

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**CUYAHOGA COUNTY, OHIO**

**AND**

**LOCAL 18**

**INTERNATIONAL UNION OF OPERATING ENGINEERS**

**3515 PROSPECT AVENUE**

**CLEVELAND, OHIO 44115**

**Beginning January 1, 2022**

**Ending December 31, 2024**

## **TABLE OF CONTENTS**

	<b>ARTICLE</b>	<b>PAGE</b>
	PREAMBLE.....	1
1.	UNION RECOGNITION.....	1
2.	MANAGEMENT RIGHTS .....	1-2
3.	UNION SECURITY .....	2-4
4.	STEWARDS AND ALTERNATES.....	4-5
5.	PERSONNEL FILES .....	5
6.	ACCESS TO PREMISES .....	6
7.	BULLETIN BOARD .....	6-7
8.	VACANCIES AND JOB OPENINGS .....	7
9.	APPOINTMENTS AND PROMOTIONS.....	7
10.	SENIORITY .....	7-8
11.	BREAK IN SERVICE .....	8
12.	SEPARATION OF EMPLOYMENT .....	8
13.	CORRECTIVE ACTION.....	8-9
14.	GRIEVANCE PROCEDURE .....	9-11
15.	ARBITRATION.....	11-12
16.	APPLICATION OF STATE CIVIL SERVICE LAWS .....	13
17.	OTHER LEAVES OF ABSENCE.....	13-14
	PARENTAL LEAVE.....	13
	FAMILY AND MEDICAL LEAVE ACT (FMLA).....	13
	UNPAID MEDICAL LEAVE .....	13
	DISABILITY SEPARATION .....	13-14
	EDUCATION LEAVE .....	14
	VOLUNTARY SERVICE LEAVE .....	14

	ACTIVE MILITARY LEAVE .....	14
	PERSONAL COURT LEAVE .....	14
	UNPAID PERSONAL LEAVE .....	14
18.	LABOR/MANAGEMENT MEETINGS .....	14-15
19.	EXAMINATIONS/DRUG TESTING .....	15-17
20.	PROBATIONARY PERIOD .....	17
21.	LEAVES OF ABSENCE WITH PAY .....	17-20
	SICK LEAVE.....	17-19
	VACATION LEAVE.....	19-20
	COURT/JURY LEAVE WITH PAY.....	20
22.	HOLIDAYS .....	21
23.	REPORTING PAY/MINIMUM CALL-IN .....	21
24.	WASH UP TIME .....	21
25.	HOURS OF WORK/OVERTIME .....	22-24
26.	HEALTH INSURANCE.....	24-25
27.	TAX DEFERRAL: EMPLOYEE CONTRIBUTION TO P.E.R.S. ....	25
28.	WAGES.....	25-26
29.	NON-DISCRIMINATION.....	26
30.	NO STRIKE/NO LOCKOUT .....	27
31.	SEPARABILITY CLAUSE.....	27
32.	WORK RULES.....	27-28
33.	UNIFORMS.....	28-29
34.	DURATION AND TERMINATION .....	29
35.	TOTAL AGREEMENT.....	30
	SIGNATURES.....	30
	MEMORANDUM OF UNDERSTANDING.....	31
	APPENDIX A, JOB DESCRIPTIONS.....	32-37

## **PREAMBLE**

This Agreement is between Cuyahoga County, Ohio, as the appointing authority of employees in the bargaining unit (herein referred to as the "County"), and the International Union of Operating Engineers, Local 18, (herein referred to as the "Union"). Pursuant to the provisions of O.R.C. CH. 4117, the parties have entered this Agreement in order to establish mutual rights, preserve proper employee morale, and to promote effective and efficient operations.

## **ARTICLE 1 - UNION RECOGNITION**

**Section 1.** The County recognizes the Union, as the sole and exclusive bargaining agent for the purpose of collective bargaining in any and all matters relating to wages, hours and terms and conditions of employment for employees within the bargaining unit.

**Section 2.** The bargaining unit shall be composed of those employees within the Department of Public Works who hold the job classifications of HMO Heavy and Construction Backhoe Operator.

**Section 3.** Excluded from the bargaining unit shall be employees who are in their probationary period.

## **ARTICLE 2 - MANAGEMENT RIGHTS**

Nothing contained in this Agreement shall be interpreted to restrict any constitutional, statutory or inherent rights of the County with respect to matters of managerial policy. The County has the right and the authority to administer the business of the office and, in addition to other functions and responsibilities, the County has and will retain the full right and responsibility, as provided in O.R.C. 4117.08(c) (1)-(9), including but not limited to the rights and responsibilities to direct the operations of the office, to make rules and regulations and to otherwise exercise the rights of management, and more particularly, including but not limited to, the following:

1. To manage and direct its employees, including the right to select, hire, promote, assign and reassign, evaluate, layoff, recall, reprimand, suspend, discharge or discipline for cause, and to maintain discipline among employees.
2. To manage and determine the location, type and number of physical facilities, equipment, programs and the work to be performed to include the right to utilize bargaining unit employees to perform job duties in all operations of the department that fall within their job classifications.
3. To determine the department's goals, objectives, programs and services, and to utilize personnel in a manner designed to effectively and efficiently meet these purposes.
4. To determine the size and composition of the workforce and the department's organizational structure, including the right to layoff employees from duty due to lack of work or lack of funds.



5. To determine the hours of work, work schedules and to establish the necessary work rules for all employees to include requiring wearing of uniforms.
6. To determine when a job vacancy exists, the duties to be included in all job classifications, and the standards of quality and performance to be maintained.
7. To determine the necessity to schedule overtime and to determine the starting and quitting time for all employees in the bargaining unit.
8. To determine the department budget and uses thereof.
9. To determine the making of technological alterations by revising either process or equipment, or both.
10. To maintain the security of records and other pertinent information.
11. To determine and implement necessary actions in emergency situations.
12. To conduct and grade Evaluation Performance Tests, the rating of candidates and the establishment of eligible lists and subsequent appointments.
13. To consolidate, to merge or otherwise transfer and/or all of its facilities, property, processes or work with or to any other municipality or entity or effect or change in any respect the legal status, management or responsibility of such property, facilities, processes or work.
14. To maintain an effective and realistic Affirmative Action Program.
15. To terminate or eliminate all or any part of its work or facilities.
16. To reserve the right to contract or subcontract our projects under County jurisdiction.

All rights and responsibilities of the County not specifically modified or limited by this Agreement shall remain the function of the County.

### **ARTICLE 3 - UNION SECURITY**

**Section 1.** The County and the Union agree that membership in the Union is available to all employees occupying classifications as has been determined by this Agreement to be appropriately within the bargaining unit upon the successful completion of their probationary period.

**Section 2.** The County agrees to deduct periodic Union dues, initiation fees, and assessments once (1x) each month from the pay of any employee eligible for membership in the bargaining unit upon receiving written authorization signed individually and voluntarily by the

employee. The signed payroll deduction form must be presented to the County by the employee and/or Union office. Payroll deduction authorization shall be on a form provided by the Union and approved by the County.

**Section 3.** All current employees who are not members of the Union and who do not become members of the Union within sixty (60) days after the date of this Agreement, and all new employees hired after the date of this Agreement who do not become members within sixty (60) days following the end of their probationary period shall be required to pay a Fair Share Fee as a condition of continued employment. The Fair Share Fee shall be established to cover the employee's pro-rata share of: 1) the direct costs incurred by the Union in negotiating and administering this Agreement and of settling grievances and disputes arising under this Agreement; and 2) the Union's expenses incurred for activities normally and reasonably employed to effectuate its duties as the exclusive representative of the employees in the bargaining unit covered by this Agreement. Fair Share Fees shall be deducted and remitted during the same period as dues; provided the employee has received sufficient wages during the applicable pay period to equal the deduction. The deduction of the Fair Share Fee is automatic and does not require authorization by the employee, as outlined in Chapter 4117 of the Revised Code. All current employees, who are members of the Union on the date of execution of this Agreement, who thereafter withdraw from membership, shall be subject to the Fair Share Fee provision as provided for in this article.

**Section 4.** Prior to the effective date of this Agreement and the anniversary date of each succeeding year for the term of this Agreement, the Union shall certify the proportionate amount of its total dues and Fair Share Fees that were spent on activities that could not be charged to the fees of non-members during the preceding year. Such certification of said proportionate amount shall be made by submitting to the County a statement of such proportionate amount from the Union's certified public accountant based on his examination of the Union's books and records of account. The amount of the Fair Share Fee required to be paid by each non-member employee in the unit during the succeeding year shall be the amount of the regular dues paid by employees in the unit who are members of the Union, less each non-member's proportionate share of the amount of the Union's dues and fees spent on activities not chargeable to such fees in the prior year as certified by the Union's certified public accountant.

**Section 5.** In the event that any employee who is required to pay a Fair Share Fee to the Union objects to the propriety of the Union's use of such fee, the entire amount of the objecting employee's fee shall be placed by the County in an interest-bearing escrow account, pending the exhaustion of the Union's internal rebate procedure and any determination by the State Employment Relations Board (SERB), pursuant to the provisions or O.R.C. 4117.09(c).

