

# AGREEMENT

**Between the**  
**TEAMSTERS - LOCAL 190**  
**AND**  
**CITY OF BILLINGS**

*For the period of:*

**JULY 1, ~~2013~~ 2015 - JUNE 30, ~~2015~~ 2018**

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**Attachments:**

1. Departmental Order, Order Number 019B, Subject: Airport Standby/Pager Policy
2. Departmental Order, Order Number 20, Subject: ARFF/AFM Division Holiday Pay Policy
3. Letter of Understanding, Winter Overtime policy for the Department of Aviation & Transit ARFF/AFM employees.
4. Memorandum of Understanding on the City/County 911 Center breaks.
5. Memorandum of Understanding regarding City Ordinance Safety Issues
6. Memorandum of Understanding regarding ARFF/ARM Employee Standby Pay
7. Memorandum of Understanding Public Works Department – Treatment Plant Technicians
8. Teamster Range Placement Table

**Appendix:** Random Drug/Alcohol and Reasonable Suspicion Policy

## **P R E A M B L E**

THE CITY OF BILLINGS, MONTANA, hereinafter referred to as "Employer" and the INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 190, hereinafter referred to as "Union," have agreed as follows:

### **ARTICLE 1 - RECOGNITION**

1.1 The Employer recognizes the Union as the sole and exclusive bargaining agent for all City employees in the classifications listed in Attachment A.

A temporary employee is defined as an employee that is hired to temporarily replace an absent full-time employee or to fill in for a heavy workload in a particular work unit.

The City agrees that any temporary or on-call employee will be a member of the bargaining unit if that employee works for more than 1,056 hours in a 365-day period in any twelve-month period.

Due to the nature of recreation programs, temporary employees in the Recreation Division may work more than 1,056 hours in a 365-day cycle. These temporary employees customarily work on a variety of programs.

The City agrees that no temporary or on-call employee will be used to circumvent any part of the labor agreement. When overtime is required, members of the bargaining unit will have the option of working the overtime.

### **ARTICLE 2 - MANAGEMENT RIGHTS**

2.1 The Union recognizes the prerogative of the City to unilaterally operate its affairs in all respects in accordance with its responsibilities; and the powers, discretion, or authority which the City has not expressly granted to the Union by this Agreement are retained by the City, and in such areas as, but not limited to the following, to-wit:

- A. Direct employees;
- B. Hire, promote, transfer, assign, and retain employees;
- C. Relieve employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient and non-productive;
- D. Maintaining the efficiency of government operations;
- E. Determine the methods, means, job classifications, and personnel by which operations of the City of Billings are to be conducted;

- F. Taking whatever actions may be necessary to carry out the mission of the City of Billings in situations of emergency;
  - G. Establishing the methods, standards, and processes by which work is to be performed;
  - H. Scheduling and assigning work, including overtime and leaves, in a manner most advantageous to the City and its requirements subject to seniority and qualifications.
- 2.2 The Union recognizes that the Employer has statutory and other rights and obligations in contracting for matters relating to municipal operation. The right of contracting or subcontracting is vested in Employer; however, it is recognized that this right is a concern to the Union and its members. The City agrees that no contract or subcontract that would directly impact the Union or its members will be entered into without an evaluation of the total economics involved in that operation as it relates to the public good. The right to contract or subcontract shall not be used for the purpose or intention of undermining the Union nor to discriminate against any of its members.

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

- 3.1 Membership in the Local Union is not compulsory. Employees have the right to join, not join, maintain, or drop their membership in the Local Union. Neither party shall exert any pressure on, or discriminate against, an employee as regards such matters.
- 3.2 Membership in the Local Union is separate, apart and distinct from the assumption by one of equal obligation to the extent that he/she receives equal benefits. The Local Union is required under this Agreement to represent and to provide all rights and benefits to all of the employees in the bargaining unit fairly and equally without regard to whether or not an employee is a member of the Local Union. The terms of this Agreement have been made for all employees in the bargaining unit and not only for members of the Local Union, and this Agreement has been executed by the City of Billings after it has satisfied itself that the Local Union is the choice of a majority of the employees in the bargaining unit. Accordingly, each employee in the bargaining unit shall assume an equal share of the obligation along with a grant of equal benefits contained in this Agreement.
- 3.3 In accordance with the policy set forth in this Section all employees shall, as a condition of continued employment, pay to the Local Union, the employees exclusive collective bargaining representative, an amount of money equal to that paid by other employees in the bargaining unit who are members of the Local Union, which shall be limited to an amount of money equal to the Local Union's regular and usual initiation fees, and its regular and usual dues.
- 3.4 All present employees who are members of the Local Union on the effective date of the execution of this Agreement shall remain members of the Local Union in good standing as a condition of employment. All employees who are not members upon the execution of the

