Rate.** The biennial reimbursement shall be up to two hundred thirty dollars (\$230.00). An employee may not make a claim for the same pair of boots under **Article 6512.6.**

**Section 5.** The boot reimbursement shall be paid to eligible employees who submit claims for reimbursement through the Agency Travel Expense process.

*REV: 2017*

**ARTICLE 12.8 TRAVEL EXPENSES/MILEAGE/MOVING ALLOWANCE (Prior Article 59)**

**Section 1.** Travel Expenses and Mileage Reimbursement. Travel, mileage and moving reimbursement shall be established in the General Travel Rules adopted by the Oregon Department of Administrative Services State Controller's Division Accounting Policy Manual with the following exceptions:

**A. ALLOWANCE FOR MOVING EXPENSES DUE TO RELOCATION.**

Employees relocated to a new official work station at the request of or for the benefit of the Agency may be reimbursed for normal, reasonable moving expenses and related expenses, provided the employee is relocated to a new official work station 35 or more miles from the previous official work station. The provision to relocate 35 or more miles from the previous work station does not apply if the employee is required to move into State-owned housing. All moving expense reimbursements must be supported by receipts and will be paid directly to the employee through the payroll system. Employees who do not have the means to pay moving expenses up front shall receive a moving expense advance from the Agency which must be accounted for in a manner similar to a travel advance.

**B. (FORESTRY ONLY) During fires or other emergency situations when an employee is required to be absent from his/her official station, the Agency will provide meals and lodging to the employee after arrival at the fire or**

emergency site. These meals and lodging are normally provided through the use of facilities such as fire camp or commercial facilities.

If an employee is absent from his/her official station and traveling to the fire or other emergency site, the employee will receive a meal allowance consistent with sections titled (Meal Per Diem During Non-Overnight Travel) and (Adjustments to Per Diems) of Department of Administrative Services Travel Policy. Travel status will begin when the employee departs from his/her official station and will end upon the employee returning to his/her official station.

- C. Personal Telephone Calls. The parties agree that this Section of the Agreement will supersede the section of the DAS Travel Policy on Personal Telephone Calls.

On the first day of overnight travel, staff will be reimbursed for one (1) personal telephone call. During extended overnight travel, staff will be reimbursed for one (1) personal telephone call for every two (2) day of travel. Telephone calls will be kept to a minimum not to exceed ten (10) minutes. Receipts will be required.

- D. Per Diem: Managers may assign employees to be on seven-day per diem if it can be demonstrated that there are no additional costs to the Agency. Such employees shall be allowed to maintain seven-day per diem whether or not the employees return to their residence on regularly scheduled days off. The employees shall not charge the Agency for any overtime or mileage reimbursement for returning to their residence on days off.

Per diem payment will stop if an employee leaves on vacation, and will resume when the employee returns to work at the temporary location. Per diem allowance for sick leave will be paid for days on which sick leave is taken up to a maximum of three (3) days in any one (1) per diem assignment, provided the employee would have received the allowance had he/she worked and provided the employee remains at the temporary work location.

- E. Miscellaneous Expenses: Employees may be eligible for reimbursement of miscellaneous relocation expenses up to \$5000. A request for additional miscellaneous expenses that exceed the limit shall be submitted to the Department of Administrative Services Director for consideration. Employees will submit receipts for all miscellaneous expenses with the expense claim. Child care costs (babysitting) incurred during the house hunting or moving phase shall be considered also reimbursable miscellaneous expenses.

In accordance with SB 750, the Association will be given notice of any changes in policy which involve a mandatory subject of bargaining.

Section 2. Moving Allowance. Except for provisions in this article, the Chief Human Resource Office Policy (Current Employee Relocation) 40.055.10 in effect as of July 1,

2009 shall be applied.

Section 3. Paid Time Off For Moves. Paid time off provided for in Department Administrative Services policy 40.55.00 in effect as of July 1, 2009 to effect a move shall be in addition to accrued paid time off employees as eligible to receive under this agreement.

**ARTICLE 12.9 RESCINDED TRANSFERS AND MULTIPLE MOVES (Prior Article 60)**

Section 1. Rescinded Transfer. An employee given a written notice of transfer that is later rescinded shall be compensated by the Agency for all expenses incurred which are reimbursable under Article 59-12.8—Travel Expenses/Mileage/Moving Allowance. The employee shall furnish the Agency with normally required receipts of expenses claimed.

Section 2. Multiple Moves. When an employee has been assigned to a permanent duty station for less than two (2) years and is transferred at the request of the State to a new duty station, the Employer shall issue a lump sum premium payment equal to sixty (60) days of per diem as determined by the per diem rate for the geographic location of the current or new duty station which ever provides greater relief to the employee for the move. An employee would only be eligible for this premium payment if he/she has incurred reimbursable expenses under Article 59-12.9 as a result of the new duty station. Such payment shall be made within ten (10) work days of his/her reporting to the new duty station. This lump sum premium is in addition to all other moving allowances or benefits he/she would be eligible to receive.

**ARTICLE 12.10 PARKING [ODOT ONLY] (Prior Article 58)**

The parties agree that before any changes in parking rates for State employees represented by the Association at any State-owned and operated parking facility are made, the Employer shall provide an opportunity for the Association to participate in the determination of such rates. The Association will be afforded the opportunity to offer suggestions, make recommendations and introduce any data deemed appropriate.