**Section 6.** It is specifically agreed that the County assumes no obligation, financial or otherwise, arising out of the provisions of this article regarding the deduction of Union dues and the Union hereby agrees that it will indemnify and hold the County harmless from any claims, actions or proceedings by an employee arising from deductions made by the County pursuant to this article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

**Section 7.** The County shall be relieved from making such individual check-off deductions upon (a) termination of employment, (b) transfer or promotion to a job other than one covered by the bargaining unit, (c) layoff from work, (d) an agreed leave of absence or (e) termination or expiration of this Agreement.

**Section 8.** The County shall not be obligated to make dues deductions from any employee who, during any dues month involved, shall have failed to receive sufficient wages to equal the dues deductions.

**Section 9.** It is agreed that neither the employees nor the Union shall have a claim against the County for errors in the processing of deductions unless a claim or error is made to the County in writing within sixty (60) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that the Union dues deduction will normally be made by deducting the proper amount.

**Section 10.** The names of employees and the rate at which Union dues are to be deducted shall be certified to the payroll department by the Union monthly. One (1) month advance notice must be given the payroll department prior to making any changes in the rate of dues deductions and in the amount of an individual's dues deduction. The County agrees to furnish the Union a warrant in the aggregate amount of the deduction.

**Section 11.** Deductions provided for in this article are subject to the approval of the County Fiscal Officer and shall be made during one (1) pay period each month. In the event a deduction is not made for any Union member during any particular month, the County upon written verification of the Union, will make the appropriate deduction from the following pay period if the deduction does not exceed the total of two (2) months regular dues from the pay of any Union member. The County will not deduct more than one (1) months regular dues for more than one (1) consecutive month.

**Section 12.** Each eligible employee's written authorization for dues deduction shall be honored by the County for the duration of this Agreement.

#### **ARTICLE 4 - STEWARDS AND ALTERNATES**

**Section 1.** The Union may designate one (1) Chief Steward and one (1) Assistant Steward for all members of the bargaining unit. The Union shall submit the name of the Chief Steward and Assistant Steward to the County within five (5) days of the effective date of this Agreement.

**Section 2.** The Chief Steward and Assistant Steward shall be appointed from among the County's current employees. The Chief Steward and Assistant Steward shall be familiar with the terms of this Agreement, with the policies in the Cuyahoga County Department of Human Resources Employee Handbook provided to them, and with the duties of the positions within the bargaining unit.

**Section 3.** The authority of the Chief Steward and Assistant Steward so designated by the Union shall be limited to, and shall not exceed the following duties and activities.

- (a) The investigation and presentation of grievances in accordance with provisions of the collective bargaining agreement.
- (b) The transmission of such message and information which shall originate with and are authorized by the Union or its officers provided such messages and information have been reduced to writing.

**Section 4.** The Chief Steward and Assistant Steward shall perform a full day's work as County employees and shall not conduct Union activities during their regularly scheduled working hours except, if requested by the affected employee, to investigate and to present grievances on behalf of said employee, to attend a requesting employee's pre-disciplinary conference, and to attend such Union meetings as are agreed to by the County. For the purpose of this section, "investigation" is limited to mean the opportunity to meet with the affected employee, if requested by the affected employee, before a pre-disciplinary conference or a grievance.

## **ARTICLE 5 - PERSONNEL FILES**

**Section 1.** It is recognized by the parties that the County must prescribe regulations for the custody, use and preservation of the records, papers, books, documents, and property pertaining to the County. To the extent that any records, papers or other documents covering bargaining unit employees are legitimately considered available to review by such employees, every employee shall be allowed to review his/her personnel file at any reasonable time upon request. If any bargaining unit employee is involved in a grievance regarding a matter in which materials in his personnel file may be relevant, the affected employee's Union representative will be granted access to the employee's personnel file at reasonable times where such access is authorized, in advance, by the bargaining unit employee.

**Section 2.** A bargaining unit employee may inspect his personnel file during normal business hours and, upon request by the employee, may obtain a copy of any document in his file.

**Section 3.** If any employee, upon examining his personnel file, has reason to believe that there are inaccuracies in those documents to which he has access, or if there is a document that has been incorrectly filed in the personnel file, the employee may write a correspondence to the County explaining or clarifying the alleged inaccuracy or incorrect filing. Upon investigation and review, if the County sustains such allegations, one (1) of the following will occur:

- (a) The employee's correspondence may be attached to the material in question, and filed with it and the County shall note thereon its concurrence; or
- (b) The County may remove the inaccurate material from the personnel file if its inaccuracies warrant such removal.

**Section 4.** A bargaining unit employee shall be notified of a public records request of their personnel file in order to provide the employee with a reasonable opportunity to review the documents before they are produced. The employee's opportunity to view cannot delay the County's legal mandate to produce the records.

## **ARTICLE 6 - ACCESS TO PREMISES**

**Section 1.** A maximum of two (2) Union representatives at a time shall have access to the County's buildings and facilities to meet with employees for the purpose of adjusting disputes, meeting individually with employees, holding a Union meeting with employees and ascertaining that this Agreement is being adhered to, provided, however, that there is no interruption of the County's working schedule.

**Section 2.** The County agrees to allow reasonable use of its building and facilities for the purpose of this article upon obtaining prior approval and availability of space. Reasonable use shall mean use of facilities: (1) for a meeting not to exceed thirty (30) minutes immediately before the regularly scheduled workday and thirty (30) minutes before the end of the regularly scheduled workday; and (2) which does not interfere with the County's operations and responsibilities.

**Section 3.** Each representative shall report to the Maintenance Superintendent or his/her designee of each yard immediately upon arrival at the premises and upon departure from the premises.

**Section 4.** Union meetings with these employees shall not be more frequent than once (1x) every month unless otherwise approved by the Director of Public Works or his/her designee.

## **ARTICLE 7 - BULLETIN BOARDS**

**Section 1.** The County agrees to provide space on a bulletin board in a proper location of the department for use by the Union. The County shall not be obligated to purchase or relocate bulletin boards for the Union's use.

**Section 2.** All Union notices, which appear on the bulletin board shall be signed, posted and removed by the Chief Steward or the Assistant Steward during non-work time. Union notices relating to the following matters may be posted without the necessity of receiving County's approval:

- (a) Union recreational and social meetings;
- (b) Notice of Union meetings;
- (c) Union appointments;
- (d) Notice of Union elections;
- (e) Results of Union elections.

**Section 3.** All other notices of any kind not covered in (a) through (e) above must receive prior approval of the County. The County has the right to remove any notice not receiving prior approval required by Section 2 above. It is also understood that no material may be posted on the Union bulletin board at any time, which contains the following:

- (a) Personal attacks upon any other member or any other employee;
- (b) Scandalous, scurrilous, or derogatory attacks upon the administration;



- (c) Attacks on any employee organization, regardless of whether the organization has local membership; and,
- (d) Attacks on and/or favorable comments regarding a candidate for public office, or for office in any employee's organization.

**Section 4.** No Union related materials of any kind may be posted anywhere in the County's facilities or on the County's equipment except on the bulletin board designated for use by the Union.

**Section 5.** Any employee found to be violating the provisions of this article may be subject to disciplinary action.

### **ARTICLE 8 - VACANCIES AND JOB OPENINGS**

**Section 1.** When the notice of a job vacancy is posted for a position within the bargaining unit, a copy of the notice will be sent to the Union. The posting shall remain for a minimum of ten (10) working days.

**Section 2.** When the notice of a job vacancy for a position within the bargaining unit arises, all candidates will apply through the Department of Human Resources and follow the County's application process set forth in the Cuyahoga County Department of Human Resources Employee Handbook. The parties agree that hiring under this section will be done in accordance with Article IX, Section 9.04 of the Cuyahoga County Charter.

**Section 3.** The County shall provide the Union with any eligible list, together with its expiration date, for positions in the bargaining unit.

### **ARTICLE 9 - APPOINTMENTS AND PROMOTIONS**

Appointments and promotions in the civil service of the County shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive evaluations conducted by the County.

### **ARTICLE 10 - SENIORITY**

**Section 1.** Seniority as an HMO Heavy or Construction Backhoe Operator shall be determined by length of continuous service as an HMO Heavy or Construction Backhoe Operator with the County and NOT by length of service with the County.

**Section 2.** Within fourteen (14) days of the date of this Agreement, and during January of each year of the term of this Agreement, the County shall post a seniority list in the various yards. Employees shall have fourteen (14) days from that date of posting to protest any alleged errors in the list. If no such protest is made during the fourteen (14) day period, the list as posted shall be conclusive and no grievance may be filed thereafter concerning an employee's position on the list.

**Section 3.** Except as specifically provided below, seniority shall be the governing factor in all matters affecting layoff, recall, and vacation preference, provided all other qualifications are equal.

**Section 4.** Layoff means termination of employment for other than discipline. The layoff provisions of this article supersede the provisions of Chapter 124 of the Ohio Revised Code.

**Section 5.** When the County determines that it is necessary to layoff employees within the bargaining unit, the employees shall be laid off in reverse order of seniority.