Agreement shall come under the provision of this Article twelve (12) calendar months after the date of execution of this Agreement, as a condition of employment. All new hires shall come under the provision of this Article twelve (12) calendar months after their date of hire, as a condition of employment. Employees who fail to comply shall be discharged by the Employer within fifteen (15) calendar days after receipt of written notice from the Union, unless the employee complies within the fifteen (15) day period.

- 3.5 The Employer agrees to accept and honor voluntary written assignments of wages or salaries due and owing employees covered by this Agreement for initiation, reinstatement, service charges, and dues.

## **ARTICLE 4 - SENIORITY**

- 4.1 Seniority means an employee's length of continuous service with his or her Division and shall be computed from the date the employee began service in the Division, except in cases where the employee is forced to transfer to a different division by the City. In those cases the employee will take his/her seniority with them to the new division.
- A. To be absent from the job due to a leave without pay exceeding 180 calendar days will be considered lost time for the purpose of seniority, however, previous service upon reemployment shall count toward seniority.
  - B. To be absent from the job due to involuntary active military leave will not affect seniority. Such time spent in military service will count towards seniority.
  - C. An employee's continuous service for purpose of seniority shall be broken by voluntary resignation, discharge for justifiable cause, and retirement.
  - D. Absences due to injury in the line of duty shall be considered as time worked for the purposes of determining seniority.
- 4.2 Layoffs, caused by reduction in force within an affected Division, shall be determined by **job description** ~~job title~~ and City-wide seniority. Employees, who are scheduled to be laid off, shall be given as much advance notice as is practical, with a minimum of forty-five (45) calendar days. Employees scheduled to be laid off will be allowed to bump other less senior employees within their same **job description** ~~job title~~. No other bumping rights are available to affected employees. Employees, who are laid off, will be offered re-employment in the inverse order of the lay-off when they are needed again, provided they are still qualified to perform the duties of the position. All recall rights for employees laid off expire twenty-four (24) months from the layoff date.

The Employer shall notify such employees to return to work and furnish the Union a copy of such notification; and if the employee fails to notify the Employer within five (5) calendar days of his/her intention to return to work, the employee shall be considered as having forfeited

his/her right of re-employment. It shall be the employee's responsibility to maintain a current notification address with the Employer.

- 4.3 The Employer shall post, by division, an updated, accurate seniority list in January of each year. The Employer also agrees to supply copies of those lists to the Union and, in addition, agrees to provide to Union an updated list at any time during the calendar year that Union requests such an update in writing. Employees may protest their seniority designation through the usual grievance procedure if they have cause to believe an error has been made.
- 4.4 In the Met Transit division, there will be 3 separate seniority lists which shall be based on the following job classifications: 1) Transit Operator and On-Call Driver, 2) Transit Service Dispatcher and Senior Office Assistant, 3) Transit Mechanic II, Vehicle Service Technician and Transit Service Worker.

## **ARTICLE 5 - SETTLEMENT OF DISPUTES**

- 5.1 A grievance is defined as a dispute or a difference of interpretation between a non-probationary employee and the Employer involving an economic or disciplinary issue as expressly provided in the terms of the Agreement. Disciplinary actions, involving warning letters, suspension, or discharge shall be grievable; all lesser disciplinary actions are not grievable. If a number of employees have a grievance, involving the same issue(s), the grievance shall be filed as one (1) joint grievance.
- 5.2 Employees, designated by the Union as Stewards, must be certified in writing to the Employer. A steward shall be authorized a reasonable amount of time to process a grievance during regular work hours, provided the Steward has the Supervisor's approval and does not disrupt the work of others. A Steward, who cannot be released upon request, due to work requirements, will be released as soon as work permits, but no later than the beginning of his or her next scheduled shift. An updated steward list shall be provided to City Human Resources in January of each year. The union also agrees to supply an updated steward list anytime during the calendar year that the City requests such an update in writing.
- 5.3 Failure to comply with the established formal procedures provided in this Article shall constitute a waiver to continue the grievance process by the party in default.
- 5.4 Grievance and Arbitration Process:
  - Step 1: An employee, who has a grievance, shall, meet with his or her supervisor to orally discuss the issue and submit the grievance, in writing, to their supervisor. The written grievance must contain the following minimal information:
    - 1. The name and signature of the grievant; (The signature requirements shall be waived if the grievant is physically unable to sign the grievance form.)