**ARTICLE 12.11 SAFETY GLASSES (Prior Article 81)**

The Agency will reimburse an employee up to one hundred fifty (\$150.00) dollars annually for the replacement cost of prescription safety glasses or lenses where the glasses are broken or damaged to the point of being unusable, to include being irretrievable, so long as the damage occurred during the course and scope of the employee's employment. [Note: It is not the Agency's practice or intent to pay for eye examinations.]

**ARTICLE 12.12 PROFESSIONAL REGISTRATION INCENTIVE [ODOT/OPRD ONLY] (Prior Article 80)**

Association employees working for ODOT or OPRD who attain any one (1) of the professional licenses/registrations listed in Sections 1 - 3 will receive a one (1)-time only one (1)-step increase above their current base rate of pay not to exceed the existing salary maximum. The employee's salary eligibility date will not change. This increase is effective for a license/registration obtained after August 28, 2015.

Section 1- Board of Examiners for Engineering and Land Surveying (OSBEELS):  
Professional Engineer (PE)

Professional Land Surveyors (PLS):

Section 2 – Board of Geologist Examiners (OSBGE):  
Registered Geologist (RG)

Section 3 – Oregon Landscape Architect Board (OSLAB)  
Landscape Architect

**ARTICLE 12.13 DIVING DIFFERENTIAL (ODOT Only)**

Section 1. Employees who participate in ODOT assignments performing underwater inspections and maintenance utilizing their personal diving equipment shall receive **one (1)** of the following total daily dive pay:

- Diver in Training: Total Daily Dive Pay of \$259
- Working Diver (Journey): Total Daily Dive Pay of \$275
- Master Diver: Total Daily Dive Pay of \$292

{Requirements for the working titles above are found in the ODOT Diving Safety Manual.}

The total daily dive pay will be added to the employee's gross wages and shall be considered taxable income.

REV: 2017,2019

## DIVISION 13 – LETTERS OF AGREEMENTS

### LETTER OF AGREEMENT #1 – TRAFFIC SYSTEMS TECHNICIAN DIFFERENTIAL

This Agreement is between the State of Oregon, acting through its Department of Administrative Services, on behalf of the Department of Transportation and the Association of Engineering Employees of Oregon.

The Parties agree to the following:

#### Section 1.

Employees occupying positions classified as Traffic Systems Technician 1-~~3~~ of the Department of Transportation performing assigned duties that require an electrician's license will be eligible to receive a ten percent (10%) pay differential for such assignment of work above the employee's base salary rate.

#### Section 2.

This differential shall not apply to voluntary training and development purposes.

#### Section 3.

This differential shall not be computed at the rate of time and one-half (1-1/2) for the time worked in a one-time or holiday work situation, or to effect a 'pyramiding of work out of class payments.' However, this differential shall be included in calculation of the overtime rate of pay. No employee assigned to duties requiring an electrician's license will be eligible for work out of classification payment when assigned duties require an electrician's license.

#### Section 4.

This Agreement shall continue and will automatically expire June 30, ~~2019~~2021, unless the Parties augment this Agreement.

## LETTER OF AGREEMENT #2 - PART-TIME MEDICAL PREMIUM SUBSIDY

The Parties agree to the following:

For Plan Years ~~2017, 2018 and~~ 2019, ~~2020 and 2021~~ the Employer will pay ninety-five percent (95%) and the employee will pay five percent (5%) of the monthly premium rate as determined by PEBB. For employees who enroll in a medical plan that is a least ten percent (10%) lower in cost than the monthly premium rate for the highest cost medical plan available to the majority of employees, the Employer shall pay ninety-nine percent (99%) of the monthly premium for PEBB health, vision, dental and basic life insurance benefits and the employee shall pay the remaining one percent (1%).

For less than full-time employees who have at least eighty (80) paid regular hours in the month, the Employer will pay a monthly benefit insurance premium amount of the plan selected by the employee calculated per **Article 5411.5**, as follows:

a) Part-Time, Seasonal and Intermittent Employees Electing Part-Time Insurance.

Part-time premium rate x Employer contribution percentage x the ratio of paid regular hours to full-time hours to the nearest full percent = State contribution. In addition, there shall be a subsidy based on the employee's coverage tier for Plan Year ~~2017-2019~~ consisting of one (1) of the following monthly amounts

Employee Only:	<del>\$280.37</del> <u>226.00</u>
Employee and Spouse/Partner:	<del>\$452.00</del> <u>462.61</u>
Employee and Children:	<del>\$384.20</del> <u>392.52</u>
Employee and Family:	<del>\$610.20</del> <u>560.75</u>

~~Part-Time subsidy amounts for 2018 and 2019 will consist of one (1) of the following amounts:~~The part-time subsidy shall be determined by PEBB for future Plan Years. The part-time subsidy amount for Plan Years 2020 and 2021 will be available on the Public Employees' Benefit Board website.

<del>Employee Only:</del>	<del>\$226.00</del>
<del>Employee and Spouse/Partner:</del>	<del>\$452.00</del>
<del>Employee and Children:</del>	<del>\$384.20</del>
<del>Employee and Family:</del>	<del>\$610.20</del>

b) Part-time, Seasonal and Intermittent Employees Electing Full-Time Insurance

Full-time premium rate x the Employer contribution percentage x the ratio of paid regular hours to full time hours to the nearest full percent = State contribution.

## **LETTER OF AGREEMENT #3 – SQUARING OF THE COMPENSATION PLAN**

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and the Association of Engineering Employees of Oregon (Association).

The purpose of this Agreement is to establish a consistent percentage between salary steps and ranges for the Association's bargaining unit.