**Section 6.** Laid off employees shall remain on a recall list for twelve (12) months from their last day of work. Recall from layoff shall be made from the list in reverse order of layoff, providing that the recalled employee is able to perform the available work without greater than normal supervision and without greater than normal training. The County shall notify the employee by regular mail sent to the last place of residence shown on County records. If the employee has not accepted the offer of recall within ten (10) days of the date of mailing, the offer shall lapse and the employee shall be removed from the seniority list.

#### **ARTICLE 11 - BREAK IN SERVICE**

When used in this Agreement, "break in service" occurs when an employee: (1) is discharged for just cause, (2) retires, (3) is laid off for more than twelve (12) months, (4) resigns, (5) fails to accept an offer to return to work following a layoff or (6) is absent without leave and fails to notify the County for three (3) or more consecutive workdays.

A break in service does not occur when an employee remains in an active payroll status or when the employee is on one (1) of the following absences: (1) an approved unpaid leave of absence, (2) a layoff of less than twelve (12) months duration, (3) a resignation where the employee is re-employed or reinstated by the County within a thirty (30) day period, (4) any pending grievances on a discharge or (5) a suspension for discipline purposes.

#### **ARTICLE 12 - SEPARATION OF EMPLOYMENT**

Upon discharge or quitting, the County shall pay all money due to the employee, including vacation pay and sick time in accordance with the terms of this Agreement, on the payday of the next scheduled pay period in accordance with the Cuyahoga County Department of Human Resources Employee Handbook.

#### **ARTICLE 13 - CORRECTIVE ACTION**

**Section 1.** Corrective action shall be for just cause and may include: (a) verbal warning; (b) written warning; (c) suspension with or without pay; (d) discharge from employment.

**Section 2.** The County agrees that principles of progressive corrective action will be followed with respect to offenses as determined by the County.

**Section 3.** Progressive discipline shall be applied by the County, taking into account the nature of the violation, the employee's record of past discipline as filed, and the employee's record of performance, attendance and conduct.

**Section 4.** No verbal reprimand, written reprimand or suspension in an employee's personnel file will be considered for purposes of determining the severity of subsequent disciplinary action twenty-four (24) months after the date of discipline as long as the employee does not commit another offense during the twenty-four (24) month period. If another offense is committed, the new twenty-four (24) month period will commence on the date of the subsequent discipline.

**Section 5.** If a holiday occurs during a period of suspension, the holiday shall be considered as one (1) of the suspension days.

**Section 6.** During a suspension without pay an employee will not accrue any benefits.

**Section 7.** Any disciplinary action, which affects a bargaining unit employee whether verbal and/or written, may be grieved by Article 14 - Grievance Procedure in this Agreement.

**Section 8.** An employee shall be given a copy of any verbal or written reprimand, or any other written disciplinary action entered in his/her personnel record.

**Section 9.** Any employee who has been disciplined by suspension or discharge will be given a written statement describing the reason or reasons for which he has been suspended or discharged.

#### **ARTICLE 14 - GRIEVANCE PROCEDURE**

**Section 1.** A grievance is an employee or Union complaint alleging that management has violated or misinterpreted a term or terms of this written Agreement.

**Section 2.** The parties agree on a grievance procedure as follows:

**PRELIMINARY STEP** - An employee having any grievance will first (1<sup>st</sup>) attempt to resolve it informally with his immediate supervisor. If the employee is not satisfied with the response from his supervisor, he may proceed to Step 1.

**STEP 1 - IMMEDIATE SUPERVISOR** - The employee shall present the written grievance to the supervisor within five (5) working days after the event upon which the grievance is based. The grievance form shall set forth details of the grievance and relief requested, and shall be dated and signed by the employee. The employee, if desired, may be represented by an individual of his choice. The supervisor shall meet with the employee and his representative, if any, within three (3) working days thereafter in an attempt to adjust the grievance. Within three (3) working days after the Step 1 meeting, the supervisor shall give a written answer to the employee.



**STEP 2 - ROAD/BRIDGE MAINTENANCE SUPERINTENDENT OR SEWER MAINTENANCE SUPERINTENDENT OR DESIGNEE** - If the grievance is not satisfactorily settled in Step 1, the employee shall present it in writing to the Road/Bridge Maintenance Superintendent or Sewer Maintenance Superintendent within three (3) working days after the Step 1 answer.

The Road/Bridge Maintenance Superintendent or Sewer Maintenance Superintendent shall meet with the employee and his representative, if any, within five (5) working days thereafter in an attempt to adjust the grievance. Within five (5) working days after the Step 2 meeting, the Road/Bridge Maintenance Superintendent or Sewer Maintenance Superintendent shall give a written answer to the employee.

**STEP 3 - DEPARTMENT OF HUMAN RESOURCES, EMPLOYEE/LABOR RELATIONS** - If the grievance is not satisfactorily settled at Step 2, the employee shall present it in writing to the Department of Human Resources Employee Relations Specialist within three (3) working days after the Step 2 answer. The Employee Relations Specialist may, at his/her discretion, meet with the employee and his representative, if any. Within fourteen (14) working days after the presentation of the grievance, the Employee Relations Specialist shall give a written answer to the employee.

**Section 3.** The grievance shall be processed on a form provided by the Union.

**Section 4.** Where the alleged grievance is of a nature that qualifies for investigation or appeal under the rules of the Ohio Civil Rights Commission, or the Equal Employment Opportunity Commission, such matter shall not be appealed through the grievance procedure. However, the employee and his Union representative may meet with the County to discuss the matter prior to the appeal to the outside agency. Any grievance that was filed prior to the appeal or charge to the outside agency shall be automatically withdrawn and dismissed under the Article 14 - Grievance Procedure.

**Section 5.** A grievance may be brought by any employee covered by this Agreement. Where a group of bargaining unit employees desire to file a grievance involving an incident affecting several employees in the same manner, one (1) employee shall be selected by the group to process the grievance. Each employee who desires to be included in such grievance shall be required to sign the grievance. Any group grievance filed in accordance with this section shall be filed at Step 2 in the above grievance procedure.

**Section 6.** All grievances must be processed at the proper step in order to be considered at subsequent steps.

Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at each step to lapse without further appeal. Any grievance which is not processed by the employee within the time limits provided shall be considered resolved based upon management's last answer.

Any grievance not answered by management within the stipulated time limits may be advanced by the employee to the next step in the grievance procedure within the applicable time frames of the answer being due. All time limits on grievances may be extended upon mutual consent of the parties.

## **ARTICLE 15 - ARBITRATION**

**Section 1.** Should a grievant, after receiving the written answer to his grievance at Step 3 of Article 14 - Grievance Procedure, still feel that the grievance has not been resolved to his satisfaction, he may, through the Union, request that it be heard before an Arbitrator. The Union must make written application to the Cuyahoga County Law Department for arbitration within ten (10) working days of the written answer from the Employee Relations Specialist at Step 3. Any grievance not submitted within such time period shall be deemed settled on the basis of the last answer given by the County.

### **Section 2. Arbitration Procedure.**

- (a) The Cuyahoga County Law Department and the representative of the Union shall within ten (10) working days following the receipt of the request for arbitration, discuss the selection of a mutually agreeable Arbitrator. In the event that the County and the Union are unable to agree on an Arbitrator, the Union shall request a list of seven (7) impartial Arbitrators from the Federal Mediation and Conciliation Service ("FMCS"). The panel shall be limited to Arbitrators in the Northeast Ohio sub-region of FMCS who are members of the National Academy of Arbitrators.
- (b) Upon receipt of the list of seven (7) Arbitrators the parties shall select an Arbitrator within ten (10) working days from the date the list is received. The parties shall use the alternate strike method from the list of seven (7) Arbitrators submitted to the parties by FMCS. The party requesting the arbitration shall be the first (1<sup>st</sup>) to strike a name from the list, then the other party shall strike a name and alternate in this manner until one (1) name remains on the list. The remaining name shall be designated as the Arbitrator to hear the dispute in question.
- (c) Either party shall have the option to completely reject the list of names provided by FMCS and to request another list. All procedures relative to the hearing shall be in accordance with the rules and regulations of the FMCS.
- (d) The Arbitrator shall hold the arbitration hearing promptly and issue his/her decision within a reasonable time thereafter. The Arbitrator shall limit his/her decision strictly to the interpretation, application or enforcement of those specific articles and/or sections of this Agreement which are in question. The Arbitrator's decision shall be consistent with applicable law.

**Section 3.** The Arbitrator shall not have the authority to add to, subtract from, modify, change or alter any provisions of this Agreement, nor add to or subtract from or modify the language therein in arriving at his determination on any issue presented that is proper with the limitations expressed herein. The Arbitrator shall expressly confine himself to the precise issues submitted for arbitration and shall have no authority to determine any other issues not so submitted to him/her or to submit observations or declarations of opinion which are not directly essential in reaching a decision on the issue in question.

**Section 4.** The Arbitrator shall be without power or authority to make any decision:

- (a) Contrary to, inconsistent with, changing, altering, limiting or modifying any practice, policy, rules or regulations presently or in the future established by the County so long as such practice, policy, rules or regulations do not conflict with this Agreement.
- (b) Concerning the establishment of wage rates not negotiated as part of this Agreement.