2. The date the grievance occurred;
3. The issue and nature of the grievance;
4. The terms of the Agreement in dispute; and
5. The adjustment sought.

The grievance must be initiated no later than ten (10) business days after the grievable act occurred or the first opportunity to have reasonably had knowledge of its occurrence. The supervisor's response to the grievance shall be in writing and within ten (10) business days of the Step 1 meeting. The City will send a copy of the Step 1 City response to the Union Business Representative.

Step 2: The Union Business Representative may file an employee's formal grievance with the Employer. The formal grievance must be in a jointly agreed upon written form containing as a minimum:

1. The name and signature of the grievant; (The signature requirements shall be waived if the grievant is physically unable to sign the grievance form.)
2. The date the grievance occurred;
3. The issue and nature of the grievance;
4. The terms of the Agreement in dispute; and
5. The adjustment sought.

The grievance must be filed with the Human Resources Manager within ten (10) business days of the written Step 1 response from the supervisor.

Within ten (10) business days of receipt of the grievance, a meeting will be held between the key individuals in the grievance including: the employee, the Union Steward, the Union Business agent, the supervisor, the Superintendent/Division Manager and a representative from Human Resources Office to discuss the grievance. Management will set up this meeting and will respond to the grievance in writing within ten (10) business days after the meeting is held.

Step 3: If the grievance has not been resolved, within ten (10) business days of the Step 2 response, a meeting will be held between the Department Head, the City Administrator, the Union Business Agent, the Union Steward, and the Human Resources Manager (or designated representative) to discuss the grievance. A management representative will respond in writing with an answer to the grievance within ten (10) business days after the meeting is held.

#### Optional Step 4:

If the grievance has not been resolved based on management's response in Step 3, then the Union may, within ten (10) business days of the City's response, notify the City Administrator in writing of the Union's intention to request mediation conducted by the Federal Mediation and Conciliation Services (FMCS) or the Montana Department of Labor.

1. The parties must submit a signed, joint request for FMCS assistance. The parties must agree that grievance mediation is not a substitute for contractual grievance procedures.
2. The grievant is entitled to attend the mediation.
3. The parties must waive any time limits in this agreement while the grievance mediation step is being utilized.
4. The grievance mediation process is informal, and the rules of evidence do not apply. No record, stenographic or tape recordings of the meetings will be made.
5. The mediator's notes are confidential and will be destroyed at the conclusion of the grievance mediation meeting. FMCS is a neutral agency created to mediate disputes and maintains a policy of declining to testify for any party, either in court proceedings or before government regulatory authorities.
6. The mediator will use problem solving skills to assist the parties, including joint and separate caucuses.
7. The mediator has no authority to compel a resolution.
8. If the parties cannot resolve the problem, the mediator may provide the parties in joint or separate sessions with an oral advisory opinion.
9. If the parties cannot resolve the grievance, they may proceed to arbitration according to the procedures in their collective bargaining agreement.
10. Nothing said by the parties during grievance mediation, nor any documents prepared for a mediation session, can be used during arbitration proceedings.
11. The parties must agree to hold FMCS and FMCS mediators harmless for any claim of damages arising from the mediation process.
12. The parties must agree to these procedures and guidelines.

Step 5: If the grievance is not resolved based on management's response in Step 3, the Union may, within ten (10) business days of the City's response, notify the Human

Resources Manager in writing of the Union's intention to submit the grievance to final and binding arbitration. The Union shall request the Federal Mediation and Conciliation Service, the MT Department of Labor, or the American Arbitration Association to provide a list of seven (7) arbitrators. The parties, shall, within fifteen (15) business days of the receipt of the list, select the arbitrator by the method of alternately striking names with the parties flipping a coin to determine who strikes the first name. The final name left on the list shall be the arbitrator.