The Parties agree to the following:

Section 1. Methodology. Effective January 1, 2008 the Compensation Plan shall be reconfigured by using SR34 Step 7 and calculating steps below and above that range and step so that there is five percent (5%) between steps in all salary ranges.

### Section 2. Implementation.

- A. Employees on a specific step shall remain on that specific step. If, as a result of the squaring of the plan, an employee's salary amount is below the new salary step, the employee shall retain his/her salary rate and remain off step until his/her next step increase subject to the procedures outlined in subsection (c) below.
- B. If an employee's current salary rate is between salary steps, the employee shall, on their salary eligibility date, be eligible for an increase under the conditions outlined in subsection (c) below.
- C. For an employee whose rate is off step within the salary range, his/her salary shall be adjusted to the next higher rate closest to their current salary on their next salary eligibility date provided the employee is not at the top step of their classification. However, should an increase be less than two and one half percent (2 ½%), the employee will move into the next higher step in the range. If an employee's salary rate is above the top step of the range for their classification, the employee's salary rate shall remain unchanged.

### Section 3. Termination Date.

This Agreement expires upon implementation of this agreement.

LETTER OF AGREEMENT #4 – MASS TRANSIT

~~This Agreement is entered into by the State of Oregon, acting through its Department of Administrative Services, Labor Relations Unit (Employer), and the Association of Engineering Employees of Oregon (Association).~~

~~The Employer shall make available to all employees the ability to purchase Mass Transit passes or pay van pool fares with a pre-tax payroll deduction in accordance with Section 132 of the Internal Revenue Code.~~

~~The Employer shall notify employees of this opportunity during health insurance open enrollment.~~

DRAFT BLACKLINE

## LETTER OF AGREEMENT #45 – CDL DRUG TESTING

This Agreement is by and between the State of Oregon, through its Department of Administrative Services, hereinafter called the “Employer”, on behalf of the Department of Transportation, Oregon Department of Forestry, and Oregon Parks and Recreation Department, hereinafter called the “Agency”, and the Association of Engineering Employees of Oregon hereinafter called the “Association”.

The Parties agree to the following:

### Section 1. Application.

This Agreement covers all Association-represented employees who are required to possess a commercial driver license (CDL) and perform safety-sensitive functions in all Agencies where the Association is the bargaining agent. This Agreement is specifically limited to meeting the alcohol and drug testing requirements pursuant to Federal Department of Transportation regulations for CDLs and applicable law.

### Section 2. Term of Agreement.

This Agreement ends June 30, ~~2019~~ 2021 except as otherwise noted.

### Section 3. Payment for Testing.

Agencies will pay for random, reasonable suspicion, post-accident and return to duty testing. If an employee wants additional tests conducted, the employee pays for the test. As used herein, a drug test may include both the initial test and confirmation of a single specimen.

Where an employee with a positive alcohol/drug test result is offered a last chance agreement by the Agency, which the employee signs, the Agency will pay for the first six (6) follow-up tests required by the certified substance abuse professional.

### Section 4. Pre-Employment Testing.

A pre-employment drug test will be conducted under the following conditions, except where conditions listed in Part 382.301(b)(c) are met:

- A. New hire to the Agency, unless the employee meets the requirements outlined in the regulations.
- B. Return from layoff.
- C. Reemployed as a seasonal employee.
- D. Promotions, demotions and transfers where the employee moves into a position that requires a commercial driver license.
- E. Where an employee possesses a commercial driver license and receives a new assignment requiring the possession of a CDL yet does not change positions.

### Section 5. Consequences of Positive Tests.

When an Agency receives notice of an employee’s positive test, the Agency will take one (1) or more of the following actions in addition to removing the employee from safety-sensitive functions.

- A. Random, Reasonable Suspicion and Pre-Employment Tests.
  1. Temporarily assign the employee to non-safety-sensitive functions;

2. Allow an employee to take accrued leave or leave without pay pursuant to the requirements of the Agreement if the Agency does not assign non-safety-sensitive functions;
3. Refer the employee to rehabilitation and last chance agreement; the duration of a last chance agreement shall be for a period of five (5) years starting from the effective date of the last chance agreement. After the five (5) year period, the last chance agreement will be removed from the employee's personnel file.
4. Take disciplinary action pursuant to the requirements of the Agreement.  
In the case of pre-employment testing for promotions, demotions or transfers where the employee is moving from a position that does not require a CDL to a position that requires a CDL, an additional option is to rescind the appointment.

B. Post Accident, Follow-Up and Return to Duty Testing.

This Agreement does not waive employee rights under Part 382.505 as it applies to alcohol test results of 0.02 to 0.039.

The Parties acknowledge that an Agency, at its own discretion, may decide to offer a last chance agreement to an employee as an alternative to termination. However, nothing in the Agreement shall preclude an Agency from issuing a lesser form of discipline in conjunction with offering a last chance agreement. Last chance agreements will not include blood testing or additional follow-up testing not required by the certified substance abuse professional. The duration of a last chance agreement shall be for a period of five (5) years starting from the effective date of the last chance agreement. After the five (5) year period, the last chance agreement will be removed from the employee's personnel file.

Section 6. Use of Leaves.

- A. An employee will be granted Agency time for actual testing, traveling to and from the test site if such travel is required and for meeting with the Medical Review Officer if such meeting is necessary.
- B. An employee who tests positive in a random, reasonable suspicion or post-accident test can use any accrued leave or leave without pay pursuant to the terms of the Agreement when removed from his/her position when the Agency does not assign the employee non-safety-sensitive functions to perform.
- C. An employee can use accrued leave or leave without pay pursuant to the terms of the Agreement to enroll in and participate in a rehabilitation program and for meeting with the certified substance abuse professional if such meeting is required.
- D. If test results are later found to be negative, and the employee used accrued leave when removed from a safety-sensitive function, the employee's leave accrual balance will be restored.

