

MEMORANDUM OF UNDERSTANDING

between

CITY OF MEMPHIS

and

**AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES**

AFL-CIO, LOCAL 1733

**HOUSING AND COMMUNITY DEVELOPMENT
CODE ENFORCEMENT**



EFFECTIVE

JULY 1, 2017

Through

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PREAMBLE

Section 1. Purpose. The purpose of this Agreement is to provide for orderly and constructive employee relations in the public interest and in the interest of the bargaining unit employees and the Employer.

Further, this agreement has as its purpose the promotion of harmonious relations between the Employer and the Union, establishment of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay and other conditions of employment.

Section 2. Non-Discrimination. The Employer and the Union recognize their responsibilities under Federal and State laws and regulations relating to fair employment practices and reaffirm their commitment to principles of equal employment opportunity and fair employment practices.

The parties agree that there shall be no discrimination because of race, sex, color, age, disability, national origin, religion or affiliation or non-affiliation with any labor organization. The City and the Union agree that the provisions of this Agreement shall apply to all non-probationary employees of the bargaining unit without discrimination.

The parties recognize that the interest of the community and job security of the employees depend on the Employer's success in establishing and maintaining efficient, expeditious, and economical public services for the City.

Section 3. Employee Rights. Bargaining unit employees have the right to form, join and participate in the activities of employee organizations of their own choosing, for the purpose of meeting and conferring with the City or its designated representatives with respect to grievances and conditions of employment. Employees also have the right to refuse to join or participate in the activities of employee organizations.

Section 4. Laws, Regulations and Ordinances. Nothing herein is intended to be in conflict with federal, state or local laws or regulations having the force and effect of laws, and the parties recognize and agree that any provision herein which is in conflict

shall not be applicable. Further, the parties agree that if any properly and hereafter enacted law or regulation, particularly any City ordinance, provides rights or benefits to all other City employees, the employees of this bargaining unit shall receive the same benefits.

ARTICLE 1 RECOGNITION

The City of Memphis recognizes the American Federation of State, County and Municipal Employees, AFL-CIO, Local 1733, as the sole and exclusive bargaining agent for a unit comprised of all regular, full-time employees in classifications specified in Appendix A of this Memorandum of Understanding, in the Division of Community Enhancement, Code Enforcement Department, for the purpose of negotiating wages, hours, and other conditions of employment to the full extent provided by the applicable laws of the City of Memphis, the State of Tennessee and the City Council Labor Policy.

The City grants exclusive recognition to the Union in accordance with the City Council Labor Policy which provides that no other labor organization shall be recognized unless they are designated by a majority of the non-supervisory employees of the appropriate unit.

ARTICLE 2 MANAGEMENT RIGHTS

The City of Memphis has the exclusive right to determine the purpose of each of its agencies and to set the standards of services to be offered to its citizens. It is also the right of the City to direct its employees, to hire, promote, demote, transfer, assign or retain employees in positions within an agency or department, and to establish reasonable work rules which do not conflict with this agreement. Work rule changes shall be discussed with the Union in advance of change.

The City has the right to reprimand, suspend, discharge or take other disciplinary action against its employees for just cause and in accordance with the provisions of the

Memorandum of Understanding, and to relieve its employees from duty in the event of lack of work, funds, or other legitimate reasons provided, however, that nothing contained in this article shall be deemed to deny the rights of any employee to submit a grievance concerning the application or interpretation of the terms of this Memorandum of Understanding or a claimed violation, misinterpretation, or misapplication of the rules or regulations of the City affecting the terms and conditions of employment.

All rights and duties of both parties are specifically expressed in this Memorandum of Understanding and each of the parties reserves to itself the rights and privileges otherwise accorded it whether by Charter, statute, or common law with respect to any matter not expressly covered by this Memorandum of Understanding.

ARTICLE 3 GENERAL PROVISIONS

Section 1. The Union and City agree that no employee shall be discriminated against, harassed or discharged because of Union membership, sex, marital status, race, religion, creed, national origin, political affiliation, or disability within the meaning of the Americans with Disabilities Act, or for exercising the use of the grievance procedure.

Any language herein which uses a gender specific pronoun shall be interpreted to include persons of both genders.

Section 2. An employee who alleges unlawful discrimination may grieve the matter and such grievance shall not affect the employee's right to file a complaint with any appropriate state or federal agency.

Section 3. Every employee has the right to join and the right not to join the Union. The City and the Union shall not coerce, intimidate, harass or in any other way discriminate against any employee who exercises his right to join or not join the Union or his right to continue or discontinue membership in the Union. No employee shall be granted or denied promotion or any other benefit because of membership or lack of membership in the Union.

Section 4. The employer will not engage in aiding, encouraging, supporting and assisting in any way any other Union, employee group or organization seeking to represent employees covered by this agreement. No general meeting of bargaining unit employees which excludes union members shall be held.

Section 5. Decorum and Fitness. All employees in the bargaining unit shall exhibit a positive, professional attitude and demeanor to one another, supervisors, administrators, managers, co-workers and the general public. This provision includes being cordial, polite, practicing good hygiene and maintaining a neat and clean appearance.

Section 6. Drivers License Requirements. Any bargaining unit employee in a driving capacity with the City shall maintain a valid appropriate driver's license in order to maintain their position with the City. If an employee loses driving privileges necessary to perform the work or develops a driving record which indicates a propensity for accidents and/or violations of the law, the Union shall be notified and the employee may be removed from the position which requires driving. Such an employee may be transferred to a suitable, vacant position or terminated if not transferred.

Section 7. Personnel Records. Official employee personnel records are maintained by the Employee's Division and by the City Human Resources Division. Upon making arrangements in advance, an employee shall have access to his/her personnel files. The Union shall have similar access to such files.

Section 8. Union/Management Meetings. At the request of either the Union or the Employer, meetings shall be held for the purpose of considering matters of mutual interest other than grievances, provided that mutually acceptable arrangement as to time and place can be made.

Employees designated as representatives of the Union, not to exceed two (2), shall not suffer loss of time or pay when absent from their assigned work schedule for the purpose of attending said meetings.

Section 9. Work Rules. Existing, effective work rules - not in conflict with the provisions of this agreement - shall be published or re-published in written form to bargaining unit employees within ninety (90) days of the effective date of this Memorandum of Understanding. A copy thereof shall be furnished to the Union.

New work rules, hereafter established, shall be posted on employee bulletin boards, and shall be furnished to and discussed with the Union in advance of the effective date(s). Discussions with employees and consideration of employee input shall be an integral part of the work rule development process, unless an emergency or legal requirement dictates otherwise.

Section 10. Nothing herein is intended to be in conflict with federal, state or local laws or regulations having the force and effect of laws, and the parties recognize and agree that any provision herein which is in conflict therewith shall not be applicable. Further, the parties agree that if any properly and hereafter enacted law or regulation, particularly any City ordinance, provides rights or benefits to all other City employees, the employees of this bargaining unit shall receive the same benefits.

ARTICLE 4 DISCIPLINE AND DISCHARGE

Section 1. The parties agree that, except for major infractions, disciplinary actions shall be taken in accordance with the principles of progressive discipline and that such actions shall be taken as soon as possible following their knowledge of a problem. Prior to taking official disciplinary action, the Division Director or designee may, when appropriate, counsel and make constructive suggestions to an employee.

Section 2. Progressive steps of discipline shall be documented and a Steward or other Union Official shall be present when such steps are administered. The steps of progressive disciplinary action authorized are:

1. Oral Reprimand
2. Written Reprimand

3. Suspension without pay
4. Demotions (where applicable)
5. Termination of employment

Section 3. In disciplinary situations which may result in suspension without pay or termination of employment, the employee and the Steward shall in advance receive a written notice of charges and be afforded a reasonable opportunity to respond to the charges. Documentation of disciplinary actions taken shall be furnished to the employee, the Union Steward and to the Union. Employees and Stewards shall acknowledge receipt of disciplinary documents by signing the City's copy, but such acknowledgment does not indicate agreement with the action taken.