The arbitrator chosen will be contacted immediately and asked to start proceedings at the earliest possible date. During the arbitration proceedings, all evidence shall be presented. The arbitrator's decision shall be final and binding on both parties, but he shall not have the power to alter the terms of this Agreement, City Ordinance, State, or Federal Law. His decision shall be within the scope and terms of this Agreement and he shall be requested to issue his decision as soon as possible after the conclusion of the proceedings, including filing of briefs, if any. Expenses for the arbitrator's services shall be borne equally by the City and the Union.

- A. Other persons may replace any position mentioned in the above procedures, so long as the other party is notified in advance and provided that such appointee has full authority to act in the capacity of the person replaced.
- B. All disputes, controversies, or claims that are grievable (see section 5.1) must first proceed through the grievance procedure before then advancing to either arbitration or an alternative review process. An employee, who chooses an alternative review process, such as the Courts, State Agencies, or similar recognized judicial bodies, waives all rights for further review of his grievance through this Agreement's arbitration process.
- C. It is understood and agreed that when an employee files a grievance, the act of filing such a grievance shall constitute his authorization to the Employer to reveal to the participants in the grievance procedure any and all information available to the Employer relating to said grievance. Such filing shall further constitute a release of the Employer from any and all claimed liability by reason of such disclosure.
- D. Time limits at any stage of the grievance procedure may be extended by written mutual agreement of the parties at that step.
- E. Business days shall be defined as Monday through Friday, excluding recognized City of Billings holidays.

## **ARTICLE 6 - HOURS OF WORK AND OVERTIME**

- 6.1 **WORKWEEK:** A workweek is a regularly recurring period of one hundred sixty eight (168) hours, in the form of seven (7) consecutive twenty-four (24) hour periods. The workweek need not coincide with the calendar week; it may begin any day of the week and any hour of the day unless otherwise specified in the supplement hereto. Each workweek stands alone. The beginning of the workweek may be changed if the change is intended to be permanent and is not designed to evade the overtime requirements of this Agreement.
- 6.2 **SHIFTS/SHIFT CHANGE:** All employees shall normally be scheduled to work a regular shift and each work shift shall have a regular starting and quitting time. Schedules may be changed by giving seventy-two (72) hours notice to the affected employee(s), unless a shorter change is agreed to by the employee(s). Both parties understand, however, that emergencies may require a shift change and the notification of less than twenty-four (24) hours.
- 6.3 **WORK SCHEDULES:** Work schedules showing the employees, shifts, workdays, and hours, shall be posted on all department bulletin boards at all times.
- When new/revised work schedules are prepared, management will endeavor to post said schedule changes at least two (2) weeks before the schedule's start date.
- 6.4 **LUNCH PERIODS:** All employees shall be granted a lunch period during each work shift consisting of more than four (4) hours. Whenever possible, the lunch period shall be scheduled at the middle of each shift. Shift workers may be required to eat lunch on the job during regular work hours in which case lunch shall be included as time worked.
- 6.5 **HOURS OF DUTY:** The normal working hours for full time members affected by this Agreement shall be forty (40) hours per week. Schedules calling for shifts other than five (5) eight (8) hour workdays per week may be implemented by the following conditions:
- A. Mutual agreement between the parties to this Agreement.
  - B. The consent of the majority of the work crew or division if deemed by the City to be necessary for the efficient operation of that function.
  - C. Either party to this Agreement may initiate a request to introduce a shift greater than the eight (8) hour day.
- 6.6 **BREAKS:** Employees shall be entitled to two (2) fifteen (15) minute paid rest periods, one (1) approximately midway during the first four (4) hours and the second (2<sup>nd</sup>) approximately midway during the balance of the employees' shift. Shifts of less than seven (7) hours are entitled to one (1) fifteen minute paid rest period except those employees who receive no lunch break and work 6 hours; those employees shall receive two (2) fifteen (15) minute paid rest periods. Shifts over eleven (11) hours will receive a third (3<sup>rd</sup>) fifteen (15) minute paid rest period.

Such breaks cannot be used to offset coming to work late, leaving work early, or to extend the meal period. All breaks are subject to operational requirements and workloads.