Section 7. Refusal to Test.

An employee will be terminated pursuant to the requirements of the Agreement.

Section 8. Definition of “Accident” for Purposes of Post-Accident Testing.

The definition of “accident” shall be the same as the definition contained in Part 390.5 of the Federal Regulations. Post-accident testing shall be limited to the driver of the commercial motor vehicle pursuant to Part 382.303(a) of the federal regulations.

Section 9. Status of Person on Return from Layoff and Seasonal Rehire.

The consequences for a person on a return from a layoff list or seasonal rehire list as a result of a positive test will be the following:

A. Return from Layoff.

1. Alcohol test results of 0.04 or greater or a positive drug test. Upon notice from the employee, the Agency will consider that he/she exercises his/her one (1) right of refusal under the Agreement and continues on the list pursuant to the terms of the Agreement.
2. Alcohol test results of less than 0.04. The Agency will require that the employee take a return to duty test. If the test is negative, the person will be hired. If the alcohol test is positive, the employee will notify the Agency that he/she is exercising his/her one (1) right of refusal under the Agreement and will continue on the list pursuant to the terms of the Agreement.

B. Seasonal Rehire.

1. Alcohol test result of 0.04 or greater or positive drug test. The person will not be rehired, but can reapply under reemployment conditions.
2. Alcohol test results of less than 0.04. The Agency will require that the person take a return to duty test. If the test is negative, the person will be hired. If the test is positive, the person will be denied the position and can reapply under reemployment conditions.

Section 10. Employees Authorized to Require Reasonable Suspicion Testing.

In addition to supervisors, an Association-represented employee may be assigned to require reasonable suspicion testing of an employee only when:

- A. The employee has been formally assigned in writing to perform the responsibilities of a management service position, and,
- B. The employee has been trained to determine “reasonable suspicion” in accordance with the Federal regulations covering alcohol and drug testing for commercial drivers.

Section 11. Requested Written Information.

- A. Upon request of the affected employee or Association representative, the Agency will provide to the affected employee or Association representative written verification of a positive drug test after the Agency receives such written verification of a positive drug test.
- B. The number of random drug tests conducted and the number of positive drug tests will be sent to the Association on a quarterly basis.
- C. Upon the Association’s written request, the Agency will obtain from the

State Contractor, the location of prior random drug testing for the previous calendar quarter for the Agency for which the Association seeks such information. The Association shall pay any costs associated with obtaining the information requested by the Association.

DRAFT BLACKLINE

## LETTER OF AGREEMENT #6-5 – TELECOMMUTING AND TELEWORKING

The Employer is committed to allowing employees, where suitable, to telecommute or telework pursuant to the statewide Telecommuting and Teleworking policy (50.050.01). Requests to telecommute or telework shall be considered in order of application and responded to within thirty (30) calendar days. No request to telecommute or telework shall be unreasonably denied or rescinded. If a request is denied or rescinded, management ~~will~~ shall ~~need to~~ specify the reason for denial or rescission in writing.

Subject to Agency approval, alternative work arrangements may be utilized to allow an employee telecommute or telework on an ad hoc basis.

Any alleged violations of this Letter of Agreement may utilize the grievance procedure in ~~Article 36~~ Article 3.6 and may only proceed through the Labor Relations Unit of the Department of Administrative Services (DAS) (Step 3 of the grievance procedure) and are not arbitrable.

~~This Agreement becomes effective on the date of the Association/DAS CBA and ends on June 30, 2019.~~

LETTER OF AGREEMENT #7 – DIVING DIFFERENTIAL

This Agreement is between the State of Oregon, acting through its Department of Administrative Services, hereinafter called the “Employer”, on behalf of the Department of Transportation, hereinafter called the “Agency”, and the Association of Engineering Employees of Oregon, hereinafter called the “Association”.

The Parties agree to the following:

~~Employees who participate in ODOT assignments performing underwater inspections and maintenance utilizing their personal diving equipment shall receive the following total daily dive pay:~~

- ~~• Diver in Training: Total Daily Dive Pay of \$259~~
- ~~• Working Diver (Journey) Total Daily Dive Pay of \$275~~
- ~~• Master Diver: Total Daily Dive Pay of \$292~~

~~(Requirements for the working titles above are found in the ODOT Diving Safety Manual.)~~

~~The total daily dive pay will be added to the employee’s gross wages and shall be considered taxable income.~~

~~If this Letter of Agreement is opened in successor negotiations, a sub-committee shall be established to meet and provide recommendations to the Central Table bargaining team.~~

~~This Letter of Agreement shall go into effect July 1, 2015.~~

LETTER OF AGREEMENT #8 – APPOINTMENTS COMMITTEE

The Parties agree to establish a temporary committee to discuss the Job Share process: applications, evaluation guidance, duration, and other issues related to Job Share. The committee will cease to exist as of June 30, 2018.

Three (3) members from Association and three (3) from ODOT management shall be appointed by the respective parties to serve on the committee. Time and expenses shall be covered by the provisions of **Article 9, Section 6**, or by use of available paid or unpaid leave (vacation, compensatory time, etc).

