



AGREEMENT

BETWEEN  
THE

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES

AND

AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES

FOR THE

**OREGON MILITARY DEPARTMENT (OMD),  
OREGON EMERGENCY MANAGEMENT (OEM)**

**2007 - 2009**

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## **ARTICLE 1 - RECOGNITION**

**Section 1.** This Agreement is made and entered into by and between the State of Oregon (hereinafter the "Employer"), acting by and through its Department of Administrative Services (DAS) on behalf of the Oregon Military Department (OMD), Oregon Emergency Management (OEM) (hereinafter the "Agency" or "OEM"), and the American Federation of State, County, and Municipal Employees, Council 75 (hereinafter the "Union" or AFSCME).

**Section 2.** The Employer and the Agency recognize the Union as the sole and exclusive bargaining agent for: All classified employees of the OEM, excluding managerial, supervisory, confidential and temporary employees, employees who work less than thirty-two (32) hours per month, and personnel represented by other labor organizations

This Agreement binds the Union, its members and any person designated by it to act on behalf of the Union. Likewise, this Agreement binds the Employer and the Agency and any person designated by it to act on its behalf.

Disputes concerning bargaining unit composition shall be resolved by the Employment Relations Board. If the Employer excludes a filled position from the bargaining unit under ORS 243.650, the Employer shall notify the Union in writing fifteen (15) calendar days prior to excluding the position from the bargaining unit. The Union must notify the Employer in writing within ten (10) calendar days from receipt of the notification if it disagrees with the decision to exclude the position from the bargaining unit or the matter becomes closed. If the Union's notice of disagreement is received within the ten (10) calendar day period, the parties shall meet within fourteen (14) days of the above notification to discuss the matter. If an agreement is not reached within thirty (30) calendar days from the first meeting, the Union may submit the matter to the Employment Relations Board. Should the matter not be submitted by the Union to the Employment Relations Board within the specified thirty (30) calendar period, the matter shall be considered resolved.

**Section 3.** Upon written requests by the Union, the Agency shall provide a copy of its written personnel policies to the Union. An up-to-date copy of current personnel policies shall be accessible to employees in every office. When a change of personnel policy occurs, a copy of the change will be mailed to the Union and employees informed of the change.

**Section 4.** The Employer will make changes regarding mandatory subjects of bargaining only after compliance with any bargaining obligations under ORS Chapter 243. Alleged violations of this Article shall not be grievable but shall be addressed exclusively by unfair labor practice complaints under ORS 243.672(1)(e). The Union agrees any unfair labor practice complaint will be filed no later than ninety (90) days after the alleged unilateral change.

**Section 5.** Nothing in this Article is intended to inhibit the Director from issuing directives and/or statements that interpret or effectuate a contractual obligation;

however, a copy of such statements or directives shall be sent to the Union as soon as possible before implementation. Upon request of the Union, the Agency agrees to meet and discuss the directive or statement.

**Section 6.** This labor Agreement contains the full and complete agreement on all subjects upon which the parties did bargain or could have bargained pursuant to ORS 243 et. seq. Neither party shall be required, during the term of this Agreement, to negotiate or bargain upon any other issue. All matters not included in this Agreement shall be deemed to have been raised and disposed of as if covered herein.

**Section 7.** Time limits specified in this procedure must be observed, unless either party requests and is granted a specific extension of time. Such extension must be stipulated in writing and shall become part of the record.

## **ARTICLE 2 - ADMINISTRATIVE PROVISIONS**

**Section 1. Laws, Regulations and Savings.** This Agreement is subject to all applicable existing and future State and Federal laws and regulations.

In the event any provision of this Agreement is declared invalid by any court of competent jurisdiction or by ruling of the Employment Relations Board, then only such portion or portions shall become null and void and the balance of the Agreement remain in effect. The Employer and the Union agree to meet, negotiate, and agree upon a substitute for the portion or portions of the Agreement so affected and to bring into conformance therewith not over ninety (90) days after notification unless extended by mutual agreement.

### **Section 2. Legislative Action.**

**A.** Provisions of this Agreement not requiring legislative funding or statutory changes before they can be put into effect shall be implemented on the date of signing this Agreement or the date otherwise specified in this Agreement.

**B.** Monetary provisions of this Agreement are not valid unless approved by the Legislature. Monetary provisions shall be promptly submitted to the Emergency Board by the Department of Administrative Services and both parties shall jointly recommend passage.

**Section 3. Strikes, Lockouts and Picket Lines.** The Union agrees that during the life of this Agreement, the Union or its bargaining unit members will not authorize, instigate, aid or engage in any work stoppage, slowdown, sickout, refusal to work, picketing or strike against the Employer and/or the Agency, its goods, property or on its property.

The Agency agrees that during the life of this Agreement there will be no lockout.

Upon notification confirmed in writing by the Employer to the Union that certain bargaining unit members covered by this Agreement are engaging in strike activity in violation of this Article, the Union shall, upon receipt of a mailing list, advise such

striking employees in writing, with a copy to the Department of Administrative Services, to return to work immediately. Such notification by the Union shall not constitute an admission that it has caused or counseled such strike activity.

**Section 4. Term of the Agreement.** This Agreement shall be in effect upon signing by the two spokespersons, and, except as amended or modified, shall remain in full force and effect until June 30, 2009.

**Section 5. Successor Negotiations.**

**A.** If one of the parties desires to modify the Agreement, they shall notify the other party in writing no less than one hundred and eighty (180) days prior to the termination of this Agreement.

**B.** It is recognized by the Employer that employees representing the Union during the process of negotiations are acting on behalf of the Union as members and not in their capacity as employees of the Employer.

**C.** The Employer agrees to release up to five (5) employees, provided they are not from the same work site, for attendance at negotiating sessions during the period of negotiations for a successor Agreement. The matter of paid or unpaid time for negotiations shall be discussed as a part of the groundrules for the successor negotiations.

**ARTICLE 3 - MANAGEMENT'S RIGHTS**

**Section 1.** The Agency retains all rights customarily attributed to the management and operation of the department unless otherwise specifically abridged by the provision of this Agreement.

**Section 2.** These rights include but are not limited to the following: the right to operate and manage the Agency; to maintain order and efficiency; to direct employees and to determine job assignments and working schedules; to determine the method, means, standards, and personnel to be used; to implement improved operational methods and procedures; to determine staffing requirements; to determine whether the whole or the part of the operation shall continue to operate; to recruit, examine, select, and hire employees; to promote, transfer, assign, and reassign employees; to suspend, discharge, or take other proper disciplinary action against employees; to lay off employees; to recall employees; to require overtime work of employees; and to promulgate rules, regulations, and policies, provided such rights shall not be exercised so as to violate any of the specific provisions of this Agreement.

**ARTICLE 4 - UNION RIGHTS, SECURITY, AND STEWARDS**

**Section 1. Notice of Representatives.** The Union will provide a written list, which will be kept current, to the Agency and the Department of Administrative Services of its representatives from Council 75 who will be "Union Representatives."

**Section 2. Union Representative Visits.** Upon proper introduction and notice to the Director or his/her designee of his/her intent to be present on the worksite and the reason(s), the Agency will allow a Union Representative(s) of Local Council 75 reasonable access to the worksite during working hours. Every good faith effort shall be made to give advance notice of the visit. Such visits will not interfere with the normal flow of work. During periods of emergencies, this provision may be temporarily suspended by the Agency as required for the duration of the emergency.

**Section 3. Union Business.** Employees shall conduct the internal business of the Union during their non-duty hours (e.g., rest breaks, unpaid lunches and before and after work shifts are considered non-duty time) as long as it does not interfere with the normal flow of work.

**Section 3. Union Rights.** Union officers or Union stewards will be allowed to post Union meeting notices through the agency's e-mail system. Announcements will be limited to date, time and place of the meeting and brief agenda. Such use shall be non-interactive.

**Section 4. Building Use.** Upon request to the Director or his/her designee, the Agency may allow the Union use of OEM facilities during non-duty hours for meetings when such facilities are available. Such meetings will not interfere with the business of the OEM.

**Section 5. Bulletin Boards.** The OEM shall provide bulletin board space for the use of the Union to communicate meetings and other official Union business.

**Section 6. Union Notices to Employees.** The OEM shall furnish each new employee with a written notice, provided by the Union, that the Union is the certified collective bargaining representative and of the employee's obligation for declaration of dues or payment in lieu of dues (fair share) deduction.

The Employer agrees to inform all new employees hired into positions included in the bargaining unit of the Union's exclusive recognition, and shall provide all present and future employees in the bargaining unit with a copy of its agreement, provided by the Union. The Employer agrees to allow a duly certified Union Representative or an on-site Steward thirty (30) minutes to speak with new employees about the Union's exclusive recognition, its benefits, and services available to the membership. If a Steward is not available on site, the presentation can be done by telephone.

The Steward will be allowed on duty time for the thirty (30) minute presentation.

**Section 7. Payroll Deductions.**

**A.** The Union shall be provided payroll deductions for its regular monthly dues in accord with ORS 292.055.

**B.** On the first pay period of each month, the Agency shall deduct from the wages of employees in the bargaining unit who are members of the Union and who

have requested such deductions pursuant to ORS 292.055, a sum equal to Union dues. This deduction shall begin on the first payroll period following such authorization and shall continue from month to month for the life of this Agreement or until revoked by the employee in writing, whichever is sooner. Employees who revoke their membership will have fair share deducted pursuant to subsection C.

**C.** Employees in the bargaining unit who are not members of the Union shall make payments in lieu of dues which shall be the equivalent of regular Union dues. Beginning with the first payroll period after the execution of this Agreement and on each period thereafter, the State will deduct from the wages of each bargaining unit employee who is not a Union member the payments in lieu of dues required by this Article amount. Similar deductions will be made in a similar manner from the wages of new bargaining unit employees who do not become members of the Union within thirty (30) days after the effective date of their employment.

**D.** The Employer shall remit a payment for all said deductions to the Union by the 20th of the month after the deductions are made. Said payment shall be accompanied by a listing of the names and social security numbers of all employees from whom deductions were made.

**E.** Any employee who is a member of a church or religious body having bona fide religious tenets or teachings which prohibit association with a labor organization or the payment of dues to it, shall pay an amount of money equivalent to regular Union dues to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the Union. The employee shall furnish written proof to the Agency that this has been done. Notwithstanding an employee's claim of exemption under this Section, the Agency shall deduct fair share from the employee's wages pursuant to this Article, until agreement has been reached between the employee and the Union.

**F.** The Union shall provide the Payroll Unit with a copy of the completed application/authorization forms prior to the payroll cutoff date(s). The Payroll Unit shall then process the completed applications.

**G.** Upon request, and at least quarterly, the Agency shall furnish to the Union an alphabetized listing of the names, classifications, and home addresses, and division or regional office where employed of all new or transferred employees in the bargaining unit.

**Section 8. Employer Held Harmless.** The Union agrees that it will indemnify, defend and save the Employer and the Agency harmless from all suits, actions, proceedings, and claims against the Employer and the Agency or person(s) acting on behalf of the Employer and the Agency whether for damage, compensation, reinstatement, or combination thereof arising out the Agency's implementation of this Article.

## **Section 9. Shop Steward.**

**A.** The Union shall be entitled at OEM, to one (1) Steward in Pendleton and one (1) at the ECF. Such Stewards shall be selected from and represent employees. The Union shall immediately notify the Agency and the Department of Administrative Services Labor Relations Unit of the names of Shop Stewards and their work unit location. The Union shall identify the primary and alternate work sites for which the Steward is responsible.

**B.** Union Stewards will be granted mutually agreed upon paid time off during their regularly scheduled working hours to investigate and process grievances upon notice to their immediate supervisor. If the permitted activities would interfere with the work the Steward or employee is expected to perform, the immediate supervisor shall, within the next workday, arrange a mutually satisfactory time for the requested activity.

Union Stewards will receive their regular rate of pay during investigatory interviews which the employee reasonably believes will result in disciplinary action if such occurs during their regularly scheduled hours of employment. Every good faith effort shall be made to arrange the interview on employee and assigned Steward's work time.

However, only one (1) Union Steward will be in pay status for any one (1) grievance except where a grievance involves employees in more than one (1) Bureau. Employees shall record time spent investigating and processing grievances on their time sheets according to the time reporting policies and procedures of the Agency. An allegation by management of abuse of Steward privileges shall cause a expedited meeting to occur between the OEM Labor Relations Manager, Council 75 Representative, and Steward. If the allegations are found to be valid, the supervisor of the Steward may request that the Steward maintain and submit a monthly activity report of work time spent investigating and processing grievances. This report shall be provided for six (6) months.

The Employer is not responsible for any compensation of employees or their representative for time spent processing grievances outside their regularly scheduled hours of employment. The Employer is not responsible for any travel or subsistence expenses incurred by a grievant or Union Steward for any Union business.

**C.** The OEM agrees there shall be no reprisal, coercion, intimidation or discrimination against any Union Steward or member of the Union for the conduct of the functions described in this Article.

**Section 10. Union Business Leave.** The parties agree to the primary principle that Union business will be carried out during off-duty hours.

**A.** At the Union's request and subject to the operating requirements of the OEM, Union Stewards for the Union shall be granted personal leave, accrued vacation leave, accrued compensatory time, or leave of absence without pay to attend the Union's Steward training session. However, recall from such leave may occur due to emergencies or to meet the operating needs of the agency.

**B.** Employees elected to Union office or otherwise selected by the Union to conduct Union business that takes them away from their employment may be granted personal leave, accrued vacation leave, accrued compensatory time, or leave of absence without pay for up to six (6) months, upon advance notice by the Union. Every good faith effort will be made to provide as much notice as possible. The determination of granting such leave shall be made by the Employer based on operational needs of the Agency. Leave will be requested through the normal Agency procedure. However, recall from such leave may occur due to emergencies or to meet the operating needs of the Agency.