## **ARTICLE 7 – COMPENSATION**

### 7.1 Compensation:

Effective July 1, 2013, the base wage for each employee shall be increased by 2.9%.

Effective July 1, 2014, the base wage for each employee shall be increased by 2.9%

### 7.2 Deferred Compensation: The City agrees to contribute \$1,000.22 per employee per year through the end of the contract into a deferred compensation program. It shall be paid at the rate of \$38.47 per pay period. If an employee leaves employment with the City, then the 457 contribution will be discontinued with the employee's final date of employment. Contributions will be made by the City on each employee's behalf to either Nationwide or ICMA 457 plans, whichever is designated by the employee. ~~Payment will be retroactive to July 1, 2013.~~ This contribution applies to non-probationary Teamster members.

### 7.3 HIGHER CLASSIFICATION: Whenever an employee performs work in a higher classification at the direction of a supervisor, such employee shall receive the higher rate of pay for all hours worked in the higher classification. The term "performs work in a higher classification" means the employee must perform at least one (1) job duty that is in the higher classification job description, but not in the employee's regular job description. The employee will be paid higher classification pay only for the time when they are performing job duties that are not in the employee's regular job description. Employees will be paid at the step in the higher-grade position corresponding to their current step in their present position. Employees who are being cross-trained are excluded. (See 10.9).

### 7.4 STANDBY PAY: Employees who are required by the appropriate authority to remain available at all times, while off regular duty, on standby for emergency call-outs, shall be compensated for all standby time at a rate of ~~\$1.63~~ **\$1.75** per hour. ~~Airport Operations employees required to be on standby for snow removal operations from November 1st through February 28th shall receive an additional \$0.05 per hour.~~ Standby required for snow removal in the months other than the November 1st through February 28th timeframe will be scheduled as needed based on the projected weather outlook or other emergency call-out requirement.

In order to help ensure safe operations on the Airfield, eight (8) hours of rest for the Airport Operations employee is generally required each day, and will take place usually between the

Airport Operations employee's shift and going onto standby, unless identified differently herein. From November 1st through February 28th, Airport Operations employees working the 1-2-4 shifts will not be on standby during the days they work the 1 and 2 shifts. During the days the employees work the 4 shift, they will be placed on standby eight (8) hours prior to the beginning of their shift, and on 16 hours of standby during their days off. All other Airport Operations shifts will be on standby for eight (8) hours on the days they are scheduled to work and on standby for 16 hours on their days off, taking into consideration the eight (8) hour rest period.

Employees, who are on standby status, must be fit for duty, and not under the influence of drugs or alcohol and furnish the appropriate authority or otherwise designated persons a valid telephone number or other method at which the employee may be immediately contacted. Employees who are on standby will be available at all times by telephone, pager, or cell phone. After notification, employees must immediately respond to the page or phone call and report to work immediately. Standby pay shall be interrupted for all actual hours paid at the overtime rate. Call out/overtime pay begins upon notification to report provided the employee arrives within 45 minutes of receiving the call. Employees reporting beyond the 45 minute window will commence pay upon arriving at a city facility or worksite.

Employees who live within a five (5) mile radius from the City limits whose duties include utilizing City service vehicles in conjunction with their standby for emergency call outs shall be allowed to take the service vehicle home with them.

When a regularly scheduled ARFF/ARM employee is assigned in advance (on a posted schedule) standby, which falls on his/her day off, it shall be for their entire time off on that day.

An employee who receives a telephone call for the purpose of troubleshooting problems but who does not report to a jobsite or city facility shall be compensated a minimum of 15 minutes pay or actual time for each issue. Employees are required to initiate calls to offsite employees using a city phone.

7.5 LONGEVITY PAY: In addition to the base salary, each employee shall receive longevity pay for the continuous satisfactory service with the City. Continuous service shall be terminated by resignation, dismissal or retirement; and interrupted by a leave without pay in excess of one hundred eighty (180) days. Workers Compensation leaves of absence will not be considered to be an interruption in service for longevity purposes. Longevity pay shall be computed as follows:

Longevity Pay (amounts below are per pay period for each completed year of service).