**Section 5.** The Arbitrator shall not recommend any right or relief on an alleged grievance occurring at any time other than the agreement period in which such right originated or to make any award based on rights arising under any previous agreement, grievance or practices. In cases of discharge or of suspension the Arbitrator shall have the authority to recommend modification of said discipline. In the event of a monetary award, the Arbitrator shall limit any retroactive settlement to the date the grievance was presented to the County in Step 1 of the grievance procedure.

**Section 6.** The question of arbitrability of a grievance may be raised by either party before the arbitration hearing of the grievance, on grounds that the matter is non-arbitral or beyond the Arbitrator's jurisdiction.

**Section 7.** The first (1<sup>st</sup>) question to be placed before the Arbitrator will be whether or not the alleged grievance is arbitral. If the Arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same Arbitrator.

**Section 8.** The decision of the Arbitrator will be final and binding upon the Union, the employee, and the County. The decision of the Arbitrator resulting from an arbitration of grievances hereunder shall be in writing and sent to the County, the Union, and the grievant.

**Section 9.** Any cost involved in obtaining the list of Arbitrators shall be paid by the Union. All costs directly related to the services of the Arbitrator, the cost of any proofs produced at the direction of the Arbitrator, the fee of the Arbitrator, and the rent, if any, for the hearing rooms, shall be borne equally by the parties.

**Section 10.** Expenses, if any, of any witnesses shall be borne by the party calling the witness. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a court reporter's recording, or request a copy of any transcript.

## **ARTICLE 16 - APPLICATION OF STATE CIVIL SERVICE LAWS**

No current section of the Civil Service Laws contained in Ohio Revised Code Chapter 124 shall apply to employees in the bargaining unit, and it is expressly understood that the Ohio Department of Administrative Services, the State Personnel Board of Review, and the Cuyahoga County Human Resources Commission shall have no authority or jurisdiction as it relates to employees in the bargaining unit, except that complete lists of persons having passed civil service examinations must be provided to the County, when requested, for selection of original appointments. Nothing in this article is intended to restrict the right of the County to adopt policies and procedures that are the same or similar to any provision of O.R.C. Chapter 124 that do not conflict with the express written provisions of this Agreement, including, but not limited to, the prohibition against partisan political activities contained in O.R.C. § 124.57.

## **ARTICLE 17 - OTHER LEAVES OF ABSENCE**

**Section 1. Parental Leave.** The County may grant parental leave to an employee upon the birth of a child, as well as, leave for adoptive parents, not to exceed a total of three (3) months in a twelve (12) month period of paid and unpaid leave combined. The leave may consist of sick leave, vacation, compensatory time and/or unpaid leave. An employee whose wife gives birth shall be granted a five (5) day leave of absence which shall be charged against the employee's accumulated paid sick leave, vacation or compensatory time or as unpaid leave, at the employee's option. The County may require verification of the child's birth.

**Section 2. Family and Medical Leave Act (FMLA).** The County agrees to comply with all applicable provisions of the Family Medical Leave Act of 1993 ("FMLA"), and the Americans with Disabilities Act of 1990. The County shall have the right to administer FMLA leave to the full extent permitted by federal law, including, but not limited to, its coordination with any other leaves and other benefits.

**Section 3. Unpaid Medical Leave.** If an employee or an eligible family member (defined as child, spouse or parent) is ill and the employee has used all of his/her paid sick leave, the employee may request a maximum of six (6) months of unpaid medical leave. Unpaid medical leave may be taken for a period not less than five (5) consecutive workdays because of personal illness/injury that disables the employee from performing the essential functions of his/her job (including medical conditions related to pregnancy or childbirth) or an illness/injury of an employee's child (including a child for whom the employee is the legal guardian), spouse or parent, but not including the employee's parents-in-law. Such leave must be supported by medical evidence satisfactory to the County and the employee must report such illness or injury to the Department of Human Resources by not later than the second (2<sup>nd</sup>) day of absence or as such circumstances would allow. As part of the request, an employee must submit a physician's certificate stating the probable time period and nature of the illness/injury. Unpaid medical leave shall run concurrently with parental leave and family and medical leave.

**Section 4. Disability Separation.** An employee who has exhausted all leave to which they are entitled pursuant to the terms of this Agreement and who is unable to perform the essential job functions of his/her position due to an illness, injury or condition may be disability separated. Disability separation and reinstatement shall be governed by the terms and conditions contained

in the Cuyahoga County Department of Human Resources Employee Handbook at the time of separation that have been adopted by ordinance of County Council, except that appeals regarding disability separation may only be filed using the grievance and arbitration procedures contained in this Agreement.

**Section 5. Education Leave.** Leave may be granted for a maximum period of two (2) years for purposes of education, training or specialized experience which would be of benefit to the County by improved performance on any level. Upon completion of such a leave of absence, the employee shall be returned to the position, which he/she formerly occupied, or to a similar position if his/her former position no longer exists. He/she may be returned to active pay status prior to the originally scheduled expiration of the leave, if earlier return is agreed to by the County.

**Section 6. Voluntary Service Leave.** An employee may request up to two (2) years leave for voluntary service in any program sponsored by the government. Upon completion of such a leave of absence, the employee shall be returned to the position which he/she formerly occupied, or to a similar position if his/her former position no longer exists. He/she may be returned to active pay status prior to the originally scheduled expiration of the leave, if earlier return is agreed to by the County.

**Section 7. Active Military Leave.** Military leave of absence shall be in accordance with the Cuyahoga County Department of Human Resources Employee Handbook. However, in the event that there is a change to the federal law governing military leave, the parties agree that they will abide by such change accordingly.

**Section 8. Personal Court Leave.** If an employee appears in court or similar hearing as a party or voluntarily, the employee may request Personal Court Leave. An employee may request Vacation Leave if he/she desires to be paid for this time.

**Section 9. Unpaid Personal Leave.** Unpaid personal leave may only be granted when all appropriate accumulated leave, vacation leave, compensatory or exchange time has been exhausted, and for a maximum of six (6) months for any personal reason. Such request for leave shall be in writing and shall state the specific purpose of such leave. An employee who is granted personal leave may be returned to the same or similar position which the employee held immediately prior to the start of the leave.

## **ARTICLE 18 - LABOR/MANAGEMENT MEETINGS**

**Section 1.** In the interest of sound labor/management relations on a mutually agreeable day and time at the request of either party, but not more frequently than monthly, the County and/or his designees shall meet with not more than three (3) representatives of the Union, to discuss those matters addressed in Section 2. Additional representatives may attend by mutual agreement.

**Section 2.** An agenda will be furnished and/or exchanged at least five (5) working days in advance of the scheduled meetings with a list of the matters to be taken up in the meeting and the names of those Union representatives who will be attending. The purpose of such meetings shall be to:

- (a) Discuss the administration of this Agreement;
- (b) Notify the Union of changes made by the County which affect bargaining unit members;
- (c) Disseminate general information of interest to the parties;
- (d) Discuss ways to increase productivity and improve efficiency;
- (e) Give the Union representatives and the County the opportunity to share the views of their members/employees on topics of interest to both parties; and
- (f) To discuss health and safety matters relating to employees.

**Section 3.** It is further agreed that if labor/management meetings have been requested, and mutually agreed upon, they shall be convened as soon as feasible.

**Section 4.** Employee representatives who are scheduled to be at work during the time of this meeting shall receive no loss of pay.

#### **ARTICLE 19 – EXAMINATIONS/DRUG TESTING**

**Section 1.** Directives regarding physical, mental and other examinations required by the County shall be promptly complied with by all the members of the bargaining unit, provided, however, the County shall pay for all such examinations. The County shall not pay for any time spent in the case of applicants for jobs and shall be responsible to their employees only for time spent at the place of examination or examinations. Employees will be required to take examinations during their working hours. Urine tests are to be completed within three (3) hours of the request for the sample. Failure to complete a urine test within that time frame will be deemed a refusal to test. If the employee refuses, the employee will be treated as having tested positive and will be referred to and disciplined in accordance with the procedures set forth herein.

**Section 2.** The County reserves the right to select its own medical examiner or physician; and the Union may, if it believes an injustice has been done to an employee, have said employee re-examined at the Union's expense. In the event of a disagreement between the doctor selected by the County and the doctor selected by the Union, the County and the Union doctors shall together select a third (3<sup>rd</sup>) doctor within thirty (30) days, whose opinion shall be final and the cost of the third (3<sup>rd</sup>) opinion shall be borne equally by the Union and the County.

**Section 3.** If the County has a reason to believe an employee is physically or mentally incapable of performing the duties of his position, the County may require an employee to take an examination, conducted by a licensed physician or mental health practitioner, to determine the employee's physical or mental capability to perform the duties of the employee's position. The County shall pay for such examination. If found unfit, the employee may be placed on any leave for which he/she is eligible pursuant to the terms of this Agreement.



**Section 4.** Notwithstanding the foregoing, the County may conduct any examination mandated by Ohio and/or federal law.

**Section 5. DRUG TESTING:** The Employer and the Union are committed to a policy that promotes safety in the work place, employee health and well being. In consideration of this policy, the Union and the Employer agree that any employee found to be under the influence of, in possession of, or engaged in the distribution of drugs or alcohol on the job site shall be subject to disciplinary action, up to and including immediate discharge.