### **Section 11. AFSCME President Leave.**

**A. Long Term.** Upon written request from the Executive Director of AFSCME Council 75 to DAS Labor Relations Unit, one (1) President/designee from an AFSCME Council 75 Central Table participating Agency shall be given release time from his/her position for a period of time up to one (1) year for the performance of Union duties related to the collective bargaining relationship. However, if the Union President/designee or Executive Director requests release time for less than his/her full regular schedule, such release time shall be subject to the Employer's approval based on the operating needs of the employee's work unit. AFSCME shall, within thirty (30) days of payment to the employee, reimburse the State for payment of appropriate salary, benefits, paid leave time, pension, and all other employer-related costs. Where this reimbursement is expressly prohibited by law or funding source, the employee shall be granted a leave of absence but the Employer will not be responsible for continuing to pay the employee's salary and benefits. AFSCME shall indemnify and hold the State harmless against any and all claims, damages, suits, or other forms of liability which may arise out of any action taken or not taken by the State for the purpose of complying with this provision.

**B. Short Term.** Upon written request from the Executive Director of AFSCME Council 75 to DAS Labor Relations Unit and the Agency's Human Resource Manager, up to four (4) Presidents/designees from AFSCME Council 75 Central Table participating Agencies shall be given release time from his/her position for a period of time up to three (3) months for the performance of Union duties related to the collective bargaining relationship. Only one (1) employee from a bargaining unit and a total of four (4) employees from all Central Table participating bargaining units may be on such leave at any one (1) period in time. Such requests will be granted unless the affected Agency can demonstrate that the employee's absence would adversely impact the operating needs of the employee's work unit. If granted, such time may also be taken on an intermittent basis. AFSCME shall, within thirty (30) days of payment to the employee, reimburse the State for payment of appropriate salary, benefits, paid leave time, pension, and all other employer-related costs. Where this reimbursement is expressly prohibited by law or funding source, the employee shall be granted a leave of absence but the Employer will not be responsible for continuing to pay the employee's salary and benefits.

**Section 12. Employee Statistics.** The Human Resources Services Division and the Agency will, upon request of the Union and with reasonable notice, provide any regularly produced computer runs containing non-confidential statistics of the Union's

bargaining unit members. Annually, upon request of the Union, a printout will be provided showing names and addresses of all bargaining unit employees.

## **ARTICLE 5 - EMPLOYEE RIGHTS**

**Section 1.** Off duty activities of employees will not subject them to disciplinary action by the Employer unless such activities constitute just cause for discipline.

**Section 2.** Employees who are the subject of a formal Agency complaint or investigation shall be assured the following rights:

**A.** The employee shall not be deprived of any of his/her constitutional or civil rights guaranteed by the federal and state constitutions and law where potential criminal charges are involved. If an employee or the Union claims a violation of the above, such allegation shall not be subject to the grievance procedure, but can be appealed to the appropriate court of law.

**B.** The employee shall be informed of the nature of the complaint or charges before the employee is required to respond to questions concerning the complaint or charges. Such interview shall occur during employee paid time.

**C.** If the employee is required to respond to a formal complaint or charge, the employee shall have the right to Union representation during the interview. Attendance of the Union Representative or Steward shall not unduly delay the meeting.

**D.** The employee shall not be required to take or be subject to any lie detector device as a condition of continued employment.

**E.** Formal complaints or charges made against an employee which are not sustained shall not be placed in the employee's personnel file or used in any subsequent performance evaluation.

**F.** This Section shall not apply to criminal investigations.

**Section 3.** The Employer may request information regarding the employee's volunteer activities or other sources of income.

## **ARTICLE 6 - EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

**Section 1.** The provisions of this Agreement shall apply equally to all employees in the bargaining unit without regard to age, race, color, religion, sex, sexual orientation, national origin, disability, marital status, or political affiliation. The Union and the Agency further agree that they will support the application of federal and state laws, regulations, and guidelines and the Governor's policy and guidelines for affirmative action plans in state agencies.

**Section 2.** All complaints alleging any form of discrimination, in violation of this Contract shall be submitted to the Director or designee in writing within thirty (30) days

of the date of the occurrence. A meeting with the complainant will be held within fifteen (15) calendar days of the receipt of the complaint. If satisfactory solution cannot be reached, the Director or the designee will communicate in writing, within thirty (30) calendar days from receipt of the complaint, the position of the OEM to the complainant and the Union. If the complaint is not resolved, the employee may submit such complaint to the Bureau of Labor and Industries, Civil Rights Division, except that complaints alleging discrimination because of sexual orientation or political affiliation may be submitted to the Department of Administrative Services, Labor Relations Unit, if unresolved by the Agency within fifteen (15) calendar days after receipt of the Director's or designee's response. Department of Administrative Services, Labor Relations Unit will review the complaint, attempt to resolve it, and/or issue its findings to the employee and the Union. Should the Bureau of Labor and Industries or EEOC be given jurisdiction, such complaints will be processed in the same manner as complaints in this Section.

## **ARTICLE 7 - PERSONNEL RECORDS**

**Section 1.** An employee may, upon request, inspect and copy the contents of his/her official Agency personnel file. No grievance shall be kept in the personnel file.

**Section 2.** No information reflecting critically on an employee shall be placed in the employee's personnel file that does not bear the signature of the employee. The employee shall be required to sign such material to be placed in his/her file provided the following disclaimer is attached:

"Employee's signature confirms ONLY that the supervisor has discussed and given a copy of the material to the employee, and does not indicate agreement or disagreement."

If an employee is not available within a reasonable period of time to sign the material, the OEM may place the material in the file provided a statement has been signed by two (2) management representatives that a copy of the document was mailed to the Union at the time such material was placed in the employee's file.

**Section 3.** If the employee believes that any of the above material is incorrect or a misrepresentation of facts, the employee shall be entitled to prepare a written explanation or opinion regarding the disputed material. This shall be attached to the disputed material and shall be included as part of the personnel record until the material is removed.

**Section 4.** An employee may include in the personnel file any relevant material the employee wishes such as letters of favorable comment, licenses, certificates, college course credits, or other material which reflects creditably on the employee. This material shall be retained for a minimum of three (3) years. When the material is purged, it shall be returned to the employee.

**Section 5.** Material reflecting caution, consultation, warning, or admonishment shall be removed from personnel files after twenty-four (24) months provided there has been no recurrence of the problem or a related problem in that time and given to the employee. Any period of leave of absence without pay that is more than fifteen (15) days shall

extend the retention period for that duration of leave. Earlier removal will be permitted when requested by the employee and if approved by the Appointing Authority.

**Section 6.** The Agency will make a good faith effort to notify an employee when it receives a valid public record request or civil subpoena that information from his/her official personnel file is being inspected by and/or copied for persons outside of state government.

## **ARTICLE 8 - FILLING of VACANCIES**

**Section 1.** The OEM desires to fill vacancies with the best suitable applicants available. The OEM advocates promotion of its employees and is committed to upward mobility where feasible to obtain the best applicant for the position.

The OEM will determine whether a vacancy is to be filled and the method/means to fill that vacancy. An employee desiring to transfer to the position in the same classification will submit a written request to the Agency Human Resources (HR) Office pursuant to the announcement. The employee must meet the minimum and special qualifications of the position.

Promotional candidates, pursuant to Section 2, and transfer candidates, who are qualified, will then be interviewed and considered for the vacancy along with other lists of eligible candidates.

**Section 2.** The employee is responsible for preparation for advancement and qualifying for promotion within the bargaining unit. It shall be the employee's responsibility to see that he/she has taken the appropriate tests and is on the appropriate list.

**Section 3.** Involuntary geographic transfers shall require a ten (10)-day advance notice of the Employer's intent to transfer the employee.

## **ARTICLE 9 - POSITION DESCRIPTIONS**

Position descriptions shall be in writing and will delineate the specific duties assigned to the position. A dated copy of the position description, fully signed by the appointing authority, shall be given to the employee upon assumption of the position and at such time as the position description is amended.

An employee's position description will be subject to annual review by the employee and the employee's immediate supervisor.

Nothing contained herein shall compromise the right or responsibility of the OEM to assign work consistent with class specifications.

## **ARTICLE 10 - TRIAL SERVICE**

**Section 1.** Each person appointed to a bargaining unit position shall serve with each appointment a trial service period of six (6) months, except lateral classification transfers and voluntary demotions of regular status bargaining unit employees.

**Section 2.** At any time during the trial service period, the OEM may remove an employee if, in the judgment of the supervisor, Appointing Authority or designee, the employee is unable or unwilling to perform his/her duties satisfactorily or if, in the judgment of the supervisor, Appointing Authority or designee, his/her habits and dependability do not merit his/her continuance in the position.

If an employee is removed from his/her position during his/her trial service period the employee shall not have rights to appeal the OEM's decision under the Agreement.

If the OEM employee was previously a regular status employee in a position in this AFSCME bargaining unit immediately prior to his/her present appointment, the employee shall be reinstated to his/her former classification as a regular status employee unless he/she is discharged as provided in Article 22.

**Section 3.** An employee's trial service period may be extended in instances where an employee has any leave of absence of fifteen (15) days or more. A leave of absence shall extend the trial service period by the number of calendar days of the leave taken by the employee.

An employee's trial service may also be extended for the purpose of developing the skills or knowledge necessary for competent job performance. Requests for such extensions are subject to mutual agreement between the employee and supervisor. A copy of the extension shall be forwarded to the Council Representative and Agency HR Office.

**Section 4.** Employees on trial service have the right to Union representation for all issues other than termination.

## **ARTICLE 11 - PERFORMANCE APPRAISAL**

**Section 1. Performance Appraisal.** The employee's performance will be rated by his/her immediate excluded supervisor. The rater shall discuss the performance appraisal with the employee. The employee shall have the opportunity to provide his/her comments to be attached to the performance appraisal. The employee shall sign the performance appraisal and that signature shall only indicate that the employee has read the performance appraisal. A copy shall be provided the employee at this time.

If there are any changes or recommendations to be made in the performance appraisal after the rater has discussed it with the employee, the performance appraisal shall be returned to the rater for discussion with the employee before these changes are made. The employee shall have the opportunity to comment on the changes. The employee shall sign the new performance appraisal and that signature shall only indicate that the employee has read the performance appraisal. A copy shall be provided the employee at this time.

All written comments provided by the employee shall be attached to the performance appraisal.

Every employee shall receive a performance appraisal at the end of a trial service period, and at least annually thereafter by the employee's eligibility date even if the employee is at the maximum rate for his/her class.

Performance ratings are pass/fail. Employees rated "Fail" shall not receive an increase. The denial of a merit increase is grievable when the supervisor fails to document and inform the employee of deficiencies and/or problems that led to the denial of the merit increase as they occur throughout the evaluation period.

**Section 2.** Performance appraisals are not grievable nor arbitrable under this Agreement nor shall they be used for the purpose of disciplinary action.

## **ARTICLE 12 - LIMITED DURATION APPOINTMENTS**

**Section 1.** Persons may be hired for special studies or projects of uncertain or limited duration which are subject to the continuation of funding for a specific project. Such appointments shall be for a stated period not exceeding two (2) years but shall expire upon the earlier termination of the special study or projects unless extended by Legislative process.

### **Section 2.**

**A.** No person initially hired to State government on a limited duration appointment in this Agency shall be entitled to layoff rights under this Agreement.

**B.** An employee appointed from regular status from any State agency to a limited duration appointment in the bargaining unit shall be reinstated to his/her former classification if it exists within this bargaining unit when the limited duration appointment is terminated. If the former classification does not exist within this bargaining unit, the employee will be laid off if entitled to layoff rights. Such return right shall not apply if charges are filed and he/she is discharged as provided in Article 22 (Discipline and Discharge).

Every good faith effort will be made to provide a copy of the recruiting announcement or posting to the Union Representative or a Shop Steward.

**Section 3.** A person accepting a limited duration appointment shall be notified of the conditions of the appointment and acknowledge in writing that they accept that appointment under these conditions. Such notification shall include the following:

**A.** That the appointment is of limited duration.

**B.** That persons who accept a limited duration appointment shall have no layoff rights under this Agreement except those provided under Section 2.B of this Article.

C. That in all other respects, limited duration appointees have all rights and privileges of other classified represented employees including but not limited to wages, benefits and Union representation under this Agreement.

### **ARTICLE 13 - JOB SHARING**

**Section 1.** "Job share position" means a full-time position in classified service may be held by more than one (1) individual on a shared time basis whereby individuals holding the position each work less than full-time but not more than full-time combined.

**Section 2.** Job sharing is a voluntary program. Any employee who wishes to participate in job sharing may submit a written request to the supervisor to be considered for job share positions. The supervisor 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 supervisor agrees to provide written notification to all job share applicants of available job positions in their bargaining unit in the Agency.

**Section 3.** Job sharing employees shall accrue vacation leave, sick leave and holiday pay based on a prorate 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.

**Section 4.** Job sharing employees shall be entitled to share the full Employer-paid insurance benefits for one (1) full-time position based on the prorate of regular hours scheduled per month. The Employer contribution for insurance benefits in a job share position is limited to the amount authorized for one 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.

**Section 5.** If one (1) job share employee vacates the position, or if a vacancy exists and if the immediate supervisor determines that job sharing is not appropriate for the position, or if the Agency is unable to recruit qualified applicants, in the opinion of the Agency, for the job share position, the remaining employee shall have the right to assume the position on a full-time basis. Upon approval of the immediate supervisor, 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 not acceptable, the employee agrees to resign.

### **ARTICLE 14 - CLASSIFICATION AND CLASSIFICATION CHANGES**

#### **Section 1. Work Out of Classification.**

A. When an employee is assigned, in writing, by the OEM for a limited time period to perform the major distinguishing duties of a position at a higher level

classification for ten (10) calendar days, that employee shall be paid five percent (5%) above the employee's base rate of pay or the first step of the higher salary range, whichever is greater.