Section 4. Disciplinary action shall normally be taken in such a manner as to least embarrass an employee before other employees or the public.

Section 5. When responding to disciplinary charges which may lead to suspension without pay or termination, an employee will be given the opportunity, not less than 24 hours, to provide facts and explanations to rebut the charges. A Steward or other Union Official may participate in this effort.

Section 6. The Division Director and/or designees have the right at any time to relieve an employee from duty with pay pending the filing of disciplinary charges and the resolution of such charges. A Steward shall be informed when an employee has been relieved of duty.

Section 7. Documentation of disciplinary actions shall include the reason(s) for such actions, and once disciplinary action has been decided and imposed it shall not be increased for the particular infractions for which it was imposed.

Section 8. The progressive steps of discipline shall be followed for each specific type of offense or infraction except for offenses or infractions considered to be major infractions.

Section 9. The Division Director or designee may require an employee to consult

with City Employee Assistance Program (EAP) officials in any disciplinary situation if it is determined EAP services may be helpful in preventing further and more serious disciplinary actions. An employee who accepts EAP services is obligated to comply with written conditions accepted by the employee in connection with the provision of EAP services.

Section 10. Disciplinary action shall be taken only for just cause and if considered not to be for just cause may be grieved. However, if a matter is appealed to the Civil Service Commission, the Civil Service Appeal is required to be withdrawn by the employee prior to the Union filing a request for arbitration regarding the same matter.

ARTICLE 5 MAJOR INFRACTIONS

Below is a list of offenses which are of such a serious nature as to warrant immediate discharge or suspension and the Employer shall have the absolute and unalterable right to terminate or suspend for just cause an employee immediately and without any prior notice of any kind for the violations listed below. Related and mitigating factors may be considered when determining the action to take.

1. Refusing to perform reasonable work assignments.
2. Leaving work assignment and/or City property without permission.
3. Removal of any City property from City premises for the employee's personal use and/or the disposal of any property without the written approval of the Division Head or his designee.
4. Knowingly falsifying information to the City.
5. Fighting, including striking a fellow employee or the striking of a supervisor or threatening a fellow employee or supervisor, except to the extent reasonable as self-defense.
6. Threatening a fellow employee or supervisor with apparent intent to cause bodily harm.

7. Soliciting work or performing work outside the scope of employee's assigned duties.
8. Possession or consumption of alcohol during working hours; or possession or use of illegal drugs during working hours; or reporting for work under the influence of alcohol or drugs.
9. Willful and/or reckless neglect of duty.
10. Failure to return to job after approved leave of absence.
11. The use of abusive language or unacceptable treatment of a citizen or City employee, including verbal and non-verbal, or harassment.
12. Gross insubordination, which is defined as infractions of a serious nature in which the employee destroys the employer/employee relationship. This could include, but is not limited to, willful refusal to comply with directives from a supervisor, open defiance, or flagrant or repetitive infractions.
13. Accepting or soliciting a bribe.
14. Possession of a weapon, on his or her person, during business hours.
15. Safety violations that could or have resulted in major property damage, loss of life and/or serious bodily injury for which the employee is found to be at fault.

ARTICLE 6 GRIEVANCE PROCEDURE

Section 1. Basic Ground Rules.

A) Representation. The Union shall be the exclusive representative of all the employees in the bargaining unit for the purposes of presenting to and discussing with the City grievances of employees arising from employment.

Any member of the bargaining unit shall have the right to initiate a grievance when any provision of this Agreement has been violated or when it is believed the terms and provisions of this agreement have been wrongfully interpreted or applied by City officials.

Section 2. Policy/Rights. It shall be the policy of the City to prevent the conditions

which may cause a grievance, and to deal promptly, fairly, objectively, and in good faith with grievances which may occur.

Employees shall have the right without being subjected to restraint, interference, discrimination, reprisal or harassment of any form, to utilize the grievance procedure when in his/her opinion disciplinary action was taken against him or her without just cause.

All steps of the grievance procedure shall be followed by all parties in good faith and pursuant to the prescribed time frames, unless mutually agreed to deviate by the parties.

Section 3. Grievance Procedure.

a) It shall be the policy of the City to give individual employees an opportunity to discuss grievances with supervisors in order to find mutually satisfactory solutions as rapidly as possible.

If possible, the grievance shall be settled at this level through discussions with the involved parties. If discussions do not resolve the issue, the matter shall be reduced to writing by the employee or the employee's representative within five (5) working days following the occurrence or the time the employee knew of the occurrence which gave rise to the grievance and submitted to the immediate supervisor within the same five (5) working day time frame.

b) **Step One:** The supervisor, upon receiving a written formal grievance shall meet with the grievant and Union Steward to discuss and review all of the pertinent facts and provide a written response within five (5) working days.

c) **Step Two:** In the event Step One does not resolve the matter, the employee may forward the matter to the Manager who shall meet with the employee and Union Steward and Chief Steward to discuss, investigate and attempt to resolve the matter and render his/her written decision within five (5) working days following receipt of the grievance. The employee shall have up to five (5) working days following receipt of the Manager's decision to either accept the answer or refer the matter to the next step.

d) **Step Three:** In the event Step Two (2) does not resolve the problem, the

employee may forward the matter to the Division Director or designee, who shall meet with the employee, a Union representative and Steward or Chief Steward, to discuss, review, and attempt to resolve the matter. The Division Director or designee shall provide a written answer in the matter not later than ten (10) working days following his hearing or meeting on the matter.

Following receipt of the Director's answer in the matter, the Union shall have ten (10) working days to either accept the answer or submit or mail a notice of intent to arbitrate.

Section 4. Union Stewards. The Union Steward shall be permitted, by the Code Enforcement Manager or designee, reasonable time to investigate and process grievances during working hours without loss of pay.

The investigating Steward must first secure approval to be absent from his work assignment from the Code Enforcement Manager or his/her designee before removing himself to investigate a grievance on City time; provided, however, approval shall not be unreasonably denied.

ARTICLE 7 ARBITRATION PROCEDURES

The arbitrator shall have access to all written statements and documents pertaining to the appeals in the grievance, but the arbitrator shall have no power to amend, revise, add to, nor subtract from, nor modify any terms of this Memorandum of Understanding, and shall be strictly limited to the interpretation or application of the express provisions of this Memorandum of Understanding, and any other Memorandum made supplementary thereto.

SELECTION OF THE ARBITRATOR: The arbitrator shall be jointly selected by the Union and the City. If, within five (5) days after a request for arbitration is made, the Union and City fail to agree upon the appointment of an arbitrator, a request will be made to the American Arbitration Association or the Federal Mediation and Conciliation Service for a

list of five (5) arbitrators. The Union and City may select one of the lists of arbitrators or if they still cannot agree, the following procedure shall be followed.

The party presenting the grievance shall be given the first opportunity to strike the name of one of the arbitrators contained on said list. The other party may then proceed to strike a name and this procedure shall continue until one arbitrator's name remains. The arbitrator whose name remains shall be designated as the arbitrator. In the event the arbitrator designated declines to act, the procedure of striking names will be reinstated until an arbitrator willing to act has been selected.

The arbitrator shall hold a hearing on the earliest date available and mutually agreeable to the parties. The arbitrator's decision shall be in writing and shall set forth the arbitrator's finding of facts, opinion and conclusion on the issues submitted. The arbitrator shall be without power to make decisions contrary to or inconsistent with or modifying or varying in any way the applicable laws or rules and regulations having the force and effect of law. The cost of the services of the arbitrator shall be shared equally by the Union and the Division.