Within two (2) weeks of reporting to the job site, each new operator may be scheduled for a drug test. Employees using a prescription drug which may impair mental or motor function shall inform their supervisor in writing of such drug use.

Employee involvement with drugs and alcohol can adversely affect job performance and employee morale. In the construction industry the consequences of drug or alcohol use or influence while on the job site can be disastrous. The Employer and Union, therefore, agree to the following policy to insure all employees of a safe and efficient job site free from the effects of drug and alcohol use or influence.

All job sites or work areas are subject to random or massive drug screening. Any employee who is involved in an on-the-job accident resulting in an injury to a person or property, or whose observed behavior raises a reasonable suspicion of probable cause of illegal drug or alcohol use impairment while on the job site, may be required as a condition of continued employment to submit to a test for alcohol and/or illegal drug use which impaired the employee's ability to safely perform his/her duties on the job site. Such tests usually involve a sampling of the employee's blood, urine, or breath. Any employee who is asked to submit to such a test will be required to sign a consent form. If an employee who is asked to submit to a test refuses to do so, or refuses to sign the necessary consent form, that employee will be subject to disciplinary action up to and including discharge. Refusal to take a test or the submission of an adulterated sample shall be determined the same as a positive test result. The employee/member shall follow all requirements outlined in this section.

All testing will be done by a reliable, established laboratory. If this initial test screen result indicates positive findings, further testing of the same sample must be done to confirm the original findings before the laboratory can report a positive finding. The confirmation test will be conducted by an independent accredited National Institute of Drug Abuse or College of American Pathology laboratory and/or currently qualified under the Substance Abuse & Mental Health Services Administration (SAMSHA) under the U.S. Dept. of Health & Human Services, and will utilize the more scientific Gas Chromatography/Mass Spectrometry examination (GC/MS). The results of all tests will be kept confidential between the employee, the Employer and the Union and subject to applicable law. The employee shall be paid his/her regular hourly wages and fringes for the time required for drug testing provided results are negative.

If the GC/MS test results are positive, the employee may be granted a leave of absence for the purposes of drug and alcohol rehabilitation. If the employee is eligible such rehabilitation programs are covered under the Ohio Operating Engineers Health and Welfare Program providing

the employee confines himself/herself to a twenty-four (24) hour licensed rehabilitation medical facility. Online rehabilitation programs will not be acceptable.

Until the employee presents certification of successful completion of the rehabilitation program to the Local 18 Medical Review Official (MRO), he/she shall be removed from the Employer's job site, shall be prohibited from registering under Local 18's referral, and shall not be dispatched to work. Upon presentation of certification of the employee's successful completion of the drug/alcohol rehabilitation program to the Local 18 MRO, the employee may be restored to his/her original job with the Employer. If the employee is not restored to their original job, the employee will be allowed to register for work in the referral by registering a new work referral card. The employee shall, under either circumstance, for the next succeeding twelve (12) month period, present to the Local 18 MRO upon request monthly certification of negative drug/alcohol test results. Failure to do so will result in denying the employee the right to maintain his/her referral card in the register and utilize the referral or if working, to be removed from work.

Any positive drug and/or alcohol test result after the second rehabilitation procedure shall result in the applicant being permanently barred from registering on the Local 18 referral.

#### **ARTICLE 20 - PROBATIONARY PERIOD**

**Section 1.** The probationary period for newly hired employees is one hundred eighty (180) days.

**Section 2.** The County shall be free to terminate a newly hired employee during the probationary period at its sole discretion without recourse by the Union or the probationary employee to the grievance and arbitration procedure of this Agreement or to any form of concerted action.

**Section 3.** Pay for a newly hired employee during his probationary period shall be eighty percent (80%) of the amount paid for the class into which he/she was hired.

#### **ARTICLE 21 - LEAVES OF ABSENCE WITH PAY**

##### **A. Sick Leave**

**Section 1.** Sick leave of 4.6 hours is earned for each eighty (80) hours of active payroll status. Sick leave is earned during hours of overtime worked.

**Section 2.** No employee may be granted more sick leave than he/she accumulated. If any employee has an extended illness, which causes him/her to use up his/her accumulated sick leave, accrued vacation time may, with his/her permission, be applied to the time absent in order to allow him/her to continue to receive pay. If the employee declines to use such time, he/she may then be placed in unpaid medical leave of absence.



**Section 3.** To notify the County of his/her illness, an employee must notify his/her yard at least one-half (1/2) hour prior to his/her regular starting time. Failure to notify the yard may result in the disallowance of sick pay.

**Section 4.** Sick pay must be used in consecutive days. Employees who are not otherwise in active payroll status cannot take one (1) sick day periodically in order to maintain active payroll status.

**Section 5.** Sick leave may be used, upon approval of the County, (a) for an illness or injury of the employee or of an immediate member of the employee's family, (b) attendance by the employee at a funeral or wake, (c) medical, dental or optical examination, or treatment of an employee or a member of his/her immediate family, or (d) pregnancy and/or mothering and/or fathering after the birth of the employee's child.

Sick leave for a funeral or wake can be used in the following amounts: (a) up to one (1) day for the death of an individual not in your immediate family, (b) up to five (5) days for the death of an individual who is a member of your immediate family. In unique circumstances, additional time may be used at the discretion of the County.

**Section 6.** Immediate family includes: spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandson, granddaughter, mother-in-law, father-in-law, brother-in-law, sister-in-law, a legal guardian or other person who has an "in loco parentis" relationship with the employee, or any other relative residing with the employee.

**Section 7.** Previously unused accumulated sick time of an employee who has been separated from public services shall be credited to him/her upon employment with the County, provided that employment takes place within ten (10) years from his/her last terminated date of public service.

**Section 8.** Upon return from any illness of three (3) consecutive workdays or longer, an employee shall be required to submit a doctor's or hospital's statement as to the nature and duration of the illness for such absence.

**Section 9.** In case of an illness, which exceeds three (3) consecutive workdays, the employee shall be required to report additional absences to his/her immediate supervisor, or other designated person. The policy for notification shall be as follows:

- (a) In cases where institutionalization or hospitalization is required, the employee must notify his/her immediate supervisor, or other designated person, upon admission and upon discharge and provide physician's statement.
- (b) In cases where convalescence is required at home, the employee must notify his/her immediate supervisor or other designated person upon start and upon termination of convalescent period and provide a physician's statement.

**Section 10.** The County may initiate investigation where it suspects that a sick leave privilege is being abused and disciplinary action may be initiated if abuse is found.

**Section 11.** In the case of an extended sick leave, a physician's statement specifying the employee's inability to report for work and the probable date of recovery shall likewise be required. If unable to state the recovery date, then a statement from the physician will be filed for each month in question. It will also be the responsibility of the employee to file a Request for Leave Form for each pay period with the respective department. This will be attached to the payroll submission in the Fiscal Department. In the absence of such documentation, the Department Head shall not authorize a payroll submission for wages to be received.

**Section 12.** Upon retirement when eligible for a full P.E.R.S. Pension, or upon death, the County shall pay the retired employee, or the estate of the deceased employee, a lump sum in an amount equal to twenty-five percent (25%) of the employee's unused accumulated sick leave for a maximum payment equal to thirty (30) days.

### **B. Vacation Leave**

**Section 1.** Each pay period, full-time employees shall be entitled to receive pro-rated vacation with pay after one (1) year of continuous service with the County. Vacation leave is pro-rated based on the number of hours paid in a pay period, excluding overtime. The amount of vacation leave to which an employee is entitled is based upon his/her length of service with the County or any political subdivision of the State of Ohio. Vacation time shall be credited as follows:

<b>Length of Ohio Public Service Completed</b>	<b>Accrual Rate (hours earned per 80 hours in active status)</b>	<b>Annual Amount (hours earned per 2080 hours in active pay status)</b>	<b>Maximum Accrual Balance (total hours)</b>
Less than 1 year	3.1	80 hours (not awarded until completion of one year of Ohio Public Service)	N/A
1 year - less than 5 years	3.1	80	240
5 years - less than 15 years	4.6	120	360
15 years - less than 25 years	6.2	160	480
25 years or more	7.7	200	600

**Section 2.** Entitlement to vacations under this section shall be determined as of the employee's anniversary date each year. To receive prior service credit, an employee must submit documentation of the prior service that is acceptable to the County. An employee who has retired from Ohio public service shall not be eligible for prior service for the purpose of computing vacation leave.

**Section 3.** In the event that an employee dies while she/he is employed, his/her vacation credit, if any, shall be paid in one (1) lump sum for accrued, as well as earned, but unused vacation. Upon separation from service and upon retirement, an employee will be paid in one (1) lump sum for accrued, as well as earned, but unused vacation.

**Section 4.** Employees may carry their vacation leave from year to year, up to a maximum of three (3) years accrual. Once an employee accumulates the maximum allowable vacation amount of three (3) years accrual for the employee's particular accrual rate, the employee has a period of one (1) year from the date in which the maximum balance was attained to use accrued time in excess of the allowable amount. Upon the end of the year period, any time over the maximum amount will be forfeited.