When assignments are made to work out of classification for more than ten (10) calendar days, the employee shall be compensated for all hours worked beginning from the first day of the assignment for the full period of that particular assignment. At the Union's request, the duration of the assignment shall be reviewed by the Agency HR Office.

When an employee is assigned to work out-of-classification pending approval of a reclassification upward, the employee will be paid at the next higher rate of pay or first step of the higher salary range, whichever is greater.

**B.** An employee who is underfilling a position shall be informed in writing that he/she is an underfill, the reasons for the underfill and the requirements necessary for the employee to qualify for reclassification to the allocated level. Upon gaining regular status and meeting the requirements for the allocated level of the position, the employee shall be reclassified.

**C.** An employee performing duties out of classification for training or developmental purposes shall be informed in writing of the purpose and length of the assignment during which there shall be no extra pay for the work. A copy of the notice shall be placed in the employee's file. The employee shall provide a copy of the notice to the Steward.

**D.** Assignments of work out of classification shall not be made in a manner which will subvert or circumvent the administration of this Article.

## **Section 2. Employee Request for Reclassification Procedure.**

**A.** Employees may request reclassification by submitting a completed and approved Position Description Form and written explanation for the proposed reclassification. The employee must identify a specific classified classification that is not specific to another State agency to the Agency HR Office. Employee's request for reclassification must be based on an assertion that the duties and responsibilities of a position have been significantly enlarged, diminished or altered, but the knowledge, skills and abilities required are still essentially similar to those previously required.

**B.** The OEM shall review and verify the duties assigned to the position. Within thirty (30) days after receipt of the reclassification request, the OEM shall notify the Union of its findings. If the findings indicate reclassification, the OEM shall decide to seek approval if necessary or remove the duties. OEM shall notify the employee of the action it will take.

**Section 3. Upward Reclassification.** When a position is reclassified upward, a regular incumbent shall be continued in the position. The incumbent shall be advanced to the higher class with the same status held in the lower class if the incumbent meets

minimum experience and training requirements. When a position is reclassified upward and the incumbent does not have regular status, the position will be filled competitively at the higher level.

**Section 4. Pay for Upward Reclassification.** Rate of pay upon upward reclassification shall be the first step of the new salary range, unless the old salary rate was higher than the first step of the new salary range, then the next higher step in the new salary range. In no case shall it exceed the new salary range maximum.

When the OEM determines that a reclassification is justified, the employee will receive work out of class compensation from the date the request was received by the Agency HR Office until the position receives budget reclassification approval or the higher level duties are removed.

**Section 5. Pay Date of Upward Reclassification.**

**A.** Effective date of reclassification payment shall be the first of the month following the month in which the reclassification request was received by the Agency HR Office.

**B.** At the discretion of management, the salary eligibility date may remain the same or be established twelve (12) months thereafter.

**Section 6. Pay for Upward Reclassification Denial.** If the Emergency Board or Legislature does not approve the reclassification request, the employee shall be paid the rate of pay of the higher level classification from the first of the month following the month in which the reclassification request was received by the Agency HR Office to the date the duties were removed. Any work out of classification pay received during that period shall be deducted from the proposed salary rate.

**Section 7. Downward Reclassification.**

**A.** When a position is reclassified to another class that carries a lower salary range, the incumbent trial service or regular employee shall be accorded corresponding status in the new classification.

**B.** The OEM shall notify an employee in writing of a downward reclassification of the employee's position, and the specific reasons for doing so within sixty (60) days prior to the effective date.

**C.** If an employee is reclassified downward and his/her rate of pay is above the maximum of the new classification, his/her rate of pay will remain the same until a rate in the salary range of the new classification exceeds it, at which time the employee's salary shall be adjusted to that step.

If the employee's rate of pay is the same as a salary step in the new classification, the employee's salary shall be maintained at the same rate in the lower range.

If the employee's rate of pay is within the new salary range but not at a corresponding salary step, 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 to the next step within the new salary range. This increase shall not exceed the highest step in the new salary range.

**D.** Employees who are reclassified downward will be eligible to apply for reemployment to the classification from which they were reclassified downward.

**Section 8. Equal Reclassification Rate.** When an employee is reclassified to a classification having the same salary range, the rate of pay will not be changed.

**Section 9.**

**A.** If an employee's reclassification request is denied pursuant to Section 2 of this Article, or an employee's position is to be reclassified downward pursuant to Section 7 of this Article, the employee may appeal the decision to the Director or designated representative within thirty (30) calendar days after receipt of the OEM's decision. The written appeal must state:

The reason(s) why the OEM's decision is arbitrary.

The OEM shall respond in writing within thirty (30) calendar days from the receipt of the Union's appeal.

**B.** If the OEM's response does not resolve the matter, the Union may, within fifteen (15) calendar days from the date of the OEM response, appeal the decision to arbitration under this Article of this Agreement. The selection of an arbitrator shall be pursuant to Section 6 of Article 23 (Grievance Procedure). The appeal must be in writing and sent to the Labor Relations Unit of the Department of Administrative Services within fifteen (15) calendar days after receipt of the OEM's written response in sub (A) of this Section. The appeal must state the following:

The reason(s) why the decision was arbitrary.

The arbitrator shall allow the decision of the OEM to stand unless he/she finds the decision was arbitrary.

This Section shall supersede Section 7 of Article 23 (Grievance Procedure) on the delineation of the arbitrator's authority on matters spoken to in this Article.

**ARTICLE 15 - REVIEW OF CLASSIFICATION SERIES**

**Section 1.** The Department of Administrative Services, Human Resource Services Division, Labor Relations Unit shall notify the Union of intended classification studies affecting this bargaining unit.

**Section 2.** Whenever a change in class specifications or a new classification is proposed affecting members from this bargaining unit, it is agreed that the Department of Administrative Services, Labor Relations Unit, will submit the classification to the Union to provide opportunity for its review and comments. Within thirty (30) days of its receipt of the classification, the Union may present written comments raised on behalf of the represented employees. Any extension of time specified shall be mutually agreed to in writing.

**Section 3.** The Union may recommend classification studies to be conducted by the Department of Administrative Services and Labor Relations Unit indicating the reasons for the need for such studies.

## **ARTICLE 16 - LAYOFF**

**Section 1.** A layoff is defined as a separation from the service for involuntary reasons not reflecting discredit on an employee. An employee shall be given written notice of layoff as far in advance as possible but not less than fifteen (15) calendar days before the effective date, stating the reasons for the layoff.

**Section 2.** The layoff procedure shall occur in the following manner:

**A.** The OEM shall determine the specific positions to be vacated and employees in those positions shall be notified of layoff. The OEM shall notify, in writing, all affected employees of their service credits and contractual bumping rights. The OEM shall notify the Union in writing of the service credits of all employees in all affected positions. The OEM shall also post a copy of the service credits of all affected positions on employee bulletin board(s).

**B.** Temporary employees working in the classification and geographic area in which a layoff occurs shall be terminated prior to the layoff of trial service or regular employees.

**C.** Employees shall be laid off and service credits calculated within a geographic area and within the following separate categories:

1. Permanent full-time positions
2. Permanent part-time positions

An initial trial service employee can not displace any regular status employee.

**D.** An employee notified of a pending layoff shall be placed into an available vacant position or displace the employee in their geographic area with the lowest service credits in the same classification or equivalent salary range in which the employee previously held regular status, including any predecessor classifications for which he/she is qualified. If a position is not available in the same geographic area, then the employee shall select one (1) of the following options and communicate such choice in writing to the Agency HR Office within five (5) business days after receipt of layoff notification of the option selected.

Employees will be placed into available vacancies prior to displacing employees with lowest service credits for the option selected, either 1, 2 or 3.

1. The employee may be placed into an available vacant position or displace an employee with the lowest service credits in the same classification statewide for which he/she is qualified.
2. The employee may demote into an available vacant position or demote to the lowest service credits position in any classification for which he/she is qualified within the geographic area. 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.
3. The employee may demote into an available vacant position or demote to the lowest service credits position in any classification for which he/she is qualified statewide. Employees who elect to demote shall be placed on eligible geographic area layoff list(s), of his/her choice within the Agency for the classification from which he/she demoted.
4. The employee may elect to be laid off. An employee who elects to be laid off shall be placed on the Agency layoff list for the represented service classification from which laid off.

**E.** To be qualified for the options under Section 2(D) (1), (2) and (3), the employee must meet all of the minimum qualifications for the position's classification and must be capable of performing the specific requirements of the position as stated in the position description within approximately thirty (30) days. An employee who is seeking to bump another employee has no right to a trial service period of any duration in the position into which the employee is attempting to bump. Further, the approximate thirty (30) day time period is for the purpose of orienting an employee to the position, not training the employee to perform the work.

If an employee meets the minimum qualifications but is not capable of performing the specific requirements of the lowest service credits position, he/she may displace or demote to the next lowest service credits position in the classification, provided that the incumbent in the next lowest position has lower service credits than the employee displacing or demoting and that the employee is capable of performing the specific requirements of the position.

**F.** When exercising an option under Section 2(D) an employee shall only be eligible to displace another employee with lower service credits.

**G.** Employees filling job share position which total one (1) full-time equivalent shall be considered as one (1) full-time equivalent. Service credits shall be determined by averaging the two (2) individual scores and the two (2) individuals will be treated as one (1). Employees sharing a job share position and who elect

not to be treated as one (1) full-time equivalent shall be considered part-time employees.

Service credits for prior non-job-share time shall be determined by giving the employee one (1) point per month credit for any full-time worked and pro rata credit for each month spent on the job in less than full-time capacity.

**Section 3.** Computation of service credits for regular status employees shall be made as follows:

**A.** One (1) point per month for each full month of unbroken service in State service excluding temporary service. A break in service is a separation or interruption of employment without pay of more than two (2) years. All part-time service shall be credited on a prorated basis. Periods of leave without pay of fifteen calendar (15) days or more will be deducted from service credits calculations. When a layoff is announced, service credits scores shall be frozen on that date until the layoff and any subsequent bumping activity is completed.

**B. Tie Scores.**

1. If two (2) or more employees have equal service credit within the same geographic area, the order of layoff shall be in inverse of the greatest length of continuous State service.

2. If the first method does not break the tie, the employee with the least length of continuous service in the Agency (including the prior time in the bargaining unit at the State Police) shall be scheduled for layoff.

3. Should a tie between employees still exist, the order of layoff shall be at the discretion of the appointing authority.

**Section 4.** Any trial service employee who is laid off or demoted in lieu of layoff shall not be placed on the OEM layoff list, but shall be restored to the eligible list from which certification was made if the eligible list is still active. Restoration of the list shall be for the remaining period of eligibility that existed at the time of appointment from the list.

**Section 5.** Any employee demoted in lieu of layoff may request at that time and shall be paid for all accrued compensatory time at the rate being earned prior to demotion in lieu of layoff.

**Section 6. Agency Layoff Lists.** Names of regular status employees of the OEM 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 the appropriate layoff lists in service credit order established by the classification from which the employee was laid off or demoted in lieu of layoff.

The employee shall designate in writing the appropriate geographic areas he/she wishes to be considered for recall. The term of eligibility of candidates placed on the list shall be two (2) years from the date of placement on the list.

**Section 7. Recall.** Employees who are on an OEM layoff list and have designated in writing the positions and geographic areas shall be recalled in service credit order beginning with the employee with the highest seniority who meets all of the minimum qualifications for the position and who is capable of performing the specific requirements of the position as stated on the position description within approximately thirty (30) days. An employee who is seeking recall has no right to a trial service period of any duration in the position into which the employee is attempting to return. Further, the approximate thirty (30) day time period is for the purposes of orienting an employee to the position, not training the employee to do the work. Therefore, it is necessary that the employee can perform all of the duties and responsibilities of the position as determined by the Agency prior to being recalled to the position.

If an employee on a layoff list is offered a position, he/she will have one (1) right of refusal. Upon the second refusal, the employee's name will be removed from the agency layoff list for that geographic area.

An employee appointed to a position from a layoff list shall be removed from all other layoff lists.

If a temporary appointment is necessary and is expected to last longer than forty-five (45) days and there is a layoff list for that classification, employees on the layoff list shall first be offered the temporary appointment prior to hiring any other temporary. Not accepting a temporary job does not constitute a right of refusal under this Section. This shall only apply to employees separated from State service. Such employees shall be appointed as a temporary employee, remain on the layoff list, and will not be eligible for any benefits covered under this Agreement.

**Section 8. Secondary Recall Rights.**

**A. Application.** These rights apply to all employees in bargaining units represented by AFSCME at Central Table negotiations as well as the Department of Corrections and Board of Parole except employees who are laid off during initial trial service.

**B. Definitions.**

- 1. Geographic Areas**, for the purpose of secondary recall, are each location for which an employee may indicate his/her willingness to relocate on the State's PD100.
- 2. Agency Layoff Lists** are intra-agency layoff lists, as defined in each AFSCME Central Table agency and/or Department of Corrections and Board of Parole bargaining unit contract.
- 3. Secondary Recall List** is an inter-agency layoff list, which consists of regular status employees who have been separated by layoff from Union-represented positions in AFSCME Central Table agencies and/or Department of Corrections and Board of Parole and who have elected to

be placed on such list, consistent with the definitions of geographic areas defined above.

**C. Coordination with Filling of Vacancy and Layoff Articles.** The recall options provided herein shall be consistent with the priority of recall to positions from layoff within an agency, as specified within each agency's contract, except that recall from Agency Layoff Lists shall take precedence over recall from the Secondary Recall List.

**D. Procedures.**

**1. Placement on the Secondary Recall List.**

**a.** Regular status employees who are separated from the service of the State in good standing (meaning no record of economic disciplinary sanctions in his/her personnel file) by layoff or transferred outside state government due to intergovernmental transfer shall, in addition to their right to be placed on the Agency Layoff List, be given the option of electing placement on the Secondary Recall List by geographic area for other AFSCME-represented bargaining units which utilize the same or successor 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 layoff. When an employee is prohibited from participating in the secondary recall process due to the presence of an economic disciplinary sanction in his/her personnel file, that employee may request and shall be placed on the secondary recall list for the remainder of the two (2) years eligibility following layoff once the discipline has remained in the file for the length of time required by the agency's contract.