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LETTER OF AGREEMENT #96 – OPRD LABOR MANAGEMENT COMMITTEE

The Parties may establish quarterly Labor Management Committee meetings with the goal of resolving issues between them at the lowest level possible and to share relevant information pertaining to their relationship. During these meetings, the Parties shall not discuss litigation, bargaining subjects or other issues not lawful to discuss in this forum. The Parties may discuss matters related to pending grievances if mutually agreed to by both Parties. This provision applies only to OPRD, not other agencies with employees represented by Association. Other terms of this provision shall be further defined by the Parties, but shall include even representation of management and represented staff during the Labor Management Committee meetings and mechanisms for mutually agreeable cancellation of the meetings.

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## LETTER OF AGREEMENT #10 – PAY EQUITY

~~This Agreement is entered into by the State of Oregon, acting through its Department of Administrative Services, Labor Relations Unit (Employer), and the Association of Engineering Employees (Association).~~

~~The State of Oregon and the Association share a belief in equal pay for equal work and share a common interest in closing the wage gap between men and women. More than twenty five (25) years ago, there were efforts to close the wage gap and made incredible progress. However, despite that good work, a gap may still remain; therefore, the Parties agree to the following:~~

~~The Employer shall discuss their recommendations with the Association and also provide the Association the opportunity to make recommendations on how to close any gap for represented employees, including but not limited to policy initiatives and funding needs.~~

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~~**LETTER OF AGREEMENT #11 – RECRUITMENT AND RETENTION DIFFERENTIAL  
– RAIL COMPLIANCE SPECIALIST RAIL DIVISION (ODOT)**~~

~~This Letter of Agreement is entered into between the Department of Administrative Services, Labor Relations Unit (DAS/LRU), on behalf of the Oregon Department of Transportation (ODOT), and the Association of Engineering Employees of Oregon (Association).~~

~~The Parties agree to the following:~~

~~Rail Compliance Specialist employees that hold and retain the Federal Rail Administration certification in one (1) of the disciplines listed below will receive a five percent (5%) pay differential above their current base rate of pay.~~

~~Discipline:~~

- ~~• Track Inspector;~~
- ~~• Operating Practices Inspector;~~
- ~~• Hazardous Materials Inspector;~~
- ~~• Highway Rail Grade Crossing Inspector;~~
- ~~• Signal and Train Control Inspector;~~
- ~~• Motive Power and Equipment Inspector.~~

~~The Rail Compliance Classification study shall be completed by October 15, 2017, and interim bargaining completed by January 15, 2018. This Agreement shall sunset upon implementation of successful interim bargaining agreement related to the Rail Compliance Classification Study.~~

## LETTER OF AGREEMENT #1276 – PEBB MEMBER ADVISORY COMMITTEE

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and AEE (Association).

The Employer and Association share a commitment to PEBB achieving its vision of better health, better care and affordable costs. Both Parties recognize that the structure of PEBB is authorized in Oregon Revised Statutes, and is also designed to provide the input and perspective of members in PEBB decisions. The Employer and the Association share an interest in further informing the PEBB decision making process through an additional layer of direct member engagement in health and wellness.

Therefore, the Parties agree to the following:

### SECTION 1.

1. PEBB is directed to create and staff a PEBB Member Advisory Committee (PMAC).
2. The PMAC will be comprised of PEBB members, including both management and labor, with one member appointed by AEE. Appointment to the PMAC will be for a two (2) year period. Management will select the management co-chair and labor will select their co-chair.
3. The PMAC will meet at least once per calendar quarter.
4. The PMAC will provide advice on:
  - a. Member engagement
  - b. Health and Welfare strategies including the Health Engagement Model
  - c. Education and engaging members as active leaders in their health.
5. PEBB is required to present updated to the PMAC about the progress towards its vision of better health, better care and affordable costs.
6. Participants on the ~~committee~~ PMAC who are state employees will be in paid status and shall be reimbursed as per state travel policy. Agencies will not incur any overtime liability as a result of committee meetings or travel.

### SECTION 2.

1. The Worksite Wellness Coordinating Council was created by Executive Order No. 17-01.
2. The Worksite Wellness Coordinating Council is comprised of agency leaders, including leadership from the OHA Public Health Division, PEBB, DAS, the Governor's Office, and union representatives, including at least two (2)

representatives from each of the two (2) largest unions and a representative from a smaller labor union.

3. Participants on the Worksite Wellness Coordinating Council who are state employees will be in paid status and shall be reimbursed as per state travel policy. Agencies will not incur any overtime liability as a result of committee meetings or travel.

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## LETTER OF AGREEMENT #13 – PMAC INSURANCE EDUCATION

~~This Agreement is entered into by the State of Oregon, acting through its Department of Administrative Services (Employer) and the Association of Engineering Employees (Association).~~

~~The Employer and Association recognize the importance of making an informed decision regarding an employee selecting health insurance coverage. The Parties mutually agree to work toward increasing the amount of health insurance plan information available to state employees so they may select the most affordable plan that meets their needs.~~

~~The purpose of this Agreement is to empower the PEBB Member Advisory Committee (PMAC) to identify ways to increase knowledge of the health insurance plans available to State employees.~~