**Section 5.** Employees will take their vacation during the year at the convenience of the County and upon approval in advance from the Maintenance Superintendent. During the first (1<sup>st</sup>) quarter of each calendar year, employees will be given an opportunity to indicate, on a form provided, their vacation leave preference, and promptly thereafter a written vacation schedule will be prepared. Seniority shall be a factor in determining schedule. Once a departmental vacation schedule is determined, it shall not be changed without the consent of the involved employees, except in response to an operational emergency. Any employee who fails to make his/her vacation application during the appropriate period will be given his vacation leave without regard to seniority.

**Section 6.** Vacations shall be scheduled in advance and may be taken in one (1) hour increments. Such requests shall not be unreasonably denied.

#### **C. Court/Jury Leave with Pay:**

**Section 1.** The County shall grant full pay for regularly scheduled working hours on any day when an employee is subpoenaed for any court or jury by the United States, the State of Ohio, or a political subdivision to which the employee is not a party or does not have an interest in the court proceedings. All compensation received for such court or jury duty is to be remitted by the employee to the Payroll Department within the County's office.

**Section 2.** If an employee is cited for a violation while operating a County vehicle, the time of court appearance shall be deducted from his/her vacation accrual.

**Section 3.** When an employee is released from court/jury duty prior to the end of his/her scheduled workday, he/she shall report to work for his/her remaining scheduled hours. When an employee is required to report for court/ jury duty after the start of his/her regularly scheduled workday, he/she shall report to work and shall be released from work in sufficient time to appear at court.

**Section 4.** In order to be eligible for payment under this section, the subpoenaed employee must notify his/her supervisor within twenty-four (24) hours after receipt of subpoena or of notice of selection for jury duty and must furnish a written statement from the appropriate court official showing the date served and the amount of pay received.

## **ARTICLE 22 - HOLIDAYS**

**Section 1.** All employees in the bargaining unit shall be entitled to the following paid holidays:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
President's Day	Veterans Day
Memorial Day	Thanksgiving Day
Juneteenth	Day after Thanksgiving
Independence Day	Christmas Day

**Section 2.** Holidays falling on a weekend shall be observed in accordance with the County's holiday schedule, which shall be published in January of each year. An employee who works on a recognized holiday will be paid at one and one-half times ( $1 \frac{1}{2} \times$ ) his base rate of pay.

**Section 3.** To be eligible for holiday pay as specified in this article, the employee must work the last scheduled workday prior to and the next scheduled workday immediately following each of the holidays herein listed. It is understood that if the holiday falls during the employee's vacation period, he/she shall be paid for the holiday.

## **ARTICLE 23 - REPORTING PAY/MINIMUM CALL-IN**

**Section 1.** Whenever an employee is called to work at a time other than his/her regular work schedule, thereby necessitating additional travel to and from work, he/she shall be guaranteed four (4) hours pay at the straight time or overtime rate whichever is appropriate in accordance with the other articles of this Agreement.

**Section 2.** It is understood that any call-in which starts prior to the regular shift and continues into the employee's regular shift or time worked immediately following the regular shift, shall not be eligible for the minimum as provided in Section 1 above.

## **ARTICLE 24 - WASH-UP TIME**

**Section 1.** Employees shall be permitted a reasonable time at the end of each workday before quitting time for wash-up and a reasonable time immediately prior to lunch for wash-up, provided facilities are available at the work location. Wash-up time shall be utilized for personal cleanup and shall not be considered free time which the employee can use for any other purpose. Wash-up time is not cumulative and will only be allowed when the work schedule permits.

**Section 2.** As used in this article, a "reasonable time" means an amount of time not to exceed fifteen (15) minutes at all facilities of the Department of Public Works.

## **ARTICLE 25 - HOURS OF WORK/OVERTIME**

**Section 1.** This article is intended to define the hours of work per day or per week to be placed in effect at the time of execution of this Agreement. Nothing contained herein shall be construed as preventing the County from restructuring the normal workday, workweek, establishing the work schedules of employees, or establishing part-time positions based on operational needs, productivity requirements, cost benefits, for the purpose of promoting efficiency or improving services. The workweek shall be 12:01 a.m. Sunday through 12:00 midnight on Saturday. Employees shall be scheduled to meet the operational needs of a twenty-four (24) hour, seven (7) day operation. The County shall be the sole judge of the necessity of overtime.

### **Section 2. SHIFT SCHEDULING/SHIFT PREMIUM**

Employees shall be scheduled as needed to meet the operational needs of the County in either five (5) eight (8) hour days or four (4) ten (10) hour days. The County reserves the right, as operational needs and conditions require, to establish and change the hours of work, starting and/or ending time of shift, and/or schedules of hours. The workweek shall include a one-half (1/2) hour unpaid lunch unless there is an emergency situation as stated below in Section 4.

All shifts start time will be set by the week. If a weekly schedule is made to include a Saturday, staffing of these shifts will be on a voluntary basis with senior employees receiving a preference. If no employee volunteers, then the shift will be assigned in inverse order based on seniority.

**A. Shifts are defined as follows:**

First (1<sup>st</sup>) Shift: An employee for whom the majority of his/her hours of work fall after 7:30 a.m. and before 4:00 p.m.

Second (2<sup>nd</sup>) Shift: An employee for whom the majority of his/her hours of work fall after 4:00 p.m. and before 12:30 a.m. receives a shift premium of seventy-five cents (\$0.75) per hour.

Employees equally rotating between first (1<sup>st</sup>) and second (2<sup>nd</sup>) shift shall receive seventy-five cents (\$0.75) per hour. All shift premiums will be applicable to overtime rates.

**B. Staggered Workweek, Flexible Workweek, and Rotating Workweek that includes a Saturday.**

Any employee who is assigned to a workweek which includes a schedule of working on Saturday shall receive a seventy-five cents (\$0.75) per hour premium in addition to his/her regular rate of pay, for all hours worked within such a schedule (i.e. shift premium will be applied to the entire forty (40) hours of work in a week). Management shall retain the right to assign the starting times, quitting times, hours of work, and workdays of any and all schedules.

### **Section 3. OVERTIME – PREMIUM PAY**

All employees shall receive time and one-half (1 ½x) their regular rate of pay for all hours worked in excess of forty (40) hours in one (1) workweek. Sunday will not be considered part of the regular workweek schedule. If an employee does work on a Sunday, they will be paid at the rate of time and one-half (1 ½x) their base wage.

Employees shall receive time and one-half (1 ½x) their regular rate of pay for all hours worked in excess of eight (8) or ten (10) hours in one (1) day, during the twenty-four (24) hour period beginning with the start of their regularly scheduled shift.

**Section 4.** In the event of an emergency situation where an employee works through lunch and cannot, at any other point during the day take that lunch, the employee shall be eligible for overtime compensation for that lunch period. The employee shall obtain pre-approval from his/her supervisor for overtime compensation.

**Section 5.** In the event the County, based on operational needs, productivity requirements, cost benefits, for the purpose of promoting efficiency or improving services, significantly and permanently changes an employee's, or the agency's workday, workweek, or work hours, then the following procedures apply:

- A. Prior to implementing schedule changes, the County will act on the basis of fair and equal treatment of the employees.
- B. The County will meet and discuss the changes with the Union at least one (1) week prior to implementation of said change.

**Section 6.** Calculation of overtime will not include sick leave; however, a paid holiday and/or vacation will be included in the calculation of overtime.

**Section 7.** The regular workday shall begin and end at the Harvard Road facility unless the project is for a certain period of duration at which time the County will designate the work location.

**Section 8.** Each employee shall be granted a fifteen (15) minute rest period with pay which will be scheduled whenever practical approximately midpoint in the first (1<sup>st</sup>) one-half (1/2) of the employee's regular work shift and in the second (2<sup>nd</sup>) one-half (1/2) of the shift. Employees who extend their rest period shall be subject to disciplinary action. Rest periods should be taken at a time and in a manner that does not interfere with the efficiency of the work unit. The rest period is intended to be a recess to be preceded and followed by an extended work period; thus, it may not be used to cover an employee's late arrival to work or early departure, nor may it be regarded as cumulative.

**Section 9.** If sufficient employees do not voluntarily accept overtime, the County shall have the right to mandate the overtime, on a rotational basis, to the least senior employee(s) on duty, with the next least senior employee(s) being mandated on the next occurrence, and so forth throughout each year. In the event that an overtime situation arises on a job site, the employee that is on that job site will remain until properly relieved by another employee. In addition, during winter months for snow and ice detail, employees, if needed, shall stay beyond their shift and be required to work reasonable additional hours if the weather is such that an emergency exists.



**Section 10.** The County shall endeavor to rotate and equitably distribute hours of overtime opportunities among qualified full-time employees who normally perform the work that is being assigned for overtime.

**Section 11.** An employee who is scheduled to work overtime who fails to report to perform the overtime assignment without following proper call-off procedures or without an excuse that is acceptable to the County may receive AWOL hours and be subject to disciplinary action.