**b.** Employees who elect to be placed on the Secondary Recall List shall specify in writing the AFSCME Central Table and/or Department of Corrections and Board of Parole bargaining units and geographic areas to which they are willing to be recalled.

**2. Use of the Secondary Recall List.**

**a.** After the exhaustion of the 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 (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 for 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 per the layoff article of each agency's contract.

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. A laid off employee on the Secondary Recall List who is offered an appointment from the list and refuses to accept the appointment shall have his/her name removed from the Secondary Recall List; however, an agency will not remove an employee's name from the Secondary Recall List where that individual had been a day shift employee and subsequently refuses the offer of a position with swing shift or night shift hours.

b. Employees appointed to positions from the Secondary Recall List shall have their names removed from their Agency Layoff List(s) and the Secondary Recall List.

c. Employees appointed to positions from the Secondary Recall List shall serve a trial service period not to exceed three (3) full months except that employees hired into the Offender Information and Sentence Unit as Prison Term Analyst (PTA) shall serve a trial service period consistent with the DOC agreement. Administration of the trial service period shall be consistent with the hiring Agency's contract. However, employees who fail to successfully complete this trial service period shall have their names restored to the Agency Layoff List(s) on which they previously had standing. Restoration to the Agency Layoff List(s) shall be for the remaining period of eligibility that existed at the time of appointment from the Secondary Recall List. An employee may also petition the DAS-Labor Relations Unit to also be restored to the Secondary Recall List for the remainder of the initial twenty-four (24)-month recall period where the trial service removal was not related to potential misconduct warranting an economic or dismissal sanction. In no instance shall the DAS-Labor Relations Unit's decision be grievable.

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

**Section 9. Geographic Area.**

- Area 1:** Salem
- Area 2:** Pendleton

The Union will be notified when the Agency adds or closes work sites in the geographic areas.

**Section 10.** Any temporary interruption of employment because of lack of work or unexpected or unusual reasons beyond the Employer's control which does not exceed fifteen (15) consecutive days, shall not be considered a layoff if, at the termination of such conditions, employee(s) are to be returned to employment. Such interruptions of employment shall be recorded and reported as leave without pay for FLSA eligible employees.

**Section 11.** Employees who elect to displace, demote and/or recalled from layoff do not receive reimbursement for travel nor moving expenses associated with the appointment.

**Section 12.** There shall be no cross bumping between management service, unrepresented service, other bargaining units, and AFSCME OEM. However, after termination of unclassified, exempt or management service for reasons other than specified by ORS 240.555, employees who held positions in the Classified Service shall be restored to their former status, classification, or similar classification for which qualified in Classified Service. If a reduction in force is required in connection with such return, it shall be accomplished through this Article as if the employee returning had always been a part of the bargaining unit.

**Section 13.** When the Employer declares that a lack of funds will necessitate a layoff, the Union will meet, if requested by the Employer, to consider such alternatives to layoffs as: voluntary reductions in hours; voluntary leaves of absence without pay; other voluntary programs and/or temporary interruptions of employment. Such alternatives shall be subject to mutual agreement by the Union and the Employer. In the absence of such mutual agreement, the Employer may implement layoff procedures consistent with the Collective Bargaining Agreement.

**ARTICLE 17 - EDUCATION AND TRAINING**

**Section 1.** The Agency will, as far as it is reasonably practicable to do so, provide training and education opportunities for employees including support and technical staff. Such opportunities may include, but not be limited to, job-related training, career development, job rotations, and special assignments. The Agency will obtain and disseminate current information about available training and opportunities on a timely basis.

Employee development shall be based on a procedure developed by the Labor/Management Committee.

**Section 2.** Training for employees may be conducted both during and outside of an employee's work schedule. When an employee's attendance is required by the Agency, the employee shall be notified in writing, and the employee shall be paid for the time as time worked.

**Section 3.** The Agency may offer in-house training for employees to improve their knowledge, skills and abilities to perform their job. Attendance at such training may be mandatory without loss of pay to the employee. The Agency shall determine the method of travel and employees may be reimbursed for travel expenses as appropriate under the travel policy.

**Section 4.** If a regular status employee desires reimbursement for course/training registration for training outside of the Agency, the employee must receive prior written approval from the Agency before attending.

**Section 5.** Where the Agency requires an employee to be a notary public, the Agency will pay for such certification until such requirement is removed.

#### **ARTICLE 18 - REIMBURSEMENT OF PERSONAL PROPERTY**

The Agency will follow, and the employee may only pursue claims pursuant to, Risk Management Rules and Policy.

#### **ARTICLE 19 - TRAVEL, MILEAGE AND MOVING EXPENSE REIMBURSEMENT**

**Section 1. Travel and Mileage Allowance.** Reimbursements and procedures will be in accordance with Oregon Accounting Manual, Policy No. 40.01.00.PO, and its successors. Changes in this policy will be automatically incorporated into this contract article.

**Section 2. Moving Expenses.** Reimbursements and procedures will be in accordance with the Department of Administrative Services, Human Resource Services Division Policy 40.055.10, and its successors. Changes in this policy will be automatically incorporated into this contract article.

#### **ARTICLE 20 - SAFETY AND HEALTH**

It is further the intent of this Agreement that the parties will mutually strive to maintain a suitable and safe working environment for all employees. The Employer agrees to abide by standards of safety and health in accordance with Oregon Statutes and Administrative Rules, including immunization against or testing for exposure to serious communicable disease while performing their official duties. Issues arising under this Section are not arbitrable.

The Agency will give serious consideration to safety and health issues/recommendations received from the joint labor/management committee or safety committee.

## **ARTICLE 21 - CONTRACTING OUT**

**Section 1.** The Union 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. However, when the contracting out will displace bargaining unit members, such decisions shall be made only after the affected Agency has conducted a formal feasibility study determining the potential costs and other benefits which would result from contracting out the work in question. The Employer agrees to notify the Union within one (1) week of its decision to conduct a formal feasibility study, indicating the job classifications and work areas affected. The Employer shall provide the Union 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 Union shall have the opportunity to submit an alternate proposal. The notification by the Employer to the Union of the results of the feasibility study will include all pertinent information upon which the Employer based its decision to contract out the work including, but not limited to, the total cost savings the Employer anticipates.

Feasibility studies will not be required when: (1) an emergency situation exists as defined in ORS 279.011(4), and (2) either the work in question cannot be done by available bargaining unit employees or necessary equipment is not readily available.

Nothing in this Article shall prevent the Employer from continually analyzing its operation for the purpose of identifying cost-saving opportunities.

**Section 2.** The Employer shall evaluate the Union's alternate proposal provided under Section 1. If the Employer's evaluation of the Union's alternate proposal confirms that it would result in providing quality and savings equal to or greater than that identified in the management plan, the Parties will agree in writing to implement the Union proposal.

**Section 3.** Should any full-time bargaining unit member become displaced as a result of contracting out, the Employer and the Union shall meet to discuss the effect on bargaining unit members. The Employer's obligation to discuss the effect of such contracting does not obligate it to secure the agreement of the Union or to exhaust the dispute resolution procedure of ORS 243.712, 243.722, or 243.742, concerning the decision or the impact.

“Displaced” as used in this Article means when the work an employee is performing is contracted to another entity outside state government and the employee is removed from his/her job.

**Section 4.** Once an Agency makes a decision to contract out, the Agency will choose either (a) or (b) below. The Agency will notify affected employees of the option selected. The Agency will post and provide to the Union, a list of service credits for employees in all potentially affected classifications within the Agency. Within five (5) business days of the notice, the affected employees will notify the Agency of acceptance of the Agency’s option or decision to exercise his/her rights under (c) below:

**A.** Require the contractor to hire employees displaced by the contract at the same rate of pay for a minimum of six (6) months subject only to “just cause” terminations. In this instance, the state will continue to provide each such employee with six (6) months of health and dental insurance coverage through the Public Employee Benefits Board, if continuation of coverage under the Bargaining Unit Benefits Board is allowed by law and pertinent rules of eligibility. Pursuant to Article 16, an eligible employee shall be placed on the Agency layoff list and may, at the employee’s discretion, be placed on a secondary recall list for a period of two (2) years; or

**B.** Place employees displaced by a contract elsewhere in state government in the following order of priority: within the Agency, within the department, or within state service generally. Salaries of employees placed in lower classifications will be red-circled. To the extent this Article conflicts with Article 8, Filling of Vacancies, this Article shall prevail.

**C.** An employee may exercise all applicable rights under Article 16, Layoff.

**Section 5.** The following provisions govern the administration of the requirement under this Article to conduct feasibility studies in cases of contracting out and will supplement the provisions included in the contract.

**A.** The Employer agrees that all AFSCME represented state agencies will conduct a feasibility study in instances of contracting out work performed by bargaining unit employees when contracting out will result in displacement of bargaining unit employees.

**B.** The Parties agree that AFSCME–represented agencies will send directly to AFSCME’s Executive Director and to DAS HRSD Labor Relations Unit all future notices of intent to conduct a feasibility study pursuant to Section 1.

## **ARTICLE 22 - DISCIPLINE AND DISCHARGE**

### **Section 1.**

**A.** Progressive discipline shall be used when appropriate. Disciplinary action, including discharge, for regular status employee shall be for just cause.

**B.** Reduction, Suspension, and Demotion Appeals. An FLSA-nonexempt employee reduced in pay, demoted, or suspended without pay and an FLSA-exempt employee suspended without pay in full work week increments or demoted shall receive written notice of the discipline with the specific charges and facts supporting the discipline at the time disciplinary action is taken. An FLSA-exempt employee demoted or suspended for safety violations consistent with the salary basis requirements of the FLSA shall receive written notice of the discipline and of the specific charges supporting the discipline. The reduction, demotion or suspension of a regular status employee may be appealed directly to STEP 3 of the Grievance Procedure and must be within fifteen (15) calendar days from the effective date of the action.

**C.** If the grievance remains unresolved at STEP 3, the Union may file the grievance in writing with the Director or designee within fifteen (15) calendar days following date the response at STEP 3 was due or received, whichever is sooner. The Director or designee shall respond within fifteen (15) calendar days following receipt of the appeal.

**D.** If the grievance remains unresolved at STEP 4, the Union may file the grievance in writing with the Department of Administrative Services, Labor Relations Unit within fifteen (15) calendar days following date the response at STEP 4 was due or received, whichever is sooner. The Department of Administrative Services, Labor Relations Unit, shall respond within fifteen (15) calendar days following receipt of the appeal.

In the event the response from the Department of Administrative Services is acceptable to the Union, such response shall have the same force and effect as a decision or award of an arbitrator, and shall be final and binding on all parties and they will abide thereby.

**E.** If the grievance is unresolved following Department of Administrative Services review, the Union may submit in writing the grievance to arbitration. The appeal must be in writing and received by the Department of Administrative Services within fifteen (15) calendar days after the STEP 5 response was due or received, whichever is sooner, according to Article 23 (Grievance Procedure).

### **Section 2. Dismissal.**

**A.** Where discharge may be contemplated, 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 employee shall be afforded an opportunity to refute such charges or present mitigating circumstances to the immediate excluded supervisor 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 a Union Representative or Shop Steward present. At the discretion of the immediate excluded supervisor, the employee may be suspended with or without pay, reassigned, or be allowed to continue their work as specified within the pre-dismissal notice. Should an employee be suspended without pay, the employee will first be afforded notice and the right to present mitigating circumstances to the supervisor.

**B.** Dismissal grievances for regular status employees shall be filed at STEP 4 of Article 23 (Grievance Procedure) within fifteen (15) calendar days of the effective date of the dismissal. The Director or designee shall respond within fifteen (15) calendar days following receipt of the appeal.

**C.** If the grievance is not resolved at the Director or designee step of the Grievance Procedure, the Union shall (if it chooses to appeal) file, in writing, for arbitration pursuant to Article 23 within fifteen (15) calendar days after the response from STEP 4 was due or received, whichever is sooner, to the Department of Administrative Services, Labor Relations Unit.

**Section 3.** If the employee does not approve sending the notices of pre-dismissal, suspension, reduction, demotion and dismissal to the Union then the employee shall sign a waiver form. If a waiver is not signed, the notices shall be forwarded to the Union on the same day as the employee is notified.

## **ARTICLE 23 - GRIEVANCE PROCEDURE**

**Section 1.** Grievances are defined as act(s), omission(s), application(s) or interpretation(s) alleged to be violations of the terms and conditions of this Agreement.

**Section 2.** It is the intent of the OEM and the Union to resolve employee grievances by informal methods if possible. However, such informal methods do not supersede the timeline requirement outlined in this Article except by mutual agreement pursuant to Section 10. If the Union 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 STEP 2 of this Article.

**Section 3. Grievance Steps.** Employee may elect to file the grievance at either STEP 1 or STEP 2. If STEP 1 is used and the response does not resolve the grievance, the Union may file an official grievance on its official grievance form in writing at the STEP 3 level.

**STEP 1 - Informal Step (Optional).** Any affected employee may file a grievance within thirty (30) calendar days of the date that the employee knew or should have known of the alleged violation(s). The grievant shall provide, in writing, (a) a statement of the grievance and the relevant facts sufficient to process the grievance; (b) the specific provision or provisions of the Agreement alleged to be violated; and (c) the remedy sought.

Prior to the supervisor's response, the supervisor shall meet with the grievant. The supervisor shall provide a written response to the grievant within fifteen (15) calendar days of receipt, with a copy to the Union.

If the grievance is resolved at STEP 1, the informal grievance settlements shall be reduced to writing and signed by the grievant and first line supervisor, who shall send a copy, when signed, to the assigned AFSCME Council Representative and the Labor Relations Unit. Each informal grievance settlement shall include the following statement:

"Informal grievance settlements are nonprecedential and may not be cited by either party or their agents or members in any arbitration or factfinding proceedings now or in the future."