The arbitrator shall render his decision not later than thirty (30) calendar days after the conclusion of the final hearings.

There shall be final and binding arbitration on suspension, demotions, and discharge of any employee with the arbitrator chosen as above. A matter grieved cannot be heard by the Civil Service Commission and by an arbitrator. Therefore, if a matter is appealed to the Civil Service Commission, such appeal must be withdrawn prior to the scheduling of any arbitration hearing regarding the same matter. The withdrawal of a Civil Service appeal must be in writing and made by the employee or the employee's attorney if represented. The arbitrator shall have the power to rule on disputes involving suspension, demotions, or discharge under the agreement provided that he shall have no power to add to, subtract from, or modify any terms of this agreement, or any other agreements made supplementary hereto. All other decisions, those not involving suspension, demotions, or

discharge, shall be reported to the Mayor or his designated appointee of the City of Memphis and to the Union and shall be a matter of public record, and shall be advisory to the Mayor or his designated appointee who is hereby designated by the Mayor to render a final and binding decision.

It is agreed that the City shall make available management representatives to testify at the request of the Union when such persons have information involving the action being arbitrated. Timely advance requests for such witnesses shall be made in writing to the Director of Human Resources and such witnesses shall be required to attend unless the arbitrator determines the request is untimely or unreasonable. Oral requests for any such witnesses may be made at any time and shall be honored if reasonable to do so, at the discretion of the arbitrator.

ARTICLE 8 SENIORITY

Section 1. Definitions. City Seniority shall be granted to all employees upon successful completion of an initial probationary period, and it is determined on the basis of actual length of continuous service from the latest date of regular employment with the City. At the end of the employee's initial probationary period the employee is placed on the seniority list as of the first day of last employment.

Division Seniority is defined as the total length of uninterrupted service following the date of employment by or transfer to the Division of Community Enhancement.

Classification Seniority is defined as the total length of uninterrupted service following the date of appointment to a bargaining unit classification in Code Enforcement.

Employees shall accrue seniority for time spent on approved Military Leave or leave as a result of on-the-job injury or as provided elsewhere in this agreement.

On matters involving only the bargaining unit, Division Seniority shall be controlling. On matters involving only one bargaining unit position, Classification Seniority shall be controlling. For the accrual of benefits and other general matters, City Seniority shall be

controlling. If employees have the same Classification Seniority, Division Seniority shall be controlling. If employees have the same Classification and Division Seniority, City Seniority shall be controlling. If employees have the same Classification, Division and City Seniority, then they will determine who has the greater seniority alphabetically by last name.

Section 2. Loss of Seniority. An employee's seniority accumulation shall stop and the employee is dropped from the payroll if the employee:

1. Is discharged for just cause.
2. Retires.
3. Quits or resigns.
4. Is absent on three (3) consecutive work days (or five (5) days if detained by a law enforcement agency) unless proper notification with reasonably satisfactory reason is given to the supervisor.
5. Does not report back to work for three (3) consecutive work days (or five (5) days if detained by a law enforcement agency) after the expiration of a vacation or authorized leave of absence unless proper notification with a satisfactory reason is given to the supervisor.
6. Fails to respond or fails to return to work within ten (10) working days of the date a recall letter is mailed following a lay-off. Copies of recall letters shall be mailed to the Union's offices.
7. Is laid off for two (2) years.

Section 3. Seniority Lists. The City shall provide the Union a Seniority List monthly showing employees' names, date in class, date of employment, Social Security number, and rate of pay. The Manager of Code Enforcement shall furnish, upon request, other information necessary to resolve any other matter dealing with seniority, and shall maintain a posted, current seniority list. Any information on the list believed to be erroneous should be called to his attention for corrective action if corrective action is

appropriate.

ARTICLE 9 PROBATION

Section 1. Definition. Probation is an integral part of the selection and screening process and is to be utilized for closely observing an employee's work and for the effective training of an employee.

Section 2. Initial Probation. Each new employee hired to fill a regular full-time position with the City, shall serve an initial probationary period of one hundred eighty (180) calendar days from his last date of hire. During the initial probationary period an employee may be discharged at the sole discretion of the City and without constituting a breach of this Memorandum. At the successful conclusion of the initial probationary period, the employee shall be placed on the seniority list, with seniority dating back to the last date of employment. The initial probationary period may be extended for good cause provided a written request is submitted to and approved by the Human Resources Director at least fourteen (14) days prior to the expiration of the initial probationary period.

Section 3. Promotional or Administrative Probation. A member of this bargaining unit who is promoted shall be subject to an administrative probationary period of sixty (60) days from the effective date of the promotion. During the administrative probationary period, if the employee fails to demonstrate satisfactory performance the employee may request to return to the employee's previous position. Such request shall be granted provided a vacant position is available.

ARTICLE 10 VACANCIES, TRANSFERS, PROMOTIONS

Section 1. Definitions.

- A. Vacancy means an open approved bargaining unit position not filled by a permanent employee which the Division Director determines it is necessary to fill.

- B. Transfer means a lateral movement of a bargaining unit employee to a bargaining unit position of the same or different classification and of the same pay range or pay grade.
- C. Promotion is the advancement of a bargaining unit employee to higher paying classification within the bargaining unit.

Section 2. Posting. A vacancy for a bargaining unit position will be posted by the City in like manner to the City's posting of other job vacancies. The posting shall remain open for a period of ten (10) days. Posting shall not be required for vacancies where the City permits transfers or demotions to avoid layoff situations. If it is determined by the City not to fill a posted vacancy, the Manager of Code Enforcement shall notify the Union in writing of such decision.

Section 3. Position Assignments. Bargaining unit employees shall be notified of all opportunities to request transfer to other work sites. Such reassignments shall be made based on the principal of seniority using date in classification as the determining factor. Employees requesting reassignments must be capable of performing the work available to them through the reassignment.

Section 4. Promotion. Promotion to a higher paying bargaining unit position shall be made on the basis of job related qualifications and seniority. In the event one applicant does not exceed the job qualifications of the other applicants, seniority shall be the determining factor.

Section 5. The employer may make temporary transfers or assignments or reassign employees to positions covered by this agreement other than those they normally perform in order to meet the requirements of the operation of the department.

If temporary transfer or reassignment is to a higher paid classification, the most senior qualified available employee at the work location must be given first choice of the position. If a temporary assignment continues for more than three (3) work days, it will be filled by the most senior qualified employee in the department.

Any employee temporarily transferred, assigned or reassigned shall be paid at his rate of pay or at the rate of pay of the employee he replaces, whichever is highest, from the first hour worked.

Transfers or assignments shall ordinarily be for a period of no longer than thirty (30) days. Longer transfers or assignments may be made if it is uncertain when or if a job shall be declared vacant and require posting.

**ARTICLE 11
SICK LEAVE**

Upon completion of sixty (60) calendar days of consecutive service after initial employment, all regular full-time employees shall be eligible to receive pay while absent from work due to sickness to be charged against accumulated Sick Leave time.

Accumulation of sick leave begins from the first day of employment at the following rates:

| Service Credit | Accrual Rate Effective Date | Accrual Rate Per Month |
|------------------------|---------------------------------------|-------------------------------|
| Up to 5 years | First month of employment | 1 day (8 hours) |
| 5 years up to 9 years | First month after 5-year anniversary | 1½ days (12 hours) |
| 9 years up to 14 years | First month after 9-year anniversary | 2 days (16 hours) |
| 14 years or more | First month after 14-year anniversary | 2½ days (20 hours) |

Sick leave will not accumulate while an employee is absent on sick leave fifteen (15) days or longer, unauthorized absence or during other leaves of absence, except military leave.