~~The Parties agree to the following:~~

- ~~1. The Parties will convene the PMAC by August 1, 2015 to work on the following:
  - ~~a. PMAC will identify what resources State employees need most in order to select their health insurance plan and how to best distribute these resources.~~
  - ~~b. PMAC will recommend subjects for a new educational video on health insurance plans that will be available to State employees.~~
  - ~~c. PMAC shall submit all of its recommendations to CHRO (Chief Human Resources Office) and the Association by September 1, 2015.~~
  - ~~d. CHRO or its designee shall produce and distribute a new educational video on the health insurance plans available to State employees by October 1, 2015.~~
  - ~~e. Employees will be authorized to view the PEBB health insurance video during Agency time where it is feasible.~~~~
- ~~2. In addition, by October 1, 2015 Agency and Local Association leadership will determine the mechanics of how best to deliver the information to all employees for their individual agencies.~~
- ~~3. This Agreement becomes effective August 1, 2015 and automatically terminates June 30, 2019.~~

LETTER OF AGREEMENT #14 – RETURN TO CLASSIFIED SERVICE FROM  
EXEMPT OR UNCLASSIFIED SERVICE

A regular employee who is appointed to a position in the unclassified or exempt service or a regular employee whose position is placed in the unclassified or exempt service by statute shall, after separation from the unclassified or exempt position, have the right to return to a position in the same Agency and in the same class as the position last held in the classified service provided that a request is made within thirty (30) days from the date of separation. Should there be no vacant position available, a layoff shall occur. Should the employee who is seeking to return to the classified service have the least service credit among those in the class, that employee shall be laid off and his/her name shall be placed in order of service credit on both the Agency Union Layoff List and the Secondary Recall List for the class in which the layoff occurred.

This LOA sunsets January 1, 2018.

LETTER OF AGREEMENT #15 – CONTRACT ARTICLE SUBCOMMITTEE

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and Association of Engineering Employees of Oregon (AEE).

It is agreed that the Department of Administrative Services, Labor Relations Unit will convene a subcommittee to assess the current ordering and numbering conventions for the Articles contained in the Collective Bargaining Agreement. The subcommittee will have one (1) member from AEE, ODOT, ODE and OPRD.

The meetings will happen during work hours. Attendance at the meetings will be on paid time. However, travel will be at the expense of the traveler.

The purpose of the subcommittee is to agree to re-aligning the Collective Bargaining Agreement articles into a new order, which has a better logical flow. The subcommittee will need to ensure there is appropriately documented article history to preserve article integrity, and to ensure all articles are maintained in their entirety.

## LETTER OF AGREEMENT #167 – INCLEMENT WEATHER/HAZARDOUS CONDITIONS LEAVE

This ~~counterproposal~~ Letter of Agreement shall apply to all FLSA non-exempt employees.

This ~~counterproposal~~ Letter of Agreement does not apply to:

- FLSA exempt employees.
- Employees designated by the Agency to report to work during a closure.

~~This counterproposal becomes effective on the first (1<sup>st</sup>) of the month following ratification of the Collective Bargaining Agreement.~~

When the Department of Administrative Services/Agency chooses to close or curtail an office or facility before the start of an employee's work day, one (1) of the following options will be implemented:

Section 1. In the event of a curtailment (delayed opening), the employee shall be allowed to access inclement weather leave for up to one half (1/2) of their regular work day for up to forty (40) hours a biennium.

### Section 2. Full Day Closure.

- ~~The~~ In the event of a full day closure, the employee will work from home or alternate work location for at least one half (1/2) of their regular work day. The balance of the employee's work day will be on inclement weather leave for up to forty (40) hours a biennium, ~~or,~~
- If no work is available or the employee is unable to work from home or alternate work location, the employee will use accrued vacation hours, compensatory time off, personal leave time or leave without pay for at least one half (1/2) of their regular work day. The balance of the employee's work day will be on inclement weather/hazardous conditions leave not to exceed forty (40) hours a biennium. ~~or,~~
- The employee may, with Agency prior approval, ~~temporarily~~ temporarily adjust their work hours during the same workweek to make up for hours not worked. The Agency shall not suffer any overtime or penalty payments as a result of this schedule change.
- Once the forty (40) hours of inclement weather/hazardous conditions leave is used, and there are more Agency closures during the biennium, the employee will use accrued vacation hours, personal leave or compensatory time off, leave without pay or, with prior Agency approval, temporarily adjust their work hours during the same workweek. The Agency shall not suffer any overtime or other penalty payments as a result of the change in schedule.

- e. Employees will not be eligible for inclement/hazardous conditions leave when their regular days off occur on a day the Agency closes an office or facility, or when the employee is on prescheduled leave.
- f. Inclement weather/hazardous conditions leave shall not count as hours worked for the purpose of overtime calculations.
- g. Inclement weather/hazardous conditions leave not used during a biennium will be lost and will not be rolled over into the next biennium. Inclement weather/hazardous conditions leave is not compensable if the employee separates from state service.
- h. Part-time employees will receive a prorated amount of inclement weather leave when applicable.
- i. When, in the judgment of the Agency, inclement weather/hazardous conditions require the closing of an office or facility following the beginning of an employee's shift, the employee shall be paid for the remainder of the shift.

Section 3.

Use of inclement weather leave for either curtailments or full day openings shall not exceed a combined total of forty (40) hours per biennium.

## LETTER OF AGREEMENT #197 – PERS PICKUP TRANSITION

~~This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and Association of Engineering Employees of Oregon (AEE).~~

~~Per Article 5311.6, on behalf of employees, the State will “pick-up” the six (6%) percent employee contribution to their PERS account, payable pursuant to the law. Effective June 1, 2019, Compensation Plan salary rates for PERS participating members shall be increased by six (6%) percent. At that time, bargaining unit employees will begin to make their own six (6%) percent contributions to their PERS account or the Individual Account Program as applicable. Such employee’s contributions shall be treated as “pre-tax” contributions pursuant to the Internal Revenue Code, Section 414(h)(2).~~

**LETTER OF AGREEMENT #188 – ECONOMIC “ME TOO” PARITY**

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and Association of Engineering Employees of Oregon (AEE).