Actions taken pursuant to Informal settlement agreements shall not be contrary to Collective Bargaining Agreement or ORS Chapter 243 and shall not give rise to any bargaining or other consequential obligations.

**STEP 2** - If STEP 1 (Informal Step) is not utilized, the Union may file an official grievance on the official grievance form to the immediate excluded supervisor within thirty (30) calendar days of the alleged violation (s). The grievance shall include: (a) a statement of the grievance and the relevant facts sufficient to process the grievance; (b) the specific provision or provisions of the Agreement alleged to be violated; and (c) the remedy sought. Once the grievance has been filed at STEP 2, it cannot be expanded. The supervisor shall respond in writing within fifteen (15) calendar days after receipt of the grievance.

**STEP 3** - If the grievance remains unresolved at STEP 2, the Union may file the grievance in writing to the Division Director or designee, within fifteen (15) calendar days following the date the response at STEP 2 was due or received, whichever is sooner. The Division Director and/or designee shall respond within fifteen (15) calendar days following receipt of the appeal.

**STEP 4 - Director or Designee.** If the grievance remains unresolved at STEP 3, the Union may file the grievance in writing with the Director or designee within fifteen (15) calendar days following date the response at STEP 3 was due or received, whichever is sooner. The Director or designee shall respond within fifteen (15) calendar days following receipt of the appeal.

**STEP 5 - Department of Administrative Services, Labor Relations Unit Review.** If the grievance remains unresolved at STEP 4, the Union may file the grievance in writing with the Department of Administrative Services, Labor Relations Unit within fifteen (15) calendar days following date the response at STEP 4 was due or received, whichever is sooner. The Department of Administrative Services, Labor Relations Unit, shall respond within fifteen (15) calendar days following receipt of the appeal.

In the event the response from the Department of Administrative Services is acceptable to the Union, such response shall have the same force and effect as

a decision or award of an arbitrator, and shall be final and binding on all parties and they will abide thereby.

If the grievance is unresolved following Department of Administrative Services review, the Union may submit in writing the grievance to arbitration.

**STEP 6 - Submission to Arbitration.** To be valid, a request for arbitration must be in writing and received by the Department of Administrative Services within fifteen (15) calendar days after the STEP 5 (STEP 4 for Dismissals) was due or received whichever is sooner.

**Section 4.** Employees are entitled to representation by either a Union Representative or Shop Steward at any Step, except STEP 1.

**Section 5.** Once a bargaining unit member files a grievance, the employee shall not be required to discuss the subject matter of the grievance without the presence of the Union Representative or Union Steward unless s/he waives the presence of a Union Representative or Steward.

**Section 6. Selection of Arbitrator.** In the event that arbitration becomes necessary, the Union will request within fifteen (15) calendar days from appealing the grievance to arbitration, a list of the names of five (5) qualified arbitrators from the Employment Relations Board. Within ten (10) working days of the receipt of the list, unless mutually agreed otherwise, the parties will select an arbitrator by alternately striking one (1) name from the list, with the moving party striking first until only one (1) name remains on the list. The name remaining on the list shall serve as the arbitrator. The arbitrator will provide available dates to both parties. Within ten (10) working days of receipt of the available dates, the parties shall select a mutually agreeable date and shall inform the arbitrator. If the parties are unable to agree on dates, the parties may make one (1) request for a new set of dates. If the parties cannot then agree on a date, the arbitrator has the authority to schedule the hearing from any additional available dates.

**Section 7. Arbitrator's Authority.** The parties agree that the decision or award of the arbitrator shall be final and binding on each of the parties and that they will abide thereby. The arbitrator shall have no authority to add to, subtract from, change, or modify any of the terms of this Agreement, to change an existing wage rate or establish a new wage rate. The arbitrator shall have the power to return a grievant to employee status, with or without back pay, or to mitigate the penalty as equity suggests under the facts.

**Section 8. Expenses of Arbitration.** Arbitrator fee and expenses shall be paid by the losing party. If, in the opinion of the arbitrator, neither party can be considered the losing party, then such expenses shall be divided as in the arbitrator's judgment is equitable. All other expenses shall be borne exclusively by the party requiring the service or item for which payment is to be made.

**Section 9. Mediation.** Subsequent to a valid arbitration request and prior to the selection of an arbitrator, either the Department of Administrative Services or the Union

may request mediation of the grievance. If agreed to by both parties, mediation will be scheduled and conducted by the Conciliation Service Division of the Employment Relations Board. Mediation is not a mandatory step of the grievance procedure.

**Section 10.** Time limits may be extended by agreement of the parties. Such extensions must be in writing and shall become part of the grievance record.

**Section 11.** Failure of the aggrieved party or Union to comply with the time limits outlined above shall constitute abandonment of the grievance and it cannot be resubmitted.

**Section 12.** If the employee does not approve sending the notices of pre-dismissal, suspension, reduction, demotion and dismissal to the Union, the employee shall sign a waiver form. If a waiver is not signed, the notices shall be forwarded to the Union on the same day as the employee is notified.

## **ARTICLE 24 - LABOR-MANAGEMENT COMMITTEE**

**Section 1. Purpose.** In order to facilitate communication between the parties and to promote cooperative employer/employee relations, the Employer and AFSCME agree to form a joint Labor/Management Committee which shall meet as necessary to discuss matters of mutual concern.

**Section 2. Committee Composition.** The Committee shall be composed of up to five (5) bargaining unit members appointed by the Union and up to five (5) members of management appointed by the OEM for the first four (4) meetings, including training, and reduced to four (4) members for subsequent meetings. One (1) management member may be designated to serve as an alternate. Individuals may be invited, who may provide information or act as advisors, with the approval of the Labor-Management Committee. Agency employees appointed to the committee shall be in pay status during time spent in committee meetings. Approved time spent in meetings shall neither be charged to leave credits nor considered as overtime work.

**Section 3. Meetings and Agenda.** The Labor/Management Committee shall meet as necessary.

Labor/Management Committee meeting agendas shall be prepared in advance. Items for inclusion on an agenda shall be provided to all members at least five (5) working days in advance of the scheduled meeting. The parties shall attempt to compile a mutually agreeable agenda which will include notice of invited guests. However, if this is not possible, each party may propose up to three (3) items for inclusion on the agenda, one (1) of which is subject to challenge by the other party. Challenged items can be discussed by the Committee and if the Committee agrees, be restored to a future agenda.

Labor/Management Committee meetings shall be conducted in good faith. The parties shall alternate responsibility for chairing the meetings; the chair shall be responsible for

preparing the agenda and distribution of meeting minutes. Decision-making shall be by consensus.

**Section 4. Authority of Committee.** The Labor/Management Committee shall have no power to contravene any provision of this Agreement; nor to enter into any Letter of Agreement; negotiate, or to resolve disputes concerning the interpretation or application of any provision of this Agreement. The Committee shall be empowered to make joint recommendations on issues which are brought before it. Such recommendations approved by the Committee shall be presented to the OEM for response and/or action. The Agency response shall be in writing and shall be submitted to the Committee.

No discussion or review of any matter by the Labor/Management Committee shall forfeit or affect the time frames of the settlement of disputes procedure (Article 23).

**Section 5. Committee Evaluation.** At the conclusion of each calendar year, the parties shall discuss the Labor/Management Committee concept and shall determine whether to continue, modify or terminate it.

## **ARTICLE 25 - SALARIES**

**Section 1. Public Employees Retirement System ("PERS") Members.** For purposes of this Section 1, "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 (6%) employee contribution, payable pursuant to law. 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"). Nothing in this Agreement shall constitute a waiver of any party's rights, claims or defenses with respect to the PERS Litigation.

**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).

**Section 4. Salaries.** Effective July 1, 2007, salary schedules shall be adjusted upward by three percent (3%), but not less than eighty dollars (\$80.00).

Effective November 1, 2008, salary schedules shall be adjusted upward by three and two-tenths percent (3.2%), but not less than eighty-five dollars (\$85.00).

## **ARTICLE 26 - HEALTH INSURANCE**

**Section 1.** An Employer contribution will be made for each eligible employee who has at least eighty (80) paid regular hours in the month.

The contribution for eligible participating part-time employees with eighty (80) or more hours paid time for the month will be prorated based on the ratio of paid regular hours to full-time hours to the nearest full percent.

Through December 31, 2008, the Employer shall make a contribution sufficient to cover the premium costs for the PEBB health, dental and basic life benefits chosen by each eligible full-time employee who has at least eighty (80) paid regular hours in a month.

For plan year January 1, 2009 through December 31, 2009, the Employer will increase its monthly contributions by up to twelve percent (12%) of the actual monthly composite resulting for plan year 2008, should the cost of insurance premiums increase by that amount or more.

Should rates for 2009 exceed the Employer contribution, employees may incur out-of-pocket monthly premium costs. The parties shall jointly petition the Public Employees Benefit Board to use reserve funding to cover support of any premium increase in above twelve percent (12%). In the event the premium increase in excess of twelve percent (12%) is not covered by PEBB reserves, The employer will provide written notice to the

Union of the anticipated increases. In that event, the Union may select from one (1) of two (2) options:

- Option 1 - The three and two-tenths percent (3.2%) salary schedule adjustment scheduled for November 1, 2008 shall be reduced by one-quarter percent (0.25%) for each one percent (1%) increase in premiums over twelve percent (12%).
- Option 2 - The salary schedule adjustment scheduled for November 1, 2008 shall be delayed by a period of months identified by the Employer as sufficient to cover the unanticipated increase.

The parties may jointly petition the PEBB to continue to do as follows: Employees who live in counties where the PEBB considers there to be an insufficient number of preferred primary care providers within the PPO network will receive the same level of benefits when they use a non-preferred primary care provider as they would using a preferred primary care provider.

**Section 2.** Employees covered by the PEBB program for default insurance coverage shall receive an Employer insurance contribution equivalent to the premium cost of the applicable default plan or amount provided by the collective bargaining provision, whichever is less.

## **ARTICLE 27 - SHIFT DIFFERENTIAL**

**Section 1.** An employee, who is not in paid overtime status for time worked, shall be paid an additional differential of seventy-five cents (\$.75) per hour for each hour or major portion (thirty (30) minutes or more) thereof worked between 6:00 p.m. and 6:00 a.m. and for each hour or major portion (thirty (30) minutes or more) thereof worked on Saturday and Sunday.

**Section 2.** This Article shall not apply when an employee is on any paid leave condition or on-call or standby duty.

## **ARTICLE 28 - PAYDAY AND PAY ADVANCES**

**A.** All employees shall normally be paid no later than the first of the month. When a payday occurs on 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 after 8:00 a.m. on the last working day of the month. The release day for December paychecks dated January 1 shall be the first working day in January to avoid the risk of December's paychecks being included in the prior year's earnings for tax.

**B.** Employees will be allowed one (1) pay advance during their first thirty (30) days of employment.

**C.** The parties agree that pay advances will be kept to an absolute minimum and are for emergencies. Within that context, employees may obtain an advance on

their salary subject to management's approval. The amount of the request shall not exceed sixty percent (60%) of gross pay earned to date in the month, but shall be at least one hundred dollars (\$100.00). Employees may submit requests up to the final monthly payroll cutoff date. Pay advance requests will normally be submitted to the payroll office by the fifteenth (15th) of the month. If any employee requests more than one (1) pay advance in any twelve (12)-month period, management has the right to deny it, if a valid emergency does not exist.

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 - 1 draw)
8. Moving due to transfer or promotion

## **ARTICLE 29 - SALARY ADMINISTRATION**

**Section 1. Merit Salary Increase.** Employees shall be eligible for consideration for merit salary increases following:

- A. Completion of the initial twelve (12) months of service.
- B. Completion of six (6) months of service following promotion.
- C. Annual periods after (A) or (B) above until the employee has reached the top of the salary range.

Merit salary increases shall be granted upon recommendation of the employee's immediate supervisor and approval of the appointing authority. The immediate supervisor shall give written notice to an employee of withholding of a merit salary increase prior to the eligibility date, including a statement of the reason(s) it is being withheld.

**Section 2. 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. 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 in the bargaining unit, the salary eligibility date prior to promotion will be recognized.

**Section 3. 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 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 their 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.

**Section 4. Salary on Lateral Transfer.** An employee's salary and merit review date shall remain the same when transferring from one position to another within the bargaining unit which has the same salary range.

**Section 5. Effect of Break in Service.** When an employee separates from State service and subsequently returns to State service with the OEM within a two (2) year period, except as a temporary employee, the employee's previous salary eligibility date shall be adjusted by the amount of break in service.

**Section 6. 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.

## **ARTICLE 30 – RECOUPMENT OF WAGE AND BENEFIT OVERPAYMENTS AND UNDERPAYMENTS**

### **Section 1. Overpayments.**

**A.** In the event that an employee receives wages or benefits from the Agency 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 which will include information supporting that an overpayment exists and the amount of wages and/or benefits to be repaid other than the normal monthly payroll reconciliations. For purposes of recovering overpayments by payroll deduction, the following shall apply:

1. The Agency may, at its discretion, use the payroll deduction process to correct any overpayment made within a maximum period of two (2) years before the notification.
2. Where this process is utilized, the employee and Agency shall meet and attempt to reach mutual agreement on a repayment schedule within thirty (30) calendar days following written notification.

3. 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 sub (4) below.

4. 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.

B. 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.

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

## **Section 2. Underpayments.**

A. In the event the employee does not receive the wages or benefits to which the record/documentation has for all times indicated the Employer agreed the employee was entitled, the Agency shall notify the employee in writing of the underpayment. This notification will include information showing that an underpayment exists and the amount of wages and/or benefits to be repaid. The Agency shall correct any such underpayment made within a maximum period of two (2) years before the notification.