Pay for holidays that occur while an employee is on sick leave shall be charged as holiday pay thereby saving the employee a paid sick day.

Section 1. An employee who becomes ill while on vacation and whose illness is substantiated by a doctor's statement, may upon release by the employee's attending

physician, have that portion of vacation which was interrupted by illness rescheduled. It shall be the employee's responsibility to report said illness to his Supervisor at the earliest possible date and present his doctor's statement to his Supervisor upon return to work.

Section 2. It is the responsibility of the employee to notify the immediate supervisor prior to the time to report for work if the employee will be absent due to illness. Such notice is required each day of absence unless and until a statement from the employee's physician has been furnished which documents the necessity for and period of the absence.

An employee absent three (3) consecutive days, in whole or in part, is required to submit a signed and dated statement from the employee's physician. For sick pay purposes, the physician's statement must cover all time starting with the third day on which the employee misses any work due to the illness. Employees who see a physician due to illness or injury will be permitted to return to work only in accordance with the written instructions of the physician and are required to report back to work as soon as the doctor permits it.

When sick leave is requested, time will be posted up to a maximum of five (5) days provided a physician's statement is submitted. For pay purposes, a physician's statement must cover all time starting with the third (3rd) consecutive work day of absence. However, if such illness exceeds five (5) working days, the physician's statement covering the illness must be received for continuation of sick leave pay.

Section 3. When an employee enters a hospital and notifies the City of such hospitalization and requests to utilize his sick days, providing he has adequate sick leave accumulated to cover such hospitalization, the City shall, upon notification and request, place him on sick leave status. The employee is required to submit a physician's statement verifying such hospitalization upon his release from the hospital, or not later than ten (10) days from his date of release. The physician's statement is to reflect the expected date on which the employee can return to his job duties.

Section 4. Regular City employees shall be entitled to Sick Leave benefits for illness resulting from the employee's pregnancy. The employee shall be required to notify her supervisor of such illness as outlined in the notification section of this Article. Such notification shall be substantiated by a physician's statement specifying the approximate

date of birth.

The employee who exhausts all sick leave benefits must request, in writing, a leave of absence for maternity as outlined in the Article entitled Leaves of Absence.

Section 5. Proven cases of abuse of the sick leave provisions may result in the employee's claim being denied and appropriate disciplinary measures may be taken for just cause. Proven cases of abuse may require an employee to submit a physician's statement for a single day absence, such requirements not to exceed three (3) months.

Section 6. Employees shall be compensated in cash for up to seventy-five (75) days of accumulated unused sick leave upon retirement.

The amount of payment for unused sick leave is to be calculated at the employee's rate of pay in effect on the payday immediately preceding the employee's retirement. Such payment shall not be counted as compensation for retirement.

Section 7. After completion of sixty (60) days of continuous service, an employee who works three (3) consecutive months without sick leave, or any unauthorized absence, will be eligible for one (1) bonus day leave with pay to be taken within twelve (12) months from the date it is earned. Bonus days will be earned in a like manner for subsequent three (3) month periods so that an employee may earn up to four (4) bonus days a year. For bonus day purposes, a three (3) month period will be considered interrupted by the accumulation of six (6) hours absence from work.

ARTICLE 12 LEAVES OF ABSENCE

Leaves of Absence without pay may be granted to regular employees for the following reasons:

Section 1. Military. Military leave is prescribed by federal and state statutes. All matters relating to Seniority, Vacation, Sick Leave, Pension, and Insurance are governed in accordance therewith. Strict compliance with the law is required.

Regular, full-time City employees, including those in their initial probationary period, will be granted leave without pay for the purpose of active military service with one of the regular components of the armed forces of the United States.

Any regular, full-time employee who shall enter the armed forces of the United States will be restored to his former position or one of an equivalent status upon presentation of an honorable discharge from the armed forces within ninety (90) days from the date of discharge.

If the veteran is not qualified to perform the duties of his former position due to a service related disability, he will be placed in the nearest similar position for which he is otherwise qualified.

Section 2. Educational. Regular full-time employees shall be eligible to receive a Leave of Absence which does not exceed one (1) full year for job related courses recommended by the department head and approved by the Division Director or City Court Clerk where applicable. Such educational leave may be extended for an additional one (1) year upon written request by the employee and upon recommendation of the Department Head and with the approval of the Division Director or City Court Clerk where applicable, and the approval of the Director of Human Resources, provided the employee requests such extension thirty (30) days before the leave expires. Requests for additional leave shall be considered on a case by case basis.

Tuition Refund Program. The City will provide a tuition reimbursement program for all employees covered by this Memorandum. To be eligible for benefits in this Article, an employee must have completed his/her initial probationary period. Courses must be approved by both the Division Director and the Director of Human Resources at least five (5) days prior to the beginning of classes. Employees should refer to the Tuition Reimbursement Policy (PM-58-03) or contact the Division of Human Resources for further information on program criteria, eligible expenses and procedures for reimbursement.

Section 3. Personal. Regular, full-time City employees will be eligible to receive Leaves of Absence for such personal reasons as marriage, illness of a member of the family, birth or need to care for the employee's child within twelve (12) months of the child's birth, disposal of a family estate, funeral for other than immediate family, or other

emergencies, for a period not to exceed thirty (30) days, or as provided for under the Family Medical Leave Act. Such leave shall be upon recommendation of the Division Director or City Court Clerk as applicable. Such approval shall not be unreasonably withheld.

Section 4. Extended Illness Leave. The City's Personnel Manual Policy, PM-50-03, Leave Without Pay, Subject - Extended Illness Leave, is incorporated herein by reference.

Section 5. Union Business. Union employees selected by the Union to do work which takes them from their employment with the employer shall at the written request of the Union, be granted a leave of absence (not to exceed a total of twenty-five (25) employees). The leave of absence shall not exceed one (1) year, but it shall be renewed or extended for a similar period at any time upon the request of the Union. By mutual agreement, short-term leave of absence, not to exceed five (5) days may be granted for more than twenty-five (25) employees.

Section 6. Maternity. Regular, full-time City employees shall be entitled to maternity leave of absence without pay as follows: The employee must notify her supervisor no later than three (3) months prior to the commencement of the leave of absence or as provided for in the Family Medical Leave Act. Such notification shall include a written statement from her physician specifying the approximate date of birth. Maternity leave shall begin on the date advised by the doctor and shall not exceed beyond four (4) months from the date it began. An extension of up to two (2) months may be granted upon recommendation of the employee's physician. The employee shall be reinstated and returned to her job classification and work location upon returning to work at the conclusion of the approved leave period.

Leaves of Absence with pay may be granted to regular employees for the following reasons:

Section 7. Summer Training. Reservists and National Guard members being

called for the customary two (2) week tour of duty shall be excused on presentation of their orders and shall receive eight (8) hours pay at the regular rate of pay each working day served. Time absent from employment may be counted as vacation time if the employee so desires.

Section 8. Jury and Witness Duty. Regular, full-time and probationary employees shall be granted a leave of absence with pay any time they are required to report for Jury Duty or witness service. Proof of jury service shall be established by submitting a statement from the Jury Commissioner or Clerk of the Court showing the time served.

An employee shall be paid for time lost from scheduled work when legally subpoenaed as a witness to testify in court cases when the employee is neither the plaintiff nor the defendant. Employees shall also be paid for the time lost from scheduled work as a witness for the City or when sued as an agent of the City.

The employee must report for work when the jury is not in session or within a reasonable time if the jury service lasts less than four (4) hours of a day.