If any strike permitted bargaining unit under DAS jurisdiction contains an agreement that

- includes a higher cost of living adjustment(s) percentage;
- includes additional steps on the salary scale;
- includes different implementation dates of economic increases;
- results in an agreement regarding PERS and/or retirement related compensation;  
~~or resulting in a more favorable PERS Pick Up Swap;~~
- ~~• results in a change to the cost of living implementation dates already bargained by AEE; or~~
- includes a salary ~~selective~~ range increase, ~~based on a market adjustment or recruitment/retention issues,~~ for a class where AEE has the same class;

Then such improvements shall be extended to AEE ~~on~~ with the same effective date(s).

This Agreement shall become effective on the same date as the AEE bargaining unit ratifies the tentative agreement and automatically expires October 1, ~~2017~~ 2019, or when all strike permitted units under DAS jurisdiction ratify their tentative agreements, whichever occurs ~~first~~ last.

**LETTER OF AGREEMENT #9 – PEBB PROJECTED FUNDING COMPOSITE RATE  
AND COLA**

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and the Association of Engineering Employees of Oregon (AEE).

If the Collective Bargaining Agreement provides for a COLA with an effective date in the second year of a biennium, and the difference in the projected increase in the PEBB composite rate for the following calendar year falls below three-point four percent (3.4%), then the COLA will be moved up by one (1) full month for each month it is sufficiently funded by the savings.

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**LETTER OF AGREEMENT #10 – ELECTRICAL AND CONTROLS SYSTEM  
ENGINEERING DIFFERENTIAL PAY**

Effective July 1, 2019 Professional Engineer 1 (PE1) and Professional Engineer 2 (PE2) employees with Professional Engineering Licensure in Electrical Engineering or Controls System Engineering applicable to their position description will be eligible for a five percent (5%) pay differential above the employee's base salary rate.

This LOA will continue in effect until the Parties complete bargaining on the results of the Engineering class study, unless otherwise mutually agreed in writing by the Parties.

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## LETTER OF AGREEMENT #11 – ENGINEER CLASS STUDY

The Oregon Department of Transportation (ODOT), the Department of Administrative Services (DAS), and the Association of Engineering Employees of Oregon (AEE) are committed to partnering in the completion of a comprehensive class study of the ODOT Engineering classifications. These classifications comprise a majority of the positions within ODOT. Due to the priority of the Transportation package, changes in technology, recruitment and retention, and salary compression, the current class specifications are outdated and a broader perspective on salary structure is needed.

To date, the classifications that will be included in the Engineer Class Study are as follows:

- Civil Engineer Specialists 1-3
- Associate in Engineering 1 & 2
- Professional Engineer 1 & 2
- Entry Engineering Specialist
- Engineering Specialist 1-3
- Engineering Technician 1-3

Note: This list could expand due to the information uncovered during the classification study.

Factoring existing and available resources as DAS, and current enterprise projects underway, completion of the Engineering Class Study is a multi-biennia task. DAS believes, however, with two additional resources, the Engineer Class Study can be completed in a two year period. The February 2020 legislative sessions provides an opportunity for DAS, ODOT, and AEE to collaboratively request these needed resources for the Engineer Class Study. Parties are committed to contribute in the request process in the February 2020 legislative session. Without additional resources, the class study is to be completed by December 2023. With additional resources, the class study is to be completed July 2022. The State will provide the Association with status updates at least every six (6) months on its progress in meeting the provisions of this LOA with schedule updates on how the State plans on meeting the intended timelines.

## LETTER OF AGREEMENT #12 – PAY EQUITY

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer on behalf of the Agencies covered by this Letter of Agreement (Agreement) Oregon Department of Transportation, Oregon Department of Forestry, and Oregon Parks and Recreation Department (Agency) and the Association of Engineering Employees of Oregon (Association).

The purpose of this Agreement is to provide procedures to implement unscheduled pay equity adjustments consistent with Oregon law, and, to identify the appeal procedure to have Agency or Employer decisions concerning pay equity reviewed.

The Parties agree to the following:

1. **Application to Current Employees:** The Employer, an Agency Head or designee (with CRHO approval) may provide an unscheduled salary step increase to correct a pay inequity between employees who perform work of a comparable character and are similarly-situated based on relevant factors, identified in Oregon law [ORS 652.220(2)] by which individual employees may be compensated differently. Unscheduled salary step increases may be initiated by:
  - a. Periodic statewide equal pay analysis processes;
  - b. Employee request, and,
  - c. Agency identified inequity.
2. **Application to Returning Employees (including but not limited to reemployment and return from layoff):** An Agency Head or designee may offer a greater rate of pay than prescribed in the applicable labor agreement when the Agency identifies a pay inequity between employees in the same classification who perform work of a comparable character.
3. If an Agency plans to grant an unscheduled salary step increase to an employee(s), the Agency shall first forward the recommendation to CHRO, Classification & Compensation for review and analysis. The CHRO shall approve or disapprove the recommendation and shall provide a written response back to the Agency. If approved, the Agency may take action to implement the pay equity adjustment.
4. An employee may request a pay equity review by submitting a written request to the Agency Human Resource department. The Agency Human Resource department shall review the merits of the request based on the relevant factors and issue a decision in writing within sixty (60) days, unless an extension of time is mutually agreed to in writing.
5. Pay equity adjustments are generally effective the date an employee made a written request to the Agency, or the date the Agency submitted a request to DAS Classification and Compensation, whichever is earlier.
6. In the event an employee receives an unscheduled salary step adjustment for any of the reasons identified in Section 1, the employee's salary eligibility date shall remain the same.
7. Agencies shall retain all documents pertaining to decisions involving pay equity.
8. If the employee meets with the Agency or Employer, the employee may request and obtain Association representation.