B. This Section shall not apply to claims disputing eligibility for payments which result from other provisions of the Agreement. Employees claiming such payments must pursue those claims pursuant to the time lines elsewhere in this Agreement.

**Section 3. Payroll Reconciliation.** Section 1, subsections A-2, A-3 and A-4 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. The employee's pay and benefit entitlements may be adjusted on the following month's paycheck.

## **ARTICLE 31 - REPORTING PAY**

An FLSA-eligible employee who is scheduled for work and reports for his/her regular work shift, except for situations addressed in the Inclement Conditions Article, and is released from work shall be paid the equivalent of two (2) hours pay at the one and one-half (1-1/2) time rate. When the employee actually begins his/her scheduled shift, the employee shall be paid for the remainder of the scheduled shift.

Part-time, hourly-paid employees, who actually begin their scheduled shift, shall be paid for the remainder of their scheduled shift.

### **ARTICLE 32 - ON-CALL**

**A.** An employee who is assigned on-call duty for less than six (6) hours shall be paid on a prorated basis. If the Agency designates and/or assigns in writing other bargaining unit employees on-call duty status, they shall be paid one (1) hour of pay at the regular straight time rate for each six (6) hours of assigned on-call duty.

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

**C.** 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.

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

### **ARTICLE 33 - HOURS OF WORK/OVERTIME – OEM**

**Section 1. Work Week.** The work week shall begin at 00:01 on Monday and end at 24:00 midnight the following Sunday.

Work schedule is defined as the time of day and the days of the week the employee is assigned to work. A regular work schedule is five (5) consecutive eight (8) hour days. Alternative work schedules are anything other than five (5) consecutive eight (8) hour days. A denial of an alternative schedule may be submitted by an employee/the union to the agency's state HR office for a final determination. Such determination will be based on operating requirements and is not grievable. Work shifts may be adjusted based on the operational needs of the Agency. For work schedule changes, management will provide as much notice as practicable to the affected employees.

When there is a work schedule adjustment which changes the work schedules of an entire work unit, employee seniority (based on Article 34) will be used insofar as practicable to fill the available scheduled slots. It is recognized that disputes arising from this Section of the contract are not grievable, and that decisions will be based upon operating requirements as defined by management.

Management is not precluded from temporarily delaying the placement of employees onto the new schedule, nor subsequently changing the work schedules of one or more employees.

**Section 2. Meal and Rest Breaks.** Employees shall be granted a meal period of not less than thirty (30) minutes nor more than one (1) hour unless mutually agreed otherwise between the employee and the supervisor. Meal periods shall be scheduled at approximately mid-period of the employees' work shift.

A rest period of fifteen (15) minutes shall be allowed during each consecutive work period of four (4) hours or more. Such rest periods shall be in accordance with operating requirements.

**Section 3. Overtime.**

**A.** This Article is intended only to provide a basis for the calculation of overtime and none of its provisions shall be construed as a guarantee of any minimum or maximum hours of work or weeks of work to any employee or to any group of employees.

**B.** Time worked for the purpose of this Agreement is all paid time, excluding paid time used for sick leave purposes and unscheduled comp time leave.

**C.** Eligible employees, as defined by FLSA, shall be compensated at the rate of time and one-half (1-1/2) in the form of pay or compensatory time off for authorized overtime worked over eight (8) or in excess of their daily scheduled hours of work or forty (40) hours in any one (1) workweek. No application of this Article shall be interpreted to provide for compensation for overtime at a rate exceeding time and one-half (1-1/2).

**D.** The supervisor shall give notice of any overtime to be worked. Overtime worked will be subject to prior supervisory authorization. Prior authorization shall be granted on a case-by-case basis. Overtime will be assigned to the employee most suited to perform the work. Overtime not requiring assignment to a specific employee will be offered on a voluntary basis to qualified employees from the affected work unit.

**E.** Subject to budgetary constraints, an FLSA-eligible employee, except 100% grant funded positions, may choose to accrue up to forty (40) hours of compensatory time off or cash payment for overtime hours worked. At management's discretion, an FLSA-eligible employee may accrue up to an additional forty (40) hours, not to exceed a maximum of eighty (80) hours of compensatory time off.

An FLSA-eligible employee in 100% grant funded positions may choose to accrue up to forty (40) hours of compensatory time off. At management's discretion, an FLSA-eligible employee may accrue up to an additional forty (40) hours not to exceed a maximum of eighty (80) hours of compensatory time off. However, any unused compensatory time off may be cashed out, at the discretion of management, prior to the exhaustion of the grant funds

**F.** Notwithstanding Section 5 and Section 3.B., OEM-exempt employees who are required to work as a result of a Presidential declared disaster, shall receive time off for authorized time worked in excess of forty (40) hours per workweek, excluding paid

leave, at the rate of one (1) hour off for one (1) hour of overtime worked. Eligibility for accrual of compensatory time off is limited to the first three (3) workweeks of the declared disaster and is not subject to the cap on accrual of compensatory time during that period. This time off shall be used with the fiscal year earned or shall be lost, except time earned in the last ninety (90) days may, at the discretion of management, be carried forward into the next fiscal year.

**Section 4. Compensatory Time Off.** Subject to the operating requirements of the OEM and in advance of the requested time off, an employee shall have his/her choice of scheduling compensatory time off on a first-come, first-served basis. If two (2) or more employees under the same supervisor request the same period of time off on the same day and this conflicts with operating requirements, the employee having the greatest seniority with the Agency shall be granted the time off if the matter cannot be resolved by agreement between the employees concerned. However, an employee shall not be given this length of service consideration more than once in every two (2) years. Compensatory time may be taken in time increments of less than eight (8) hours.

**Section 5. Exempt Employees.** Sections 1-4 of this Article do not apply to employees exempt from FLSA. Exempt employees shall have a professional workweek that is consistent with the law and the collective bargaining agreement and meets the operating needs of the Agency.

**Section 6. Travel.** When the employee is required by the Agency to travel, the actual travel time shall be considered time worked. Where required travel is outside an employee's regular work hours (excluding normal commuting time), the Employer may temporarily modify the employee's weekly schedule without daily overtime or schedule change penalty. Where such schedule modification still results in the need for additional work hours, the employee shall be paid the appropriate rate of pay for all time worked over forty (40) hours in that workweek.

#### **ARTICLE 34 - SENIORITY**

For current OEM employees, for purposes of compensatory time off and vacation scheduling seniority means all time spent in continuous State service and for employees hired after October 13, 1997 seniority means continuous OEM service. Time spent in temporary service shall not count toward seniority. A break in service is a separation or interruption of employment without pay of more than two (2) years. Periods of leave without pay of fifteen calendar (15) days or more will be deducted from seniority calculations.

Once annually the Union may request the OEM to prepare seniority list.

#### **ARTICLE 35 - VACATION LEAVE**

**Section 1. Vacation Leave for Full-Time Employees.** After having served in the State service for six (6) full months, full-time classified employees shall be credited with forty-eight (48) hours of vacation leave and thereafter vacation leave shall be accumulated as follows:

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

Part-time employees and full-time employees working less than a full month shall accrue vacation leave on a pro rata basis, provided that the employee works thirty-two (32) hours or more in that month. If an employee has a break in service and that break does not exceed two (2) years, the employee shall be given credit for the time worked prior to the break in service for purposes of determining the level of accrual.

**Section 2. Determination of Eligibility for Vacation Accrual.** Time spent by an employee in actual State service or on Peace Corps, military, or job-incurred disability leave without pay shall be considered as time in the State service in determining length of service for vacation credits.

**Section 3. Determination for Accrual of Vacation Leave.** If an employee has a break in service and that break does not exceed two (2) years, he/she shall be given credit for the time worked prior to the break in service except for periods of LWOP of fifteen (15) days or more.

**Section 4. Termination Vacation Pay.** An employee who is laid off or terminates after six (6) full months of OMD/OEM service shall be paid upon separation from OEM service for accrued vacation time except as provided to offset for damages or misappropriation of State property or equipment. Employees on military leave of absence may request payment for accrued vacation.

**Section 5. Scheduling of Vacations.**

**A.** The supervisor shall provide a sign-up period for vacation between December 1 and December 31. An annual calendar, supplied by the work unit, shall be provided wherein, by seniority as defined in the seniority article, the employee shall select one (1) block of time for the calendar year. A block of time shall be one (1) workweek or consecutive workweeks. After the vacation scheduling period has ended, future vacation requests will be on a first-come, first-served basis, including changes to previously scheduled vacation requests.

Seniority selection of the same block of time shall not be permitted for the next period unless that block remains available after the conclusion of the sign up period.

**B.** If an employee is transferred, his/her choice of vacation made during his/her previous assignment shall be granted unless the choice conflicts with a previously scheduled vacation in the new work unit .

Sufficient accrued vacation leave must be anticipated to be available to cover the period of time the employee requests.

**C.** All vacation requests are subject to the operating needs of the Agency.

#### **Section 6. Vacation Accrual.**

**A.** An employee shall be allowed to accumulate a maximum of three hundred twenty-five (325) hours of vacation leave; however, in the event of separation or layoff, any unused vacation up to two hundred fifty (250) hours will be paid to the employee.

**B.** An employee transferring in from another State agency may transfer up to eighty (80) hours of accrued vacation leave.

**C.** To avoid losing vacation time an employee who is using sick leave on a compensable work-related injury, may convert to vacation leave until such time they have sufficiently lowered their vacation leave balance. In addition, they may request payment for previously approved vacation leave in excess of two-hundred fifty (250) hours that the employee would not be able to use pursuant to the conversion in this Section.

**1.** To avoid losing vacation the employee must request vacation leave. When such leave is impossible, a cash payment of not more than forty (40) hours shall be made. In lieu of cash payment, the Employer shall, only after making a good faith effort to reach mutual agreement with the employee, schedule time off in excess of two hundred and fifty (250) hours within sixty (60) days prior to the date the vacation leave would reach two hundred and fifty (250) hours.

**Section 7.** Compensation for use of accrued vacation shall be at the employee's prevailing straight time rate of pay.

**Section 8.** In the event of an employee's death, all monies due him/her for accrued vacation and salary shall be paid as provided by law, unless otherwise designated in writing by the employee.

## **ARTICLE 36 - SICK LEAVE**

**Section 1. Accrual Rate of Sick Leave With Pay Credits.** Full-time employees shall accrue eight (8) hours of sick leave with pay credits for each full month worked. Employees who work less than the full month but at least thirty-two (32) hours during the month shall accrue sick leave with pay on a pro rata basis for the month.

**Section 2. Eligibility for Sick Leave With Pay.** Employees shall be eligible for sick leave with pay immediately upon accrual.

**Section 3. Determination of Service for Sick Leave With Pay.** Regular scheduled time worked and all leave with pay of thirty-two (32) hours or more in each month shall be included in determining the pro rata accrual of sick leave credits.

**Section 4. Use of Sick Leave With Pay.** An employee who has 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, exposure to contagious disease, attendance upon members of the employee's immediate family (employee's parents, wife, husband, children, foster child, grandchild, brother, sister, grandmother, grandfather, father-in-law, mother-in-law, son-in-law, daughter-in-law, or another member of the immediate household) where employee's presence is required because of illness or death in the immediate family of the employee or the employee's spouse. The employee has the duty to 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 supervisor to support the employee's claim for sick leave if the employee is absent in excess of three (3) work days or if the supervisor believes that the employee is abusing sick leave privileges. The supervisor may also require such certificate from an employee to determine whether the employee should be allowed to return to work where the supervisor has reason to believe that the employee's return to work would be a health hazard to either the employee or to others.

In addition, an employee shall be eligible to use earned sick leave credits for pre-scheduled routine medical and dental appointments and in cases of emergency medical and dental appointments with authorization from his/her supervisor.

The employee shall notify his/her supervisor as soon as possible when utilizing sick leave.

**Section 5. Sick Leave With Pay on Termination.** Compensation for accrued sick leave shall not be paid to an employee on termination for any reason.

**Section 6. Restoration of Sick Leave Credits.** Employees who have been separated from the State service and return to a position within two (2) years shall have unused sick leave credits accrued during previous employment restored.

**Section 7. Sick Leave Without Pay.** After earned sick leave has been exhausted, the employee shall be required to use other paid leave prior to requesting sick leave without pay. The supervisor may grant sick leave without pay for any non-job-incurred injury or illness of a continuous and an extended nature to any employee upon request for a period up to one (1) year.

The OEM may require that the employee submit a certificate from the attending physician or practitioner in verification of disability. Any cost associated with the supplying of a certificate concerning a non-job-incurred injury or illness shall be borne by the employee. 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 as set forth in the employee's position description, such sick leave may be canceled by registered letter to the last known address. Failure to return to work as directed and/or supply a certificate within five (5) days of delivery or attempted delivery of the registered letter shall be deemed a resignation.

**Section 8.** An employee shall have all of his/her accrued sick leave credits transferred when the employee is transferred to the OEM from a different State agency. An employee shall have all of his/her accrued sick leave credits transferred when the employee is transferred to a different State agency if allowed by that agency's rules or Collective Bargaining Agreement.

## **ARTICLE 37 - HARDSHIP LEAVE**

**Section 1.** As used in this Article:

- A.** "Accumulated Leave" includes but is not limited to sick, vacation, and compensatory leave.
- B.** "Costs" include all direct and indirect costs, such as wages, insurance premiums, flex benefits, retirement contributions and payroll taxes.
- C.** "Prolonged Illness or Injury" means inability to work because of a catastrophic illness or injury or major medical treatment that the treating physician certifies in writing.

**Section 2.** OEM employees may make irrevocable donations of accrued vacation leave or compensatory time, in two (2) hour increments, to another employee of the OMD not on initial trial service who has exhausted all accumulated leave while the immediate family member as defined in Article 36, Section 4 or employee is recuperating or recovering from a catastrophic prolonged illness or injury. Donations shall be posted to the donee's leave balance as needed. Donations not used will not be deducted from the donor's vacation leave or compensatory time balance.