## **ARTICLE 26 - HEALTH INSURANCE**

**Section 1.** An eligible employee is defined as a full-time employee covered by this Agreement. A Section 125 or cafeteria plan, will be provided by the County for health insurance benefits for County employees. The County shall provide eligible employees the opportunity to enroll in the plan once (1x) during each plan year at its annual open enrollment period. The plan year commences on January 1, and ends on December 31 of the calendar year, but is subject to change.

**Section 2.** Effective the first (1<sup>st</sup>) day of the month following full execution of this Agreement, bi-weekly employee contributions for medical, and prescription drug benefits shall be determined as follows:

**A) METROHEALTH PLANS:**

1.) For all three (3) years of this Agreement, the County shall offer a Health Savings Account (HSA) plan through the MetroHealth System with no bi-weekly contribution from employees;

2.) The bi-weekly contribution for a non-HSA plan offered through MetroHealth shall be as follows:

- a. 2022: Ninety three percent (93%) Employer, seven percent (7%) Employee
- b. 2023: Ninety three percent (93%) Employer, seven percent (7%) Employee
- c. 2024: Re-opener

**B) OTHER BENEFIT PLANS:** Bi-weekly contribution rates for all other plans shall be as follows:

- 1) 2022: Eighty six percent (86%) Employer, fourteen percent (14%) Employee
- 2) 2023: Eighty six percent (86%) Employer, fourteen percent (14%) Employee
- 3) 2024: Re-opener

**Section 3.** The costs of the medical and prescription drug plans will be determined through an actuarially certified process that is verified through an outside party and that includes reserves necessary to sustain the plans. In successive plan years, the County may add to or delete and/or plans/providers offered. Employees may be offered additional plans with reduced or increased benefit levels.

**Section 4.** Effective the first (1<sup>st</sup>) day of the month following full execution of this Agreement, the Employer shall pay eighty six percent (86%) of the cost of the ancillary benefit plans and the employees shall pay fourteen percent (14%). Effective January 1, 2023, the

Employer shall pay eighty six percent (86%) of the cost of the ancillary benefit plans and the employees shall pay fourteen percent (14%).

**Section 5.** The County shall be entitled to increase the cost containment features of the Plan which may include, but are not limited to, deductibles, and co-insurance.

**Section 6.** The County may implement or discontinue incentives for employees to participate in County-sponsored wellness programs, including, but not limited to, the right to offer the opportunity to reduce employee contributions through participation in wellness programs as determined by the County.

**Section 7.** The County may offer incentives to encourage use of low cost providers/plans (including HSA plans) which may be discontinued or modified by the County in future years with notification to the Union.

**Section 8.** A waiting period of no more than one hundred twenty (120) calendar days may be required before new employees are eligible to receive health and/or other insurance benefits. During the waiting period, the County may require employees, who desire coverage, to purchase it through a third (3<sup>rd</sup>) party vendor instead of participating in the County plans that are offered to regular full-time employees. New employees shall be eligible to participate in the County plans on the first (1<sup>st</sup>) date of the first (1<sup>st</sup>) month following completion of the waiting period.

#### **ARTICLE 27 - TAX DEFERRAL: EMPLOYEE CONTRIBUTION TO P.E.R.S.**

As soon as possible or within a period not to exceed sixty (60) calendar days following the execution of this Agreement, the County will take the necessary steps to cause employee contributions to the P.E.R.S. to be executed in the calculation of the employee's gross taxable income subject to federal and state income taxes.

#### **ARTICLE 28 - WAGES**

**Section 1.** The job classifications of all employees in the bargaining unit shall be HMO Heavy and Construction Backhoe Operators.

For 2022, there shall be a wage rate increase of two percent (2%), effective the first (1<sup>st</sup>) full pay period in January 2022 (January 2, 2022).

For 2023, there shall be a wage rate increase of two percent (2%), effective the first (1<sup>st</sup>) full pay period in January 2023 (January 1, 2023).

For 2024, there shall be a wage rate re-opener and negotiations shall commence no later than October 1, 2023.

Position -- HMO Heavy and Construction Backhoe Operators

For 2022	\$ 38.49
For 2023	\$ 39.26



All hours worked on Saturday and Sunday shall be paid at one and one half times (1 ½ x) the regular hourly rate or any rate that includes a shift premium. However, nothing in this provision limits or alters the standard workweek as defined in Article 25-Hours of Work/Overtime, of this Agreement.

**Section 2.** Any bargaining unit employee ("Member") hired after the date of the full execution of this agreement, shall be paid at a rate equivalent of eighty percent (80%) of the then-existing Agreement rate for their first (1<sup>st</sup>) year of employment. Upon having completed two (2) years of employment with the Department of Public Works, the Member shall be paid a rate equivalent to ninety percent (90%) of the then-existing agreement rate. Upon having completed four (4) years of employment with the Department of Public Works, the Member shall be paid a rate equivalent to one hundred percent (100%) of the then-existing agreement rate and shall thereafter continue at one hundred percent (100%) of this agreement rate.

The County retains the right, based upon operational needs, to pay more than the express percentage at the County's sole discretion.

#### **ARTICLE 29 - NON-DISCRIMINATION**

**Section 1.** The provisions of this Agreement shall be applied equally to all applicants for employment, as well as, to all employees in the bargaining unit. No person or persons or agency responsible to the County, nor the Union and its officers and members, shall discriminate against any employee based on the following: age, race, ancestry, religion, disability, sex/gender, genetic information, sexual orientation, military status, veteran status, or national origin. The Union shall share equally with the County the responsibility for applying the provisions of this Agreement.

**Section 2.** The County agrees not to interfere with the rights of eligible employees to become members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the County or his/her representatives against any legal employee activity or employees acting legally in an official capacity on behalf of the Union.

**Section 3.** The Union agrees not to interfere with the rights of employees to not become members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the Union or its representatives against any employee exercising the right to abstain from membership in the Union.

**Section 4.** The Union recognizes its responsibility as bargaining agent and agrees to equitably represent all employees in the bargaining unit without discrimination, interference, restraint or coercion.

**Section 5.** The parties agree that they will follow the laws that promote and further equal opportunity in the workplace. Accordingly, the parties agree to adhere to the policies as set forth in the Cuyahoga County Department of Human Resources Employee Handbook and to applicable federal law.

## **ARTICLE 30 - NO STRIKE/NO LOCKOUT**

**Section 1.** Inasmuch as this Agreement provides machinery for the orderly resolution of grievances, the County and the Union recognize their mutual responsibility to provide for the uninterrupted services to the citizens of Cuyahoga County.

Therefore, the Union agrees that neither it, its officers, agents, representatives, or members will authorize, instigate, cause, aid, condone or participate in any strike, sympathy strike, work stoppage, or any other interruption of operators or services of the County, by its members or other employees of the County during the term of this Agreement. When the County notifies the Union that any of its members are engaged in any such strike activity, as outlined herein, the Union shall immediately conspicuously post notice over the signature of an authorized representative of the Union to the effect that a violation is in progress and such notice shall instruct all employees to immediately return to work. Should the Union fail to post such notice, the County shall have the option of seeking appropriate legal remedies. Any employee failing to return to work after notification by the Union as provided herein, or who participates or promotes such strike activities as previously outlined, may be disciplined and/or discharged and only the question of whether or not he/she did in fact participate in or promote such action shall be subject to appeal.

**Section 2.** The County agrees that neither it, its officers, agents, or representatives, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of bargaining unit employees during the term of this Agreement, unless those employees shall have violated Section 1 above.

**Section 3.** Nothing in this article shall be construed to limit or abridge the County's right to seek other available remedies provided by law to deal with any unauthorized or unlawful strike.

## **ARTICLE 31 - SEPARABILITY CLAUSE**

If any clause, sentence, paragraph, or part of this Agreement, or the application thereof to any person or circumstances, shall for any reason, be adjusted by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate the remainder of this Agreement and the application of such provision to other provisions, persons, or circumstances, but shall be confined in its application to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. The remainder of this Agreement and the supplement agreements shall remain in full force and effect for this Agreement term.

## **ARTICLE 32 - WORK RULES**

**Section 1.** The County shall use HMO Heavy and Construction Backhoe Operators for the erections, operation, assembly, disassembly and maintenance of the following construction equipment regardless of motive of power, providing that the manning of this equipment does not change the operation as has been performed in the past by another bargaining unit: backhoes (all types), bobcat/skid loader, carryall/power winches, boom truck/stinger and knuckle boom cranes

(all types), endloaders, graders, pavers, rollers, and snoopers. There shall be a Labor/Management Meeting to discuss the utilization of HMO Heavy and Construction Backhoe Operators for any new types of equipment purchased or leased by the County.

**Section 2.** An oiler will be used on the crane whenever it is working on a road project where the safe operation of the crane is a concern. The County may assign an operator to act as oiler on an as needed basis.

**Section 3.** The County may transport all equipment without a bargaining unit employee for the following: 1) transport for maintenance, service, or repair; or 2) where transport of equipment has been performed by employees in the Facilities Section (formerly Central Services).

**Section 4.** Members of the bargaining unit may be permitted to participate in the Department of Public Works educational program on the same basis as non-bargaining unit employees. The program may be modified from time to time, but there will be no discrimination in its application between bargaining unit and non-bargaining unit employees.