After year 6 -	\$2.68
After year 11 -	\$2.91
After year 15 -	\$3.01
After year 20 -	\$3.11

7.6 SHIFT DIFFERENTIAL PAY: A shift differential will be paid for an employee's entire shift, to any employee required to work greater than 50% of a scheduled work shift, as listed below:

Afternoon Shift - (6:00 p.m. - midnight) - ~~\$0.55~~ **\$0.65** per hour.

Graveyard Shift - (midnight to 6:00 a.m.) - ~~\$0.70~~ **\$0.80** per hour.

In the event a shift is evenly split between the two shifts, the employee will be paid shift differential for the actual hours worked in each shift.

7.7 OVERTIME: Employees required to work more than their normal work shift at the direction of a proper city authority shall be compensated at a rate of one and one-half (1 1/2) times the regular base hourly rate in fifteen (15) minute increments. Except at MET Transit, where overtime shall be paid after 40 hours per week. In addition, at MET Transit, any after-shift meetings shall be paid for at the overtime rate. Also, in the MET Special Transit area, the City shall have the right to dispatch the closest driver to a call at the end of the day. However, all scheduled overtime shall be awarded per contract/per seniority.

The employer shall determine the overtime work to be conducted and such work shall be awarded to the senior qualified employee wanting to perform the overtime work. Should no senior employee wish to perform the work in question it shall be assigned to the most junior qualified employee.

For the purposes of overtime, an employee shall provide one telephone number for the supervisor to call. The supervisor will contact employees in the order of the seniority list. In the event, the City is aware of a regularly scheduled shift that needs to be covered two hours or more in advance, then the senior employee shall have 10 minutes to return the phone call or they lose the opportunity for the overtime. Otherwise, when an employee is called for overtime and the employee does not immediately answer the phone at the number provided by the employee to the supervisor, the supervisor will call the next person on the seniority list. If the employee returns the call and speaks directly to the supervisor, then the overtime will be granted if the overtime shift is still available. If the shifts have already been filled, then the employee misses that overtime shift.

Employees who are on sick leave for a full, regularly scheduled work day will not be considered for overtime assignments **for that day**. Employees who are on vacation or otherwise off duty on a regularly scheduled work day shall notify their supervisor in writing in advance stating they desire to be considered for overtime assignments during their leave.

All previous letters of understanding on the issue of assignment of overtime work shall be null and void when computing overtime.

In order to maintain consistent and efficient operations during snow removal, the Aviation and Transit Department, ARFF/AFM Division may deviate from the seniority language in Article 2, Section 2.1.H. to allow the scheduling of snow removal crews in a manner that maintains consistency with regard to assigned functions (ARFF or AFM work groups) and work shifts. Every effort will be made to limit short turn-a-round shifts and movement between morning and nighttime shift rotations. During all other overtime conditions, the ARFF/AFM Division will adhere Article 2. Section 2.1.H. when assigning overtime.

When an employee is working on a specific task, which is not completed by the end of his/her shift, and the City determines that the task should be completed on an overtime basis, the employee shall be assigned to do the overtime work. However, if at the time the task is begun, the City can reasonably anticipate that the task will extend beyond the end of the shift, and that overtime work will be required, the City shall, to the extent practical, offer the opportunity to perform the task to the qualified employee(s) with higher seniority. Should the employee(s) with the higher seniority refuse the work, the least senior employee will perform the work.

If an employee elects to work an overtime shift and then fails to cover that shift, then the employee will lose his/her right to bid the next available overtime shift, with the exception of voluntary shifts that have already been assigned to the employee.

- 7.8 COMPENSATORY TIME: Employees may accumulate up to two hundred forty (240) holiday/overtime hours of compensatory time to be taken by request after being granted time off by their supervisor. After two hundred forty (240) hours have been accumulated, the employee must accept pay for the holiday/overtime worked. If an employee provides a written request to Human Resources, their accumulated compensatory time may be cashed out.

In the Department of Aviation and Transit, employees may accumulate up to two hundred forty (240) holiday/overtime hours of compensatory time. However, employees in the Aviation Division may only be granted up to 120 hours of comp time off per contract year. However, if/when an employee has a qualified FMLA request or when their sick leave bank has been depleted, then the employee can use all their accumulated comp time bank. Any remaining time can be cashed out by the employee per the above paragraph.