**Section 3.** Donations shall be credited at the donor's current regular hourly rate of pay. Donations shall be used to reimburse the state for all hardship leave costs as in Section 1(B) above for the donee.

**Section 4.** Applicants for hardship leave shall apply in writing to the Agency HR Office or designee, accompanied by the treating physician's written statement certifying that the prolonged catastrophic illness or injury, or major medical treatment (i.e., chemotherapy) will continue after the employee is projected to exhaust all accumulated leave.

**Section 5.** Upon determination that an employee's request satisfies "prolonged illness or injury" requirements, OMD shall approve one (1) leave totaling not more than sixty (60) work days during the term of this Agreement. Approval shall be subject to availability of donations from OEM and CJSJ employees to cover all hardship leave costs. Agency HR Office or designee shall initiate and collect donations on a form(s) the Agency provides. The donated leave received for the illness or injury may be used intermittently, as appropriate, for related medical appointments/treatments.

**Section 6.** Employees on Workers' Compensation, PERS retirement benefits, or parental leave shall not be eligible for hardship leave either as donors or donees.

**Section 7.** The donor and recipient will hold the Employer harmless for any tax liabilities.

**Section 8.** Donated vacation leave or compensatory time may be provided to employees in other AFSCME Central Table participating agencies subject to the approval of the appointing authorities for the involved agencies.

## **ARTICLE 38 - HOLIDAYS**

**Section 1.** The following compensable holidays shall be recognized:

- A. New Year's Day on January 1;
- B. Martin Luther King, Jr.'s Birthday on the third Monday in January;
- C. President's Day on the third Monday in February;
- D. Memorial Day on the last Monday in May;
- E. Independence Day on July 4;
- F. Labor Day on the first Monday in September;
- G. Veterans Day on November 11;
- H. Thanksgiving Day on the fourth Thursday in November;
- I. Christmas Day on December 25;
- J. Every day appointed by the President of the United States as a day of mourning, rejoicing or other special observance only when the Governor also appoints that day as a holiday.

Holidays will normally be considered days off.

**Section 2. Observance.** For personnel who work Monday - Friday and normally take all holidays off, each time a holiday specified in Section 1 of this Article falls on a

Saturday, the preceding Friday shall be recognized as the holiday and each time the holiday specified in Section 1 of this Article falls on a Sunday, the following Monday shall be recognized as the holiday. For personnel who work on Saturday or Sunday and normally take all holidays off, the holiday specified in Section 1 of this Article will be on the day it falls. For other personnel who do not normally take all holidays off, the holiday specified in Section 1 of this Article will be on the day it falls.

A holiday shall be defined as starting at 00:01 on the holiday and ending at twelve midnight (24:00) on the holiday as specified in Section 1 of this Article.

**Section 3.** Full-time employees, except those with any leave without pay the day before or the day after the recognized holiday, shall be compensated at the straight time rate for eight (8) hours for each recognized holiday listed in Section 1 provided the employee works thirty-two (32) hours or more within the month. All part-time employees except those on any leave without pay the day before or the day after a holiday shall be compensated at the straight time rate on a pro rata basis for each recognized holiday during a month in which the employee works thirty-two (32) hours or more. This holiday compensation is called holiday pay. Recognized holidays which occur during paid vacation or paid sick leave will be charged as a holiday rather than vacation or sick leave.

**Section 4.** Employees who are required to work on recognized holidays shall be entitled to the holiday pay as provided for by Section 2 of this Article plus compensatory time off or cash, as determined by management, for all such time worked at the rate of time and one-half (1-1/2). The rate at which an employee shall be compensated for working on a holiday shall not exceed the rate of time and one-half (1-1/2) in addition to holiday pay.

**Section 5.** In addition to the holidays specified in this Article, all full-time employees shall receive eight (8) hours of paid leave. Part-time employees will receive prorated paid leave.

This paid leave shall be accrued by all employees employed as of the day before Thanksgiving of each year.

Employees may request the option of using the eight (8) hours of paid leave on the workday after Thanksgiving or before or after Christmas, the workday before or after New Year's Day, or when these days are not available to an employee, on another day of the employee's choice provided such time is taken off no later than June 30 of each fiscal year.

If an employee is unable to utilize the time in this Section due to operational needs of the Employer, the employee will be allowed to utilize the time prior to June 30 of each fiscal year.

## **ARTICLE 39 - OTHER LEAVES**

### **Section 1. Leaves With Pay.**

**A. Personal Leave.** All employees after completion of initial trial service shall be entitled to receive personal leave days in the following manner:

1. All full-time employees shall be entitled to twenty-four (24) hours of personal leave with pay each fiscal year;
2. Part-time, seasonal and job share employees shall be granted such leave in a prorated amount of twenty-four (24) hours based on the same percentage or fraction of month they are hired to work, or is subsequently formally modified, provided it is anticipated that they will work 1040 hours during the fiscal year.
3. Should any employee fail to work 1040 hours for the fiscal year, the value of personal leave time used may be recovered from the employee. Personal leave shall not be cumulative from year to year nor is any unused leave compensable in any other manner.

Such leave may be used by an employee for any purpose he/she desires and may be taken at times mutually agreeable to the OEM and the employee.

**B. Service with a Jury.** An employee shall be granted leave with pay for jury duty. The OEM reserves the right to petition for removal of the employee from jury duty if, in the OEM's judgment, the operating requirements of the OEM would be hampered.

**C. Military Training Leave.** 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) workdays in any training year (October 1 through September 30). If the training time for which the employee is called to active duty is longer than fifteen (15) calendar days, the employee may be paid for the first fifteen (15) days only if such time is served for the purpose of discharging an obligation of annual active duty for training in the military reserve or National Guard.

**D. Pre-Retirement Counseling Leave.** Each employee within five (5) years of chosen retirement age or date shall be granted, on a one-time basis, up to three and one-half (3-1/2) days leave with pay to pursue bona fide pre-retirement programs. Employees shall request the use of leave provided in this Section at least five (5) days prior to the intended day of use.

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

**E. Court Appearances.** When an employee is not the plaintiff or defendant, he/she shall be on paid status 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 in connection with the employee's officially assigned duties. When the employee is in paid status, the employee shall turn into the Agency any money paid in connection with the appearance.

**F. Test and Interviews.** With written notice to the supervisor, an employee shall be allowed actual time up to two (2) hours with pay to take written pencil and paper tests at the test site(s) related to promotional opportunities within the Department.

Up to eight (8) hours each fiscal year with pay allowed for an interview for a position within State government. During periods of layoff within the OMD/OEM, employees may use up to eight (8) additional hours for interviews within State government each fiscal year. In no event shall the interview leave exceed sixteen (16) hours per fiscal year.

When a state agency requires that an employee applicant must complete additional prescreening/assessments provided by that agency prior to interviewing, the employee may also utilize available leave.

**G.** Leaves with pay shall be used in accordance with FMLA and OFLA.

**H. Bereavement Leave.** Notwithstanding the Hardship Leave or Sick Leave eligibility criteria of the affected collective bargaining agreements, employees shall be eligible for a maximum of twenty-four (24) hours paid bereavement leave, prorated for part-time employees. The Agency may request documentation. If additional earned leave is needed, an employee may request to use earned sick leave credits, or leave without pay, at the option of the employee for any period of absence from employment to discharge the customary obligations arising from a death in the immediate family or the employee's spouse. Employees may, with prior authorization, use accrued vacation leave or compensatory time. Regular and Trial Service employees may be eligible to receive up to forty (40) hours of donated leave, to be used consecutively. The employee must have exhausted all available accumulated leave and qualify to receive hardship leave. For purposes of this Article, "immediate family" shall include the employee's or the employee spouse's parent, wife, husband, child, brother, sister, grandmother, grandfather, grandchild, or the equivalent of each for domestic partners, or another member of the immediate household.

## **Section 2. Leaves Without Pay.**

**A. Military Leave Without Pay.** An employee in the State service shall be entitled to a military leave of absence without pay during a period of service with the armed forces of the United States. He/she shall, upon honorable discharge from such

service, be returned to a position in the same class as his/her last held position, at the salary rate prevailing for such class, without loss of seniority or employment rights. Employees shall make application for reinstatement within ninety (90) days and shall report for duty within six (6) months following separation from active duty. Failure to comply may terminate military leave. If it is established that he/she is not physically qualified to perform the duties of his/her former position by reason of such service, he/she shall be reinstated in other work that he/she is able to perform at the nearest appropriate level of pay of his/her former class. An employee voluntarily or involuntarily seeking military leave without pay to attend service school shall be entitled to such leave during a period of active duty training. Military leaves of absence without pay shall be granted in compliance with the Veterans' Reemployment Rights Law, Title 38 USC Chapter 43. However, such reduction in salary will not be made for an FLSA-exempt employee to testify on temporary military leave except for full workweek increments where such leave causes an absence of one (1) or more full workweeks.

**B. 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, defendant or witness in a civil or criminal court proceeding that is not connected with the employee's officially assigned duties. Such leave shall be granted only after exhaustion of the employee's accrued vacation leave and personal leave. However, such reduction in salary will not be made for an FLSA-exempt employee to testify in a court or at a deposition except for full workweek increments where such testimony causes an absence of one (1) or more full workweeks.

**C. Educational Leave.** In instances where the work of the OEM will not be handicapped by the temporary absence of an employee, the employee shall be granted a leave of absence without pay or educational leave without pay for up to one (1) year, subject to OEM approval.

**D. Unauthorized Absence.** Unauthorized leave from duty shall be deemed to be without pay and may be grounds for disciplinary action by the OEM. Employees may be allowed to cover such absences with accrued vacation time or compensatory time if extenuating circumstances existed. Any employee who is absent for five (5) consecutive workdays without authorized leave shall be deemed to have resigned unless prevented from notifying the Employer due to circumstances beyond their control.

**E.** Leave without pay shall be granted after exhaustion of other leaves in accordance with FMLA and OFLA, except that an employee is not required to exhaust compensatory time during FMLA-qualifying events. For FMLA-qualifying events, an employee may retain up to a combined total of twenty-four (24) hours of vacation leave, personal business leave or compensatory time. Use of the leaves will be in accordance with this Agreement. Whenever possible, this designation shall be made prior to the beginning of the qualifying leave.

**F.** An employee who has attained regular status may request a leave of absence without pay for up to one (1) year. The Agency may grant such leave subject to the operating requirement of the employee's work unit. Requests for such leave must be made in writing at least thirty (30) calendar days in advance. Periods of leaves of

absence of fifteen (15) calendar days or more shall not be considered as service in determining the employee's seniority pursuant to Article 34 nor eligibility date for a salary increase unless such time has been spent on leave resulting from job-incurred disability or military leave consistent with Veterans' Reemployment Rights Leave, Title 38, USC Chapter 43.

**Section 3. Schedule Adjustment for Monthly Military Leave Support Unit (except OEM).** In cases where management will not incur additional costs, those employees who are scheduled to work during mandatory, monthly, weekend reserve duty may be allowed to flex and adjust their workweek schedule.

**Section 4. Parental Leave.** Parental leave shall be granted in accordance with federal/state Law as appropriate.

## **ARTICLE 40 - INCLEMENT CONDITIONS**

### **Section 1.**

**A.** The Employer/Agency designated official(s) may close or curtail offices, facilities, or operations because of inclement weather or weather-related hazardous conditions. The Employer/Agency will announce such closure or curtailment to employees. The Employer/ Agency will strive to make its decision to close and/or postpone day shift no later than 5 a.m.; however, the parties recognize that changing conditions may require further adjustment. The Employer/Agency may provide this information through methods such as pre-designated internet web sites, phone 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 to report to work. Essential employees/positions shall be designated by the Agency by November 1 of each year. Such designations may be modified with two weeks (2) advance notice to the affected employee(s).

**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. Employees may be allowed up to two (2) hours commuting time as reasonably needed to report for work after a delayed opening has been announced. Where an employee arrives late due to this extended commute, he/she may cover the time with accrued vacation, compensatory time off, personal leave or approved leave without pay.

**Section 2.** When the Employer/Agency notifies employees not to report to work pursuant to Section 1, prior to the beginning of the work shift the following applies:

**A. FLSA Non-Exempt Employees.** Non-exempt employees shall not be paid for the period of the closure. However, employees shall be allowed to use accrued vacation, compensatory time off, personal leave or approved leave without pay for the absence(s).

A non-exempt employee arriving at work after the Employer/Agency has announced a closure or curtailment of operations may be directed to leave work and if so directed

shall not be paid for the remainder of the shift unless utilizing accrued leave as described above. An employee who actually begins work shall be entitled to pay for all actual hours worked.

**B. FLSA Exempt Employees.** The exempt employee shall be paid for the work shift. An FLSA-exempt employee may be required to use paid leave or leave without pay where the closure applies to that employee for one or more full workweek(s)

**Section 3.** When in the judgment of the Employer/Agency, inclement weather or weather-related hazardous conditions require the closing of the work place following the beginning of an employee's work shift, the employee shall be paid for the remainder of his/her work shift.

**Section 4. Alternate Work Sites.** Employees may be assigned or authorized to report to work at an alternative work site(s) and be paid for the time worked.

**Section 5. Late or Unable to Report.** Where the Agency remains open and an employee notifies his/her supervisors that he/she is unable to report to work, or will be late, due to inclement weather or weather-related hazardous conditions, the employee shall be allowed to use accrued vacation leave, compensatory time off, personal leave or approved leave without pay.

**Section 6. Employees on Pre-scheduled Leave.** If an employee is on pre-scheduled leave the day of the closure, the employee will be compensated according to the approved leave.

**Section 7. Make-up Time Provisions.** Subject to Agency operating requirements and supervisory approval, employees who do not work pursuant to Sections 2 and 5 of this Article may make-up part or all of their work time missed during the same workweek. In no instance will time worked during the make-up period result in overtime being charged to the Agency. The Employer/Agency shall not be liable for any penalty or overtime payments when employees are authorized to make up work.