**ARTICLE 13
HOLIDAYS**

The following days shall be recognized and observed as paid holidays during the term of this Memorandum of Understanding:

| | |
|-------------------------------|------------------------------------|
| New Year's Day | January 1 |
| Martin Luther King's Birthday | Third Monday in January |
| President's Day* | 3 rd Monday in February |
| Martin Luther Memorial Day | April 4 |
| Good Friday | Friday before Easter |
| Memorial Day | Last Monday in May |
| Independence Day | July 4 |
| Labor Day | First Monday in September |

| | |
|---------------------------|---------------------------|
| Veteran's Day* | November 11 th |
| Thanksgiving Day | 4th Thursday in November |
| Friday after Thanksgiving | |
| Christmas Eve | December 24 |
| Christmas Day | December 25 |

Employees, who are assigned to work on a given holiday, shall receive an additional eight (8) hours pay for having worked the holiday, or for actual hours worked.

Whenever one of the above holidays falls on either Saturday or Sunday, either the preceding Friday or the following Monday shall be observed as the holiday. Employees will be notified in advance concerning the day to be observed as the holiday.

If the holiday falls on the employee's regular day off, the employee will receive an additional eight (8) hours pay for that holiday. If the holiday falls on the employee's scheduled vacation, additional time (or an additional day's pay) will be granted.

Holiday pay will not be allowed if the employee did not work and was not excused the last scheduled work day before or the next scheduled work day after the holiday.

ARTICLE 14 VACATIONS

Employees shall be granted an annual paid vacation in accordance with the following schedule on length of continuous service:

| <u>Service Requirements</u> | <u>Vacation Period</u> |
|------------------------------------|-------------------------------|
| 6 months but less than 1 year | 1 week (40 hours) |
| 1 year but less than 6 years | 2 weeks (80 hours) |
| 6 years but less than 7 years | 2 weeks, 1 day (88 hours) |
| 7 years but less than 8 years | 2 weeks, 2 days (96 hours) |
| 8 years but less than 9 years | 2 weeks, 3 days (104 hours) |
| 9 years but less than 10 years | 2 weeks, 4 days (112 hours) |
| 10 years but less than 11 years | 3 weeks (120 hours) |

| | |
|---------------------------------|-----------------------------|
| 11 years but less than 12 years | 3 weeks, 1 day (128 hours) |
| 12 years but less than 13 years | 3 weeks, 2 days (136 hours) |
| 13 years but less than 14 years | 3 weeks, 3 days (144 hours) |
| 14 years but less than 15 years | 3 weeks, 4 days (152 hours) |
| 15 years but less than 17 years | 4 weeks (160 hours) |
| 17 years but less than 19 years | 4 weeks, 1 day (168 hours) |
| 19 years but less than 21 years | 4 weeks, 2 days (176 hours) |
| 21 years but less than 23 years | 4 weeks, 3 days (184 hours) |
| 23 years but less than 25 years | 4 weeks, 4 days (192 hours) |
| 25 years and over | 5 weeks, (200 hours) |

The rate of vacation pay shall be the employee's regular straight time rate of pay in effect for the employee's regular job on the pay day immediately preceding the employee's vacation period.

Upon request submitted no less than four (4) days in advance of the start of his vacation, an employee shall receive his vacation pay no later than one (1) day prior to the start of this vacation.

Scheduled vacation time off may be requested for the next calendar year during December of each year. Scheduling conflicts shall be resolved on the basis of departmental seniority, and an approved vacation schedule shall be posted by January 15 each year.

The Code Enforcement Manager shall determine the number of employees of each classification who can be permitted to be off for vacation at any particular time. Any vacation time not scheduled at the beginning of the year can be taken if requested in advance and approved by the Code Enforcement Manager. However, employees may not use seniority to require other employees to reschedule vacation time previously scheduled and approved. Vacation time scheduled can be swapped or rearranged provided requested in advance and approved by the Code Enforcement Manager. Approval will not

be unreasonably withheld.

**ARTICLE 15
DEATH OF AN EMPLOYEE**

In the event of the death of a regular permanent employee while employed by the City of Memphis, all accumulated sick days up to seventy-five (75) days, all accrued wages due including allowances for unpaid holidays and vacation time, in addition to ten thousand dollars (\$10,000.00) free life insurance, are to be paid to the person entitled thereto as designated by the employee, or by law.

In addition, the person entitled as designated by law will receive an amount equivalent to the employee's regular wages for one (1) month after all legally required deductions.

**ARTICLE 16
DEATH IN FAMILY**

In the event of a death in the employee's immediate family, full wages will be paid for scheduled days of work from which the employee is necessarily absent because of the death, but not beyond a maximum of three (3) days. Immediate family includes husband, wife, father, mother, brother, sister, son, daughter, mother-in-law, father-in-law, grandmother, grandfather, grandchildren, great-grandparents, grandparents-in-law, brother- or sister-in-law, son- or daughter-in-law, step-parents and properly established foster parents (employee would have to have lived in the household), and legally established foster child currently residing in the employee's home.

Additional time off may be granted as leave without pay, or as paid vacation.

The provisions of this article are subject to the employee submitting verification to his immediate Supervisor of such death in the immediate family and employee's relationship to the deceased. Such verification must be submitted immediately or no later than ten (10) calendar days after the employee returns to work pursuant to the provisions

of this article. Such verification shall be in the form of a copy of the death certificate, program of eulogy, statement from funeral home, newspaper death notice, or other proof. Failure to provide the required verification within ten (10) calendar days after returning to work shall result in the employee being docked for time taken in connection for death in family until such verification is submitted. However, approval for payment provided in this article shall not be unreasonably withheld.

When a death in the immediate family necessarily interrupts an employee's vacation, that portion of the employee's vacation, to a maximum of three (3) days, shall be rescheduled or extended pursuant to the provisions of this Article and Article 10 - Vacations. When such a death in the immediate family interrupts an employee's vacation and results in the employee necessarily being absent beyond his scheduled vacation, the employee must notify his supervisor prior to the expiration of this scheduled vacation.

**ARTICLE 17
INSURANCE**

Life insurance is offered to regular, full-time employees covered under this agreement as an optional benefit. The amount of life insurance offered to eligible employees is equal to one and one-half (1½) times the employee's base salary.

Employees, who remain in the employment of the City on or after the age of 65, will have their life insurance coverage reduced in accordance with the Age Discrimination in Employment Act Schedule as listed below to a minimum amount of \$3,000.

| <u>Age</u> | <u>Reduced to the following percentages</u> |
|------------|---|
| 65 | 92% |
| 66 | 84% |
| 67 | 77% |
| 68 | 71% |
| 69 | 65% |

| | |
|---------------------|-----|
| 70 but less than 75 | 50% |
| 75 but less than 80 | 34% |
| 80 but less than 85 | 23% |
| 85 but less than 90 | 16% |
| 90 but less than 95 | 11% |
| 95 or older | 6% |

Upon retirement at any age, employees are eligible to retain \$3,000 dollars coverage. Those employees who retire, in addition to having the option to purchase the maximum allowable of \$3,000.00 under the City Policy, will retain one half (½) of the amount of free life insurance.

**ARTICLE 18
EMPLOYEE ASSISTANCE PROGRAM**

The parties agree to encourage employees to utilize the services of the City provided employee assistance program. If an employee is utilizing the services of this program and in-patient treatment is required, the employee will be entitled to use any accumulated vacation time and sick days. Nothing in this provision limits other forms of leave otherwise available. Employees who utilize the program are to comply with City policies (Substance Abuse Policy, Drug/Alcohol Testing Policy and Procedures, Employee Assistance Program) regarding the Employee Assistance Program.

The City and the Union believe that constructive measures can be utilized to deal with alcohol and drug abuse problems. Toward this end the City and the Union agree that at a mutually agreed time, representatives of the employee assistance program will meet with Union officials to inform them of program services, objectives and benefits and generally to educate those in attendance about the program.

The City will take reasonable measures to assure that employees are referred to counselors or others who are within the employee's health care network.