- 7.9 CALL OUTS AND COURT TIME: An employee who has left the job site and is called back to work or called to appear before a judicial criminal review body, outside of the employee's regularly scheduled work hours, shall be compensated at a rate of one and one-half (1 ½) times the employee's regular rate of pay for a minimum of two (2) hours. In the event the call out extends into the employee's regularly scheduled work shift, the time and one-half (1 ½) rate of pay shall be paid for only the actual time spent before the regular shift started.

7.10 NO PYRAMIDING: Nothing contained in this Agreement shall be interpreted as requiring a duplication or pyramiding of Holidays, Call-out and Court Time, Stand-By, Training Time or other form of overtime payments involving the same hours of labor.

7.11 COMPENSATION FOR TRAINING: The Employer will compensate the employee for training attendance when all of the following conditions are met:

- The attendance is within normal working hours or the Employer adjusts the work schedule to accommodate the training.
- The attendance is required by the Employer.
- The training is directly related to the employee's current job assignment.

Travel time will be considered time worked when all of the following conditions are met:

- The employee travels during normal working hours, regardless of the day of the week.
- When required to stay overnight in another city.

An employee's shift shall be adjusted in order to prevent the employee from having to initiate travel immediately after the completion of his/her shift.

7.12 COMMERCIAL DRIVER'S LICENSE: The City will pay for time spent in taking the required test for "commercial driver's license." The City will pay for the cost of renewals and endorsements for those employees required to have such as part of their position requirements. (This applies to renewals and promotions only - not new hires.) Any employee required to obtain this license as a condition of employment **shall have 90 days from the date of hire to obtain said license. The employee will be granted up to a 30-day extension in the event the license cannot be obtained within 90 days through no-fault of the employee.** and encounters difficulties in passing the required tests shall be given a sixty day (60) leave of absence without pay while attempting to pass said tests. This leave shall be granted providing the employee makes a bonafide attempt to pass the test at every available opportunity. **The employee shall report to their supervisor in the event that they no longer hold a Commercial Driver's License.** If an employee loses their Commercial Driver's License for any reason they must inform their supervisor immediately.

7.13 PHYSICAL/MENTAL EXAMS: Physical and/or mental examinations required by the City shall be promptly complied with by all employees. The City must have a valid reason to require such examination and provide the reason in writing if requested. The City shall pay for all such required exams and for all time spent at the place of the exam. The City reserves the right to select its own medical examiner or physician, and the employee may be re-examined at his/her own expense.

7.14 LEADWORKERS: Non-supervisory employees, who are assigned a limited responsibility for supervising the work performed by their co-workers, may be designated as a Leadworker. Leadworkers may assume and exercise supervisory responsibilities and authorities up to, but not including, the full definition of a Supervisor as specified in State Law. Leadworker assignments must be initiated and terminated with the Department Head's approval. A Leadworker position must be posted in the appropriate division/department to allow interested employees to apply. Assignments may be made for indeterminate periods of duration.

- A. Leadworker Rates of Pay: Employees assigned as Leadworkers shall be paid at a base rate that exceeds their normal base rate by two pay grade increments (approximately 10%) for the duration of the assignment, providing:
  - 1. the Leadworkers assignment is scheduled to exceed one full regular shift in duration.
  - 2. the Leadworker assigned is classified at the same or a lower pay grade than the co-workers that he or she is supervising. Leadworkers, who are classified at two (2) or more pay grade increments **above the highest grade of employee that they will be a leadworker for**, shall not qualify for any additional pay; as relating to their Leadworker assignment.

## **ARTICLE 8 - LEAVES OF ABSENCE**

### 8.1 VACATIONS:

- A. Each full-time employee is entitled to and shall earn annual vacation leave credits from the first full pay period of employment. For calculating vacation leave credits, two thousand eighty (2,080) hours (52 weeks x 40 hours) shall equal one (1) year. Proportionate vacation leave credits shall be earned and credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been employed for a period of six (6) months. Vacation leave credits shall be earned at a yearly rate in accordance with the following schedule:

<u>Years of Employment</u>	<u>Working Days (8 Hours) Credit Per Year</u>
1 Full Pay Period through 10 Years	15
11 Years through 15 Years	18
16 Years through 20 Years	21

Permanent part-time employees are entitled to prorated annual vacation benefits once they have been employed by the City for a period of six (6) months.