**Section 5.** All bargaining unit employees must, as a condition of remaining an HMO Heavy and/or Construction Backhoe Operator with the County, obtain and maintain a Class A Commercial Driver's License (CDL), all necessary endorsements, pass a physical examination as determined by the County, and be subject to random urinalysis testing for the presence of alcohol and illegal drugs. Any bargaining unit member who does not possess a valid Class A CDL and medical certification, and does not obtain the same within the excepted time as described herein, shall be subject to termination.

**Section 6.** All employees are required to promptly notify the County of any current or pending invalid status of their operator or CDL license. This includes, but is not limited to, the suspension, revocation, forfeiture, or disqualification of their operator's or CDL license. An employee whose license becomes invalid, or who fails to maintain appropriate endorsements, or fails to provide required medical certification, shall be placed on leave without pay for up to seventy-five (75) calendar days, but may use accrued vacation, compensatory time or, if appropriate, sick leave. If the employee's license remains invalid following the expiration of the seventy-five (75) calendar day period for reasons other than illness or disability, his/her employment shall be terminated.

### **ARTICLE 33 - UNIFORMS**

**Section 1.** The County reserves the right to require all employees to wear uniforms. Required uniforms shall be provided and maintained, i.e., laundered, by the County.

**Section 2.** The County will reimburse those employees that the County requires to wear ASTM compliant steel toe or ASTM compliant composite toe work boots, *OR* a high visibility work jacket conforming to ANSI/ISEA 107-2015 Type R, class 2 or higher specifications, up to one hundred (\$100.00) dollars per year. Work shoes, boots, and work jacket must be approved by the County. To be eligible for reimbursement, employees must provide original receipts for the purchase of work shoes, boots, or work jacket. All original receipts will be retained by the County. All requests for reimbursement and receipts shall be submitted by November 15<sup>th</sup> of the

appropriate year. Once all necessary documentation has been submitted, the employee shall be reimbursed within thirty (30) calendar days.

#### **ARTICLE 34 - DURATION AND TERMINATION**

**Section 1.** This Agreement shall be effective as of January 1, 2022, and shall remain in full force and effect until December 31, 2024, its termination date. This Agreement rescinds all prior agreements between the parties. Terms are retroactive to effective date.

**Section 2.** If either party desires to modify, amend or renegotiate this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) days prior to the termination date, nor later than ninety (90) calendar days prior to the termination date of this Agreement. Such notices shall be sent by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks upon receiving notice of intent.

**Section 3.** The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the County and the Union for the life of this Agreement, each voluntarily and unequivocally waives the right, and each agrees that the other shall not be obligated, to bargain collectively or individually with respect to any subject matter referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this Agreement.

### ARTICLE 35 - TOTAL AGREEMENT

This Agreement represents the entire agreement between the County and the Union and unless specifically and expressly set forth in the express written provisions for this Agreement. All rules and regulations, benefits and practices not covered by this Agreement may be modified or discontinued upon advance notification to the Union and any such modifications or discontinuances shall not be grievable.

#### **FOR THE UNION:**

By: Michael R. Bertolone  
Michael R. Bertolone  
Business Manager

By: R. L. Hughes  
Robert L. Hughes  
Recording/Corresponding Secretary

By: Thomas P. Byers  
Thomas P. Byers  
President

By: Thomas J. Perevosnik  
Thomas J. Perevosnik  
District Representative

Date: 11/17/2021

#### **FOR THE COUNTY:**

By: Armond Budish  
Armond Budish  
Cuyahoga County Executive

Date: 11-24-21

## **MEMORANDUM OF UNDERSTANDING**

A member of the Teamsters' bargaining unit ("Teamster member") may use the boom truck in the following operations: self-loading and unloading of material and driving of boom truck to and from work sites. A member of the Union's bargaining unit shall operate the boom truck in all other uses with the further proviso that a Teamster member shall at all times drive the boom truck to and from work sites.

**APPENDIX A**  
**Job Descriptions**

## **CONSTRUCTION BACKHOE OPERATOR**

Page 1 of 3

### **GENERAL STATEMENT OF DUTIES**

This is a skilled classification that operates and maintains heavy motor equipment involving storm and sanitary sewer line repair, rehabilitation, cleaning, evaluating, and other activities relating directly or indirectly to the Sanitary Engineering Division's areas of responsibility.

The employee shall be subject to twenty-four (24) hours a day, seven (7) days a week duties, as well as the normal workday of the Division.

The employee must possess the physical strength and ability to operate and maintain the equipment for extended periods under various weather conditions.

The employee is required to know, understand, and follow all of the rules, regulations, policies, and other guidelines of the County and of the Sanitary Engineering Division.

### **DISTINGUISHING FEATURES OF THE CONSTRUCTION BACKHOE OPERATOR**

A construction backhoe operator will participate in the activities of a crew engaged in varying aspects of sanitary and storm sewer maintenance and repair.

Assignment to permanent crews of vehicles is not possible due to the fluctuating work load and the need for flexibility in assigning work.

The backhoe operator will be responsible for the operation and preventative maintenance of the backhoe and all related equipment.

Duties that will be performed daily but not limited to, regardless of crew assignment, will include:

- Meets with foreman and/or supervisor to determine job assignment for the day, and to get crew personnel assignments.
- Proceeds to job site immediately after vehicle is outfitted.
- Places appropriate safety equipment according to County policy specified in the safety manual, including signs, cones, flashers, etc.
- Records all pertinent data concerning work assignment, when necessary.



- Insures equipment is in proper working order, that it is being used according to specifications and in a safe manner.
- Schedules routine maintenance of assigned vehicle(s) and equipment at specified intervals.
- Provides routine daily maintenance for backhoe, carryall, and can drive any and all vehicles used in the Sanitary Engineers Department.

#### REQUIRED EXPERIENCE, SKILLS, ABILITIES, TRAINING, & KNOWLEDGE

Graduation from a standard high school, vocational school, or equivalent.

Possess a valid State of Ohio CDL class 'A' vehicle operators license and maintain such license in good standing. Refer to Article 32 - Work Rules, Section 5, of this Agreement.

The knowledge and basic ability to use math and written skills is required.

Successful completion of the one hundred eighty (180) day probationary period.

Successful completion of oral, written, and field performance testing to demonstrate a thorough, working ability in the use of tools, equipment, materials, and methods of maintenance sections.

Ability to operate and perform routine maintenance on all equipment in the construction area.

#### ROUTINE DUTIES OF THE CONSTRUCTION BACKHOE OPERATOR

The following are examples of routine tasks but the work is not limited to these examples:

Helps in establishing location of all underground utilities before excavation commences.

Evaluates soil conditions in the area to be excavated.

Determines best and safest location of backhoe and/or dump truck in relation to excavation.

Determines need for shoring.

Determines the safe amount of material to be loaded and carried on the dump truck.

Determines when debris storage area is full and dump debris at acceptable location.

Operates tamper to compact soil according to County standards.

Attaches hoses and hydraulic breakers.

Installs shoring according to prescribed specification found in safety manual.

Directs correct back-fill into excavation.

Uses cutting torches to heat, cut, or for other appropriate uses.

GENERAL CHARACTERISTICS

Operates and maintains heavy motor equipment (rubbertire backhoe, dragliner, crane, grader, gradall, snooper, loader, roller, trackhoe, loader skid steers, mine excavator, man lifts, fork lifts, etc.) used in maintenance, repair and construction of County roads. Does related work as required.

DIRECTIONS RECEIVED

An employee in this class requires skill and proficiency in the manipulation, operation and maintenance of heavy motor equipment to obtain maximum production in a safe and economical manner. Assignments are outlined by supervisors in accordance with established procedures, but in many cases they must rely on the operator's experience for safety and economy of operation.

TYPICAL DUTIES AND RESPONSIBILITIES

Operates heavy road graders, gradall, backhoe, bulldozers and other related heavy equipment on road maintenance and construction or other grading projects.

Operates cranes with clamshell and dragline and power shovels in road construction or other excavating operations.

Reads and interprets grades from construction stakes or plans.

Maintains, services and assists in repairs made to equipment.

Operates other medium and light equipment as required.

Operates roller when directed.

Capable of filling in as an oiler.

QUALIFICATIONS

Thorough knowledge of the state laws pertaining to the operation of motor vehicles upon the highway.

Thorough knowledge of safety practices.

Thorough knowledge of the use of heavy motor equipment in general and specific construction activities.

Thorough knowledge of standard practices, methods and materials used in road construction and maintenance activities.

Ability to make general repairs to motor driven equipment.

Skill in the operation of heavy motor equipment under all types of weather conditions.

Good physical condition.

Extensive experience in the operation and maintenance of heavy equipment of a variety of types and completion of a standard grade school course, preferable high school graduation; or any equivalent combination of experience and training which provides the required knowledge, skills and abilities.

Possession of a valid Commercial's Driver's License issued by the State of Ohio and experience at a journeyman's level. Experience in efficient use of backhoe, road grader and front end loader.

The class specifications which appear above are intended to be sufficient merely to identify the class and be illustrative of the kinds of duties that may be assigned to positions allocated to the class and should not be interpreted to describe all of the duties, performance of which may be required of employees holding a position assigned to this class or such other work as required or needed.