ARTICLE 19
HEALTH, SAFETY AND SANITARY CONDITIONS

The employer will maintain adequate safety and sanitary conditions at all times. In order to correct, maintain and improve effective safety and sanitary conditions, a joint committee entitled "Health and Safety Committee" shall be composed of the Steward appointed by the Union and Manager appointed by the City. The Health and Safety Committee shall be established to review and make recommendations on health, safety and sanitary conditions which affect the well-being of employees covered by the Memorandum.

ARTICLE 20
COMMUNICABLE DISEASE

In cases where employees are assigned to work in areas where they are exposed to communicable disease such as tetanus, typhoid, typhus, AIDS, tuberculosis, hepatitis, and other communicable diseases, and an employee contracts such a communicable disease through work place exposure, the employee will be treated for that disease at the expense of the City and benefits will be afforded in accordance with the City's OJI policy.

Employees shall be furnished necessary protective clothing and equipment as required by the appropriate authority, such as OSHA, EPA or CDC.

The City shall furnish annual inoculations protecting against tetanus, typhoid, typhus, and influenza when such inoculations are available, requested by employees and not contraindicated by a physician. The City has the option to select the provider of inoculations and the parties agree influenza is not a communicable disease intended to be covered by the OJI policy.

If there is an incident involving employee exposure to human blood during the performance of an inspector's job duties, the City shall provide medically advisable tests to determine whether the employee has contracted a communicable disease from such

exposure, provided the incident has been reported to the employee's manager (or manager's designee) by the end of the work shift on which the exposure occurred.

ARTICLE 21 HOURS OF WORK AND OVERTIME

Section 1. Regular Hours. The normal daily work schedule of bargaining unit employees shall be from 8:00 a.m. until 4:30 p.m. and the normal weekly work schedule shall be Monday through Friday. Variations to the normal schedule may occur if necessary to meet operational needs and in the best interest of efficient and effective operations. However, regular split shifts shall not be established. Employees are ordinarily expected to complete their duties within their regular work schedule. Upon mutual agreement between an employee and the City, flexible hours may be established by written agreement. Such agreement shall be in writing and copies shall be furnished to the employee and the Union.

Section 2. Training and Seminars. Hours engaged in required training, including attendance at seminars, shall be treated as hours worked for pay purposes. Travel to any required training or seminar, outside of scheduled normal working hours or requiring extra travel, shall be treated for pay purposes in accordance with Fair Labor Standards Act (FLSA) regulations. Voluntary training may be offered during working hours or on the employee's own time.

Section 3. Lunch Period. Employees shall be granted a lunch period of one (1) hour as near the middle of a daily work shift as practical. Inspectors are encouraged to take their lunch period so as to minimize inconveniences for contractors and developers. Employees may adjust the time of their lunch hour to meet this objective.

One-half (½) hour of the lunch period shall be paid time and one-half (½) hour shall be unpaid time.

On occasion, during an emergency as determined by the Manager of Code Enforcement or his designee, employees may be required to work without interruption

for lunch breaks until such time as the emergency ends.

Section 4. Rest Periods. Employee work schedules will provide, when practical, for a fifteen (15) minute rest period during each one-half ($\frac{1}{2}$) shift. Rest periods are paid time.

Section 5. End of Day Appointments. Employees shall not be required to commence inspections within thirty (30) minutes of the employee's scheduled quitting time except when it is clear the inspection can be completed in time for the employee to return to the reporting location at quitting time unless the Manager finds it necessary to commence such an inspection.

Section 6. Overtime. Overtime shall be paid for all hours worked in excess of forty (40) hours in each work week. Overtime shall be paid at the rate of time and one-half ($1\frac{1}{2}$) the employee's regular rate of pay. The City's work week for overtime purposes begins at midnight Friday and continues for seven (7) consecutive twenty-four (24) hour periods, ending the following Friday at midnight. The beginning of the workweek may be changed if the change is intended to be permanent and is not designed to evade the overtime requirements.

Planned overtime work shall be offered according to seniority by classification on a rotating basis. If the senior person declines, then the next senior shall be offered and so on. An employee who declines overtime shall not be offered overtime again until his/her next turn on the list. Unplanned overtime shall be offered according to seniority in classification to the extent practical.

Hours paid for holiday pay will be counted as hours worked for the purpose of overtime pay eligibility if the holiday falls on the employee's regular scheduled work day and the employee works hours in excess of normally scheduled hours not including the holiday.

Employees who work seven (7) consecutive days will receive double time for all hours worked on the seventh (7th) day.

Overtime work must be approved by the Manager of Code Enforcement or his/her designee but in any event it shall be compensated for in accordance with FLSA regulations.

ARTICLE 22 STILL WATCH

From time to time the City may require Inspectors to man still watches for the purpose of enforcing statutes or ordinances prohibiting dumping trash or debris at unauthorized sites within the City.

It is expected that assignment to still watch duties will involve an employee working hours which are not a part of the employees normal work schedule. If an employee works his or her full normal work schedule, any additional hours worked on still watch assignment shall be compensated at the time and one-half (1½) overtime rate of pay.

If an employee, at his request, is relieved of his or her regular schedule (in whole or in part) in order to work still watch assignments, hours worked on still watch shall be compensated at the employee's regular hourly base rate of pay plus a premium of sixty cents (\$.60) per hour if the employee is not also eligible for overtime pay for hours equal to the still watch hours.

Employees assigned still watch duties outside of normally scheduled working hours may utilize an assigned City vehicle, returning the vehicle the next day.

An employee assigned to still watch duties shall be armed while on still watch assignment provided the employee is authorized by the Division Director to be armed for such purpose. The Division Director will assure all training and certification requirements of the City of Memphis and the State of Tennessee have been met prior to such authorization being granted. A copy of such requirements shall be provided to the Union by the Division Director. The City will pay the fee for obtaining a permit to go armed. Adequate time will be allowed for an employee to obtain his/her weapon if

authorized prior to reporting to still watch.

Still watch assignments shall so far as possible be voluntary and offered according to seniority on a rotating basis to employees who elect to be on a still watch list. An employee on the list who refuses an assignment shall not again be offered an assignment until a full rotation of the list occurs. If no volunteer accepts a particular still watch assignment, the least senior qualified employee shall be required to perform the assignment, with the next mandatory assignment going to the next least senior qualified employee, and so on through the seniority list of qualified inspectors.

ARTICLE 23 LAYOFF PROCEDURE

Section 1. Layoff Determination. Layoffs shall be defined as reduction of staff or the elimination of any classification or position to ensure the efficient and economical operation of the Division as determined by the Division Director and/or the Governing Body.

In the event a reduction in force is deemed necessary, employees shall be laid off as follows:

Section 1. The Division Director shall designate the classification(s) where the layoff(s) will occur and, in general, temporary and probationary employees shall be laid off first, followed by employees on part-time schedules, followed by full-time regular employees, the least senior being first.

Section 2. Required Notice. Employees who are to be laid off shall be given written notice at least ten (10) work days in advance of the date of the layoff, if possible.

The Union shall be given a copy of the layoff notice and the names of the employees affected.

Section 3. Recall. An employee who has been laid off, or notified of pending layoff, shall be placed on a recall roster by the Human Resources Division for a position for which the individual is fully qualified, and/or the individual may be placed on a re-

employment roster for first consideration in case of call-backs to work in the same or similar capacity provided the employee has requested such consideration in writing and is available at the time of any recall.

The City will make every reasonable effort to secure employment both within City government or within other local government agencies for any laid-off employees. Recall from layoff will occur in order of seniority.

ARTICLE 24 PAYROLL DEDUCTIONS OF UNION DUES

Permanent employees (non-probationary) of the City of Memphis may authorize payroll deductions for the purpose of paying Union Dues. No authorization shall be allowed for the payment of initiation fees, assessments or fines. The procedure which shall be followed by all employees in authorizing deductions of Union dues shall be for each employee to execute a written assignment on the form attached hereto.