- B. Separation from service or transfer to another department - cash for unused vacation leave. An employee who terminates his employment with the Employer shall be entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period. However, if an employee transfers within the Employer's jurisdiction, there shall be no cash compensation paid for unused vacation leave. In such a transfer, the receiving department shall assume the liability for the accrued vacation credits transferred with the employee.
- C. Accumulation of leave - "Annual Leave" may be accumulated to a total not to exceed two (2) times the maximum number of days earned annually as of the last day of any calendar year. Excess vacation time is not forfeited if taken within ninety (90) calendar days from the last day of the calendar year in which the excess was accrued.
- D. Vacation leave shall not accrue during a leave of absence without pay, the duration of which exceeds fifteen (15) days.
- E. Unused earned vacation and/or compensatory time shall be paid to the employee at his/her regular rate of pay at the time of separation from service.
- F. In the event of death of an employee, a check for the unused earned vacation time shall be made out to the employee at his/her regular rate of pay and given to the beneficiary listed on the City's life insurance policy.
- G. The dates when employee's vacations shall be granted shall be determined by agreement between each employee and their supervisor, with regard to division seniority. The Employer will not unreasonably cancel an employee's vacation. When canceling vacation, the Employer will notify the employee in writing at least two (2) weeks in advance of the scheduled vacation time with the reason for the cancellation, except in emergency situations affecting the health, welfare, and safety of the City. **This shall apply to the annual vacation sign up calendar only. In all other cases, a vacation may be granted by a supervisor with at least one day's notice from the employee. That same vacation may be canceled by the supervisor with at least one day's notice to the employee, except in emergency situations affecting the health, welfare, and safety of the City.** Nothing herein shall prevent the Employer and employees from mutually agreeing to changed vacation dates. Employees shall be notified within two (2) weeks as to whether their request for vacation has been granted. Employees shall notify their supervisor in writing at least two (2) weeks in advance of their scheduled vacation if

they intend to cancel that vacation. The reason for the cancellation must be included. It is understood by the Employer that there may be emergency situations that would preclude this two (2) week notification.

- H. Holidays, including those allowed in lieu of the actual holiday, occurring while an employee is on a paid vacation, shall be earned by the employee and not charged as vacation.
- I. Vacation charges shall be charged to the nearest quarter (1/4) hour.
- J. Leave of absence without pay may be used to extend regular vacation, with prior approval of the employee's supervisor.
- K. It shall be unlawful for the Employer to terminate or separate an employee from his employment in an attempt to circumvent the provisions of the law or of this Agreement.
- L. Posting Open Vacations - Communication Center Only
  - 1. Vacation weeks opened by attrition or other reasons shall be re-posted and taken as long as minimum staffing of twenty-four (24) qualified employees are available. If any less than twenty-four (24) qualified employees are available, vacations will be re-posted at the discretion of the Communication Center Manager.
  - 2. All eligible junior employees shall have three-weeks of scheduled vacation before vacated weeks are offered to senior employees.
  - 3. Vacation weeks that are re-opened for bid shall be posted and offered to the most senior employee. That senior employee has the right to pass on the week(s) offered. The senior employee will stay on the top of the rotation until he/she takes an additional week. At that time, the next opening will first be offered to the next senior employee, etc. Should all eligible employees get an extra week, any additional weeks will start at the top of the seniority list again.

## 8.2 SICK LEAVE:

- A. Each employee is entitled to and shall earn sick leave credits from the first full pay period of employment. For calculating sick leave credits, two thousand eighty (2,080) hours (52 weeks x 40 hours) shall equal one (1) year. Proportionate sick leave credits shall be earned and credited at the end of each pay period. Full-time employees earn paid sick leave from the first full pay period of employment at the rate of eight (8) hours per month, without restriction as to the number of hours that may accumulate. Employees may use earned sick leave after being employed ninety (90) consecutive

days. Part-time employees are entitled to pro-rated sick leave if they have a regularly scheduled work assignment and normally work at least twenty (20) hours per week.

- B. An employee may not accrue sick leave credits during a continuous leave of absence without pay, which exceeds fifteen (15), calendar days. Employees are not entitled to be paid for sick leave until they have been continuously employed for ninety (90) calendar days. Upon completion of the qualifying period, the employee is entitled to the sick leave credits earned