**9. Appeal Procedure – Agency-Level Pay Equity Decisions**

- a. If an employee wishes to appeal an Agency’s pay equity decision, the employee, or Association on the employee’s behalf, shall submit a completed Pay Equity Appeal Form to the Agency Head (or designee), as identified in the Collective Bargaining Agreement, within fifteen (15) days of receipt of the Agency’s decision. The Agency shall respond to the appeal within thirty (30) days of receipt of the appeal to the employee or the Association on the employee’s behalf. The appeal must be based on one (1) or more of the factors listed in ORS 652.220(2) and the compensation of other employee(s) performing work of a comparable character, to the extent it is known by the employee or the Association on the employee’s behalf.
- b. If the employee disagrees with the Agency’s decision, the employee, or the Association on the employee’s behalf, may submit a written appeal to the Department of Administrative Services Labor Relations Unit (LRU) at LRU@Oregon.gov within fifteen (15) calendar days of receipt of the Agency’s decision. The employee, or the Association on the employee’s behalf, shall forward all written documents previously submitted to the Agency as part of the appeal. The appeal shall identify what factors, as outlined above, the Agency did not properly consider. LRU shall respond to the appeal in writing within thirty (30) calendar days.
- c. Pay equity appeal decisions are not subject to arbitration. However, nothing in this Agreement precludes the employee from submitting a claim to the Bureau of Labor and Industries (BOLI) in accordance with BOLI’s administrative rules or pursuing other legal recourse. The timelines for filing with BOLI or pursuing other legal recourse apply regardless of whether the employee appeals the decision under this Agreement.
- d. For purposes of Agency-level pay equity decisions only, the appeal procedure in this Agreement replaces the grievance procedure outlined in the applicable labor agreement covering the employee.
- e. The Employer and Association may agree to extensions of time in this Agreement upon mutual agreement in writing.

**10. Appeal Procedure – “DAS Statewide Equal Pay Analysis” Decisions**

- a. An employee, or the Association on behalf of an employee, may appeal the Employer’s decision concerning the employee’s salary that resulted from a statewide equal pay analysis. The appeal must be based on one (1) or more of the factors listed in ORS 652.220(2) and the compensation of other employee(s) performing work of a comparable character.
- b. An appeal of the Employer’s equal pay analysis decision may be filed by sending a completed “Das Pay Equity Appeal Form” via electronic mail to CHRO.CNC@Oregon.gov no later than 11:59 p.m., PST on February 29, 2019. The Employer shall respond with a decision regarding the employee’s appeal no later than June 30, 2019, unless an extension of time is mutually agreed to in writing.
- c. The timelines for filing with BOLI or pursuing other legal recourse apply regardless of whether the employee appeals the Employer’s decision under this Section.

- d. Pay adjustments made as a result of accepted appeals shall be made retroactively to January 1, 2019.
  - e. To be eligible to file an appeal of the "DAS Statewide Equal Pay analysis" decision, an employee must have been employed by a State executive branch agency as of December 31, 2018 and completed the equal pay analysis survey administered in calendar year 2019. Employees who do not meet these eligibility requirements may pursue an appeal through Section 9 of this Agreement.
  - f. Employees at the top step of the salary range assigned to their job classification on or before January 1, 2019 are not eligible to file an appeal.
  - g. The employer shall notify an employee, or the Association on the employee's behalf, of the outcome of the employee's appeal.
  - h. If the employee disagrees with the Employer's response, the employee may submit a claim to the Bureau of Labor and Industries or pursue other legal recourse. Pay equity appeals are not subject to arbitration.
  - i. For purposes of this Agreement only, the appeal procedure in this Agreement replaces the grievance procedure outlined in the applicable labor agreement covering the employee.
11. This Agreement becomes effective on the date of the last signature below and expires on June 30, 2021, unless extended by written mutual agreement by both Parties.

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## **APPENDIX A – DEFINITION OF GEOGRAPHIC AREA**

### **Section 1. Department of Transportation.**

For purposes of layoff, the following shall be defined as the geographic area:

Zone #1: regions 1-2 (including headquarters)

Zone #2: Regions 3-5

### **Section 2. Department of Forestry.**

For purposes of layoff, the geographic area shall be defined as the Agency.

### **Section 3. Parks and Recreation Department.**

For purposes of layoff, the geographic area shall be defined as the Agency.

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**APPENDIX B - SALARY SCHEDULES - TO BE INSERTED**

**SIGNATURE PAGE-TO BE INSERTED**

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**DAS** DEPARTMENT OF  
ADMINISTRATIVE  
SERVICES

Department of Administrative Services  
Chief Human Resources Office  
Labor Relations Unit  
155 Cottage Street NE  
Salem, OR 97301-3971  
(503) 378-2616

[LRU@oregon.gov](mailto:LRU@oregon.gov)

The official version of this Agreement is held by the Department of Administrative Services Labor Relations Unit on its electronic files at the website below. The Department of Administrative Services does not recognize any other copies or publications of this Agreement.

Electronic version of the Agreement located at:

<http://www.oregon.gov/das/HR/Pages/LRU.aspx>