**Section 8.** Employees who are unable to report to work due to inclement weather and/or weather-related hazardous conditions may be allowed to work from home with prior approval of their supervisor.

## **ARTICLE 41 - INCLEMENT CONDITIONS – FLSA-EXEMPT EMPLOYEES**

**Section 1.** When in the judgment of the Employer/Agency, weather conditions require the closing of the work place after an FLSA-exempt employee reports to work, the FLSA- exempt employee shall be paid for the remainder of his/her work shift.

**Section 2.** The Agency may notify exempt employees not to report to work prior to the beginning of the work shift because of inclement weather or hazardous conditions. In such cases, the Agency will use radio or television announcements to attempt to notify employees of the closure prior to their leaving home. The Agency shall notify all

employees of its radio or television selection by posting that notice on Agency bulletin boards.

If notice of closure occurs prior to the beginning of the work shift and the exempt employee is not otherwise approved to be on pre-scheduled leave or authorized to report to work at another location, the employee shall be paid for the work shift. However, an exempt employee may be required to use paid leave where the closure applies to that employee for a full workweek.

**Section 3.** Where local conditions dictate, exempt employees shall notify their supervisors that they are unable to report or will be late in reporting for work. In the event that the employee elects not to report to work the employee shall use accrued vacation leave or compensatory time or leave without pay.

### **ARTICLE 42 - WORKER'S COMPENSATION**

Injured workers return to work shall be in accordance with appropriate Agency Policy and State law. Violations shall be pursued through the appropriate Worker's Compensation Board, BOLI, or insurance carrier.

Provisions contained in the Agency policy may not be less than outlined in the law.

### **ARTICLE 43 - CALL BACK TIME**

**Section 1.** An employee who is called back to work outside his/her regular shift, will receive the appropriate rate of compensation in accordance with this Agreement for hours actually worked, but in no event will the employee be paid less than two (2) hours at the straight time rate of pay.

**Section 2.** This provision will not apply when call back results from employee oversight (e.g., taking home necessary keys, equipment). This provision does not prevent the Agency from calling employees for information not requiring call back. The employee will not be required to remain at home or available unless on standby or on-call as appropriate.

**Section 3.** An employee who receives a call from management outside normal working hours and is not required to go to the worksite shall receive appropriate compensation for the work activity that shall be dependent on whether:

- A.** The employee is eligible for overtime;
- B.** The phone call is of at least fifteen (15) minutes duration; and
- C.** A record of the call is maintained on a standard log format and is certified correct by the employee.

If all of the above conditions are met, the time shall be counted as time worked and paid pursuant to Article 33 for eligible employees.

## **ARTICLE 44 - LEADWORK**

**Section 1.** Leadwork differential shall be defined as a differential for employees who have been formally assigned by their supervisor in writing “leadwork” duties for ten (10) consecutive calendar days or longer provided the leadwork or team leader duties are not included in the classification specification for the employee’s position. Leadwork is where, on a recurring daily basis, the employee has been directed to perform substantially all of the following functions: to orient new employees, if appropriate; assign and reassign tasks to accomplish prescribed work efficiently; give direction to workers concerning work procedures; transmit established standards of performance to workers; review work of employees for conformance of standards; and provide informal assessment of workers’ performance to the supervisor.

**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.** Leadwork 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, leadwork differential shall be included in calculation of the overtime rate of pay.

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

## **ARTICLE 45 - IMPLEMENTATION OF NEW CLASSES—APPEALS PROCESS**

The appeals process is designed to allocate employees into new classes. Employees in positions allocated to a new classification, who dispute their placement within the new class, can appeal their placement using the following process:

### **Section 1.**

**A.** An appeal may be filed by an individual employee or a Steward or a Council Representative on behalf of the employee, to the Agency HR Office within fifteen (15) calendar days of written notification by the Agency of placement into the new class. 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 should describe the individual or group, including the names of affected members, identify the proposed placement, and the placement believed to be correct by the affected employees. 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.

The Agency shall conduct a review of the allocation using the following criteria:

1. The purpose of the job 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 specification; 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.

**B.** If denied, the Union may appeal the Agency's decision in writing to the Labor Relations Unit within fifteen (15) calendar days of receipt of the written denial. The appeals will be considered by the Employer designee (or an alternate) and the Union designee (or an 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 utilize two (2) resource persons, one (1) designated by each party, to provide technical expertise concerning a specific series. The committee will attempt to resolve the matter by jointly determining whether the current or proposed class 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 job and overall assigned duties. If an alternate class is identified, both the Union and Labor Relations Unit shall be notified. If the parties concur that shall end the allocation appeal. In the event the committee concludes that the proposed or alternate class is more appropriate, management 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 no later than sixty (60) calendar days of receipt of the appeal by the committee.

**C.** The decision of the designees shall be binding on the parties. However, agencies may elect to remove/modify duties at any point during the process.

**D.** If the appeals committee cannot make a decision, the Union may request final and binding arbitration by a written notice to the Labor Relations Unit within the next forty-five (45) calendar day period. 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 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.

E. Where a position is vacated after the filing of the initial appeal, the Union may continue the appeal process and such appeals will be reviewed by the committee only after the review of all filled positions appeals is completed and where the Agency indicates that no change in duties is anticipated prior to refilling the position.

F. This process terminates upon completion of the allocation process.

#### **ARTICLE 46 - BILINGUAL DIFFERENTIAL**

A differential of five percent (5%) over base rate will be paid to employees required to be proficient and use bilingual skills (i.e., interpretation and translation to and from English to another foreign language). Such skills must be a condition of employment as established by management. The interpretation and translation skills must be assigned and contained in an employee's individual position's position description. The decision to assign bilingual duties to an employee is at the sole discretion of management.

#### **ARTICLE 47 - TEMPORARY INTERRUPTION OF EMPLOYMENT**

When the Employer declares that a temporary interruption of employment should be considered because of lack of funds, either party may provide the other with written notice to meet and discuss possible terms of such interruption or alternative options. Such meeting must occur within thirty (30) days of the declaration. Terms and alternatives shall be subject to mutual agreement by the Union and the Employer. The parties agree that any and all discussions that take place under this Section shall not be subject to the Complete Agreement articles of any of the agreements or constitute interim negotiations under PECBA. In addition, the parties will not be required to use the dispute resolution process contained in the PECBA.

#### **ARTICLE 48 - TELECOMMUTING**

The State allows telecommuting where there are opportunities for improved employee productivity, reduced commuting miles or potential agency savings.

Telecommuting work arrangements are subject to State Policy 50.050.01 and the terms and conditions of this bargaining agreement. The Agency and the employee may terminate individual agreements, in whole or in part, upon seven (7) days notice to each other.

**LETTER OF AGREEMENT - 2007-2009 INSURANCE**  
**PART-TIME EMPLOYEES HEALTH INSURANCE SUBSIDY**

This agreement is between the State of Oregon acting through its Department of Administrative Services (Employer) and the AFSCME (Union).

The Parties agree to the following:

The Employer will continue to pay the current part-time subsidy for eligible part-time employees who participate in the part-time plan through December 31, 2007 as follows:

- Employee Only (EE) - \$181.72
- Employee and Family (EF) - \$233.84
- Employee & Spouse - (ES) - \$231.06
- Employee & Children (EC) - \$206.60

For Plan Year 2008 and 2009, the subsidy will be paid at an amount so that employees will continue to pay the same out-of-pocket premium costs that were in effect for Plan Year 2007. If an employee changes from one tier to another or changes plan pursuant to PEBB rules, his/her out-of-pocket premium costs will be adjusted to reflect the appropriate plan year's out-of-pocket premium costs for his/her new tier.

**LETTER OF AGREEMENT – INTERIM COMMITTEE ON HEALTH INSURANCE  
TRENDS AND ISSUES**

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) on behalf of the agencies participating at the Central Table and the American Federation of State, County and Municipal Employees, Council 75 (Union).

This Agreement covers employees in the Union's bargaining units covered by the Central Table Negotiations.

DAS agrees to form an interim workgroup during the 2007-09 contract term to discuss health insurance trends, issues, and options for future state employee benefits. The discussion shall also include the conceptual and procedural issues raised by the Union's April 2, 2007 proposal for a Health Reimbursement Arrangement. The workgroup will be coordinated by DAS and will include representatives from both management and labor. AFSCME may designate up to three (3) participants from the AFSCME Central Table, one (1) from the DOC Security unit, and one (1) from the DOC Security Plus unit. Such employees will be in paid status if attending workgroup meetings which cross over their regular work hours.

AFSCME may designate up to three (3) participants from the AFSCME Central Table, one (1) from the DOC Security unit, and one (1) from the DOC Security Plus unit. Such employees will be in paid status if attending workgroup meetings which cross over their regular work hours.

**LETTER OF AGREEMENT – ARTICLE 9, CONTRACTING OUT**  
**FEASIBILITY STUDY**

This Letter of Agreement is entered into between the State of Oregon Department of Administrative Services, on behalf of all State Agencies covered by the State of Oregon and AFSCME Central Table.

When the provisions of Article 9, Section 5, require a feasibility study, the following will apply:

The Employer will count eighty percent (80%) of the affected employee's straight-time wage rate when comparing the two (2) plans.

This Agreement is effective through June 30, 2009.

## LETTER OF AGREEMENT – INTERMITTENT UNION LEAVE

When Union officials (officers and stewards) are designated in writing by the Executive Director of Oregon AFSCME to attend AFSCME Council 75 Biennial or AFSCME International Conventions, the following provisions apply.

1. The Executive Director of Oregon AFSCME shall notify affected agencies in writing of the name of the employee(s) at least thirty (30) days in advance of the date of the AFSCME Convention. For agencies of 100 or fewer bargaining unit members, no more than one bargaining unit member per agency may be designated to attend AFSCME conventions. For agencies of greater than 100 bargaining unit members, no more than two bargaining unit members may be designated to attend AFSCME conventions under this provision.

2. Subject to agency head or designee approval based on the operating needs of the employee's work unit, including staff availability, the employee will be authorized release time with pay.

3. The paid release time is limited to attendance at the conference and travel time to the conference if such time occurs during the employee's regularly scheduled working hours up to forty (40) hours per calendar year.

4. The release time shall be coded as Union business leave or other identified payroll code as determined by the State.

5. The release time shall not be included in the calculation of overtime nor considered as work related for purposes of workers' compensation.

6. The employee will continue to accrue leaves and appropriate benefits under the applicable collective bargaining agreement except as limited herein.

7. The Union shall, within thirty (30) days of payment to the employee, reimburse the State's affected agency for all Employer related costs associated with the release time, regular base wage and benefits, for attendance at the applicable conference.

8. The Union shall indemnify and the Union and employee shall hold the State harmless against any and all claims, damages, suits, or other forms of liability which may arise out of any action taken or not taken by the State for the purpose of complying with these provisions.

This Letter of Agreement expires June 30, 2009.

## **LETTER OF AGREEMENT - JOINT COMMITTEE ON SALARY SURVEYS**

This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) on behalf of the agencies participating at the Central Table and the American Federation of State, County and Municipal Employees, Council 75 (Union).

This Agreement covers employees in the Union's bargaining units covered by the Central Table negotiations.

The parties agree to form a joint committee of two (2) management and two (2) AFSCME representatives to review appropriate market comparisons for the bargaining units' compensation, including methodology and data collection. The committee will also examine the state's relationship to market and make recommendations to the Governor for moving state compensation closer to market. This committee shall not enter into formal negotiations nor have recourse to the dispute resolution procedures for negotiations. This committee shall provide the update by October 1, 2006.

## COMPENSATION PLAN

July 1, 2005

CLASS #	CLASS TITLE	RANGE
C0104	OFFICE SPECIALIST 2	15
C0107	ADMIN SPECIALIST 1	17
C0108	ADMIN SPECIALIST 2	19
C0813	PROGRAM TECH 2	27
C0860	PROGRAM ANALYST 1	23
C0861	PROGRAM ANALYST 2	27
C0862	PROGRAM ANALYST 3	29
C0863	PROGRAM ANALYST 4	31
C1216	ACCOUNTANT 2	23
C1217	ACCOUNTANT 3	27
C1339	TRAINING & DEVELOPMENT SPEC 2	27
C1484	INFO SYSTEMS SPEC 4	25
C1487	INFO SYSTEMS SPEC 7	31I
C3253	FACILITIES ENGINEER 3	29

## SALARY SCHEDULE

July 1, 2007

RANGE	1	2	3	4	5	6	7	8	9
15	2047	2131	2217	2296	2395	2501	2611	2727	2854
17	2217	2296	2395	2501	2611	2727	2854	2992	3136
19	2395	2501	2611	2727	2854	2992	3136	3281	3438
23	2854	2992	3136	3281	3438	3610	3783	3963	4155
27	3438	3610	3783	3963	4155	4356	4570	4797	5027
29	3783	3963	4155	4356	4570	4797	5027	5273	5527
31	4155	4356	4570	4797	5027	5273	5527	5800	6075
25I	3270	3425	3587	3753	3930	4114	4307	4510	4723
31I	4327	4529	4742	4966	5198	5444	5701	5968	6247

\* Future salary schedules of increases will be posted on the HRSD web page as they become available.

Signed this 6th day of December, 2007, in Salem, Oregon.

FOR THE STATE OF OREGON

FOR THE AMERICAN FEDERATION OF  
STATE, COUNTY AND MUNICIPAL  
EMPLOYEES

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Lindsay Ball, Director  
Department of Administrative Services

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Colleen Savage, Council Representative  
AFSCME Council 75

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Susan Wilson, Administrator  
DAS-Human Resource Services Division

---

Matt Marheine, OEM  
Bargaining Team Member

---

MG Raymond F. Rees  
The Adjutant General  
Oregon Military Department

---

Georges Kleinbaum, OEM  
Bargaining Team Member

---

Glenn West, State Labor Relations Manager  
DAS-HRSD, Labor Relations Unit