In the event the Union members vote to increase Union dues, the Union shall notify the City at least thirty (30) days prior to the effective date of the dues increase. The dues shall be deducted monthly in an amount certified by the Union and the aggregate deductions of all employees shall be remitted together with an itemized statement to the treasurer of the Union by the tenth (10th) day of the succeeding month after such deductions are made.

In addition, the City will submit monthly to the Union a listing of all new employees' names and addresses within the bargaining unit. The Union will indemnify, and hold the City harmless against any claims made and against any suits instituted against the City on account of payroll deduction of Union dues. The Union agrees to refund to the City any amounts paid to it in error on account of the payroll deduction provisions upon presentation of proper evidence thereof.

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the appropriate Union dues.

When a member in good standing of the Union is in non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in non-pay status during only part of the pay period, and the wages are not sufficient to cover the full withholding, no deductions shall be made.

In this connection, all other legal and required deductions have priority over Union dues. However, any employee who executed a written assignment authorizing payroll deduction prior to any authorized leave shall upon returning on payroll have his dues deducted.

Properly authorized payroll deductions presently being made for items other than dues shall be continued.

AUTHORIZATION FOR PAYROLL DEDUCTION

City of Memphis, Tennessee

By _____ Department _____
(Please Print) Last Name, First Name, Middle Initial
Address _____ Phone _____
Street City Zip

I, the undersigned, hereby designate the American Federation of State, County and Municipal Employees, AFL-CIO, as my duly chosen and authorized representative on matters relating to my employment. I further request and authorize the deduction from my earnings each payroll period an amount sufficient to provide for the regular payment of the current rate of monthly Union dues established by the AFSCME Local Union. The amount shall be so certified. The amount deducted shall be paid to the Treasurer of the Local Union, AFSCME. The authorization may be terminated by giving notice to the Union according to the Union by-laws; the Union will in turn notify the City Payroll office in writing of such cancellation, or this authorization will be canceled upon termination of my employment.

Social Security No. _____

Signed _____

**ARTICLE 25
BULLETIN BOARDS**

The employer agrees to provide a bulletin board where official notices of Union matters may be posted by Union representatives. It shall be in a conspicuous place and accessible to Union officials.

**ARTICLE 26
TRAINING**

The City and the Union recognize the need for the training and development of employees to fulfill the City's requirements for maintaining the efficiency of operations and service. The City and the Union agree that employees shall be free and unencumbered to suggest, recommend, and/or request additional training with the intent of providing opportunity for self-improvement and upgrading.

To meet these objectives, the City may from time to time provide training opportunities to employees of the bargaining unit. Mandatory training shall be conducted during hours considered as hours worked. Should training be offered on a voluntary basis, it may be offered during working time or on the employee's own time. If on the employee's own time, it will be unpaid, unless otherwise agreed by the City and the Union.

Employees shall be notified of training opportunities offered generally to employees on a citywide basis and the parties agree to encourage employee participation.

From time to time, as the need arises, the Union and the City may provide training

opportunities on a joint basis. Such training will be arranged between the parties and shall require the approval of the Director of Human Resources and the Director of the Union.

ARTICLE 27 UNIFORMS

Employees are required to wear approved, authorized uniforms during working hours.

Annually, during the month of August or upon completion of initial probation, employees shall receive a \$400.00 check for the purchase and upkeep of their uniforms, except for the initial uniform jacket purchase, which shall be provided by the City.

One raincoat shall be provided to each employee. Replacement shall be the employee's responsibility.

ARTICLE 28 NOTICE

Any notice required to be given by this Memorandum of Understanding to the City of Memphis or to the Union and not heretofore specified hereunder shall be given to the Director of Human Resources of the City where applicable in writing by certified mail. Any notice to be given to the Union, shall be in writing by certified mail addressed to the Executive Director, Local 1733, American Federation of State, County and Municipal Employees, AFL-CIO, 485 Beale Street, Memphis, TN 38103.

ARTICLE 29 NO STRIKE

Neither the Union or its agents or any employee, for any reason, will authorize, institute, aid condone or engage in a slowdown, work stoppage, strike or any other interference with the work and statutory functions or obligations of the Employer.

The Union agrees to notify all Local officers and representatives of their

obligation and responsibility for maintaining compliance with the Article, including their responsibility to remain at work during any interruption which may be caused or initiated by others and to encourage employees violating this Article to return to work.

Nothing contained herein shall preclude the Employer from disciplining employees and/or obtaining judicial restraint and damages in the event of a violation of this Article.

ARTICLE 30 CLOSING AND SAVINGS CLAUSE

Section 1. Closing Clause. The parties agree that this Agreement shall represent the complete Agreement between the Employer and the Union.

The parties acknowledge that during the meetings which resulted in this Agreement, each had the unlimited right and opportunity to make request and proposals with respect to any subject or matter not removed by law and the complete understandings and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right and each agrees that the other shall not be obligated to meet and confer with respect to any subject or matter not specifically referred to or covered in this Agreement.

Section 2. Savings Clause. Should any part of this Agreement or any provisions contained herein be declared invalid by a tribunal of competent jurisdiction, such invalidation of such part of provision shall not invalidate the remaining portions hereof. They shall remain in full force and effect.

Any invalidated provisions shall be subject to the meet and confer procedure.

ARTICLE 31 WAGE RATES

Effective July 1, 2017, the City of Memphis proposes current wage rates for employees covered by this Memorandum of Understanding to be increased by one percent (1%).

Rate Schedules July 1, 2017

| | <u>Entry</u> | <u>After 6 mos.</u> | <u>After 12 mos.</u> | <u>After 18 mos.</u> | <u>After 24mos.</u> |
|-----------------------------------|--------------|-------------------------|--------------------------|--------------------------|-------------------------|
| Code Enforcement Inspector | \$16.43 | \$17.03 | \$17.78 | \$18.58 | \$19.55 |
| Senior Code Enforcement Inspector | \$20.92 | \$21.60 | \$22.68 | \$23.00 | \$23.69 |

Performance Bonus Program

The City of Memphis may establish a performance bonus program to reward excellent service based on performance goals set by management and subject to funding during the program year. The City of Memphis will consult with representatives of this bargaining unit prior to establishing performance goals for this program. The program year will be July 1 to June 30 during any year the program is operational. Any bonuses awarded under this program shall not be subject to the grievance process. However, if an employee wishes to dispute management's assessment of the performance goals, then the employee may appeal the assessment within 5 days of notice to the Division Director or designee for a final decision.

**ARTICLE 32
CONTRACTING AND SUBCONTRACTING**

The Union recognizes the right of the City to contract or subcontract for any services or materials which it presently contracts or subcontracts.

The City agrees that contracting and/or subcontracting of services should only occur when it can be shown that to do so would provide cost-effective, more efficient services to the public. To show cost efficiency, the City shall provide the Union with a cost benefit analysis showing where the contracting and/or subcontracting would be a best practice for the taxpayers and citizens of the City of Memphis upon the Union's request. Whenever the City intends to contract or sub-contract services of any work performed by bargaining unit members, the City shall, as early as possible give written notice of its intent to the Union. The notice should include information regarding the nature of the work to be done or performed or the services to be provided; the proposed duration and cost of such contracting; and the rationale for such contracting. Upon written request, the City shall meet and confer with the Union over the impact of the proposed contracted services upon the bargaining unit. The City further agrees to make reasonable efforts to avoid or minimize the impact of any such actions upon bargaining

unit employees.

ARTICLE 33
REPORTING, CALL BACK AND STANDBY PAY

Section 1: Call Back Pay. Any employee or employees who are called back to report to work prior to their regularly scheduled time or any employee who completes his/her regular shift and is called back will be guaranteed a minimum of four (4) hours pay. No employee will be required to work more than sixteen (16) hours in a twenty-four (24) hour period.

Section 2: Meetings. When employees accept requests to attend meetings after normal scheduled working hours and/or weekends, they shall be compensated at straight time for hours worked, or at time and one half for hours worked if over 40 hours in the workweek.

Section 3: Standby Pay. Any employee required to stand-by at home or any designated area other than his/her reporting location shall be compensated one (1) hour pay for each one (1) hour he/she is required to stand-by. Employees required to stand-by must have written authorization of the Supervisor. This provision shall not apply if the employee is provided a beeper or cell phone and is free to use the stand-by time for personal activities.

Section 4: Inclement Weather. Employee shall not be required to work outside during severely inclement weather except in cases of emergency, which is understood to mean those cases that could not be foreseen or postponed. Inclement weather includes but is not limited to the following conditions: snow, ice, rain, thunderstorms, tornadoes, or temperatures of fifteen (15) degrees Fahrenheit and under. An employee who reports to work at his/her assigned time and who has not been notified in advance not to report, or is notified not to report to work, shall be paid a minimum of four (4) hours straight time pay.

**ARTICLE 34
UNION STEWARDS AND UNION REPRESENTATION**

Section 1. The City recognizes and shall deal with the designated Union Steward, appropriate Union Chapter Chairpersons, Local President, and representatives of the American Federation of State, County and Municipal Employees, whether local union representative, district council representatives or international representatives.

Section 2. Union staff representatives shall be admitted to the buildings and grounds of the City during working hours for the purpose of assisting in the adjustment of grievances, and the conducting of other Union business, except Union solicitation or any Union activities which would disrupt the normal work schedule. Any Union meetings with all employees assigned to the particular area called by the Union Representative or Chapter Chairperson may be held on City property during work hours upon prior request to and approval of the Division Director, which permission shall not be unreasonably withheld.

Section 3. A written list of Union Stewards and Chapter Officers shall be furnished to the City Human Resources Director within ten (10) days after their designation and the Union shall notify the City Human Resources Director and the Division Director within five (5) days of such Union Stewards designation or changes thereof.

Section 4. The appropriate Union Steward within the area and/or appropriate Chapter Chairperson shall be granted reasonable time off, without loss of pay, during working hours to investigate grievances, and settle complaints, upon giving notice and receiving approval of the supervisor, which approval shall not be unreasonably withheld. Once a grievance has been filed at Step 1, the Union Steward, and the aggrieved employee will be granted reasonable time off without loss of pay during working hours for each step in the grievance procedure.

Section 5. If an employee has to come in when he is not scheduled to work in

order to attend a grievance meeting, or arbitration hearing, he shall be paid for such time or receive equivalent time off at his option.

ARTICLE 35 RETIREMENT

Pension benefits for employees in the City of Memphis Pension Plan shall be calculated in accordance with applicable provisions and rules of the Pension Ordinance effective at the time such employees retire.

ARTICLE 36 ON-THE-JOB INJURY

In the event any employee sustains an injury on the job, occupational illness or communicable disease as defined in Article 20, he shall be taken directly to the nearest facility where proper medical treatment can be obtained. The cost of the necessary hospital, doctor's care, prescriptions, and related medical expenses shall be paid by the City for all on the job injuries, occupational diseases or communicable diseases, as defined in Article 20, provided that the employees shall assign to the City those recoveries from any third party only to the extent necessary to reimburse the City for the expense paid. This assignment shall exclude the proceeds from any insurance policy solely paid for by the employee. Nothing shall deny an employee injured on the job who has been taken to the nearest doctor or facility for proper treatment from requesting the doctor of his or her choice.

All on-the-job injuries are subject to the OJI Policies, rules and procedures applicable to all City of Memphis employees. Employees shall submit to any reasonable examination by any physician employed by the City. If, because of an on-the-job injury, an employee leaves work prior to the end of his scheduled work period, he shall be paid the remainder of the day.

An employee unable to work because of an on-the-job injury may be paid full salary for time lost for a period not to exceed six months (180 calendar days).

Thereafter, if the employee is unable to work, the employee may use available paid leave time (including paid sick leave) to permit the employee to remain on the payroll for a period of time not to exceed one year from the date of disablement, and at the end of one year from the date of injury the employee shall be removed from payroll.

All employees injured in the Line of Duty who are covered under the City of Memphis Retirement Plan may apply for disability retirement benefits, subject to the City of Memphis Ordinance. They may also apply for benefits under the Long Term Disability Plan which covers all City employees.

Any change which may result in reduced on the job injury benefits to employees shall not be made until proper notice is given to the Union and until such changes and/or adjustments are renegotiated by the parties.

ARTICLE 37 HEALTH CARE PLANS

It is agreed the City shall offer a health care insurance plan on an optional contributory basis to eligible permanent full-time employees covered by this Memorandum of Understanding. Employee contributions shall be paid by payroll deduction and the terms and benefits of the plan shall be the same as provided to City employees generally. Enrolled employees shall pay 30% of the total cost of the health plan and the City shall pay 70% of the total cost. It is agreed the City may from time to time adjust employee contribution rates and the terms of the plan and if such occurs the City will notify the Union prior to implementation. The terms and conditions of the plan shall be standard for covered employees on a City-wide basis.

The City agrees that during the term of this Memorandum, the City and the Union may enter into joint discussions of employee health care needs such as hospitalization, surgical, dental, optical, out-patient, X-ray benefits which would serve to improve health services or benefits not now included or provided in the existing self-funded program, they shall be discussed beforehand with the Union and be made applicable to the

employees covered by this Memorandum.

The City, on an annual basis, may offer eligible employees an option to join a qualified Health Maintenance Organization (HMO) as provided by the Health Maintenance Organization Act of 1973, as amended. Employee contributions shall be paid by payroll deduction.

**ARTICLE 38
TERM OF AGREEMENT**

1. The parties hereto agree upon a 4-year term of agreement effective July 1, 2017 through June 30, 2021, except that upon notice by either party in 2018, 2019, and 2020 by February 1, the wage article may be reopened in accordance with the negotiations timeline and procedure for economic items set forth in City of Memphis Ordinance No. 5639, with any changes to become effective July 1 of the respective year and remain throughout the remaining term of the agreement

2. Upon notice by either party, non-economic articles will be reopened in 2018 only, in conjunction with the related negotiations timeline and limitations set forth in City of Memphis Ordinance No. 5639.

3. The parties acknowledge that during the bargaining which preceded this agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties, after the exercise of that right and opportunity, are set forth in this agreement. Therefore, the City and AFSCME, for the life of this agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this agreement, or with respect to any subject or matter not specifically referred to, or not settled, during bargaining, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this agreement.

**ARTICLE 39
LONGEVITY PAY**

Section 1. Effective July 1, 2017, all employees in the bargaining unit shall receive a length of service bonus according to the following table of service:

| | July 1, 2017 |
|--|--------------|
| Beginning of the 4 th year | \$39 |
| Beginning of the 6 th year | \$51 |
| Beginning of the 11 th year | \$62 |
| Beginning of the 16 th year | \$73 |
| Beginning of the 21 st year | \$84 |
| Beginning of the 26 th year | \$112 |
| Beginning of the 31 st year | \$145 |

Section 2. Payment of the bonus will be made in lump sum once each year July 1.

Section 3. Length of service will be determined as of July 1st of each year.

APPENDIX A
COVERED JOB CLASSIFICATIONS

| | |
|-----------------------------------|--------------|
| Senior Code Enforcement Inspector | JCC # F080SC |
| Code Enforcement Inspector | JCC # F081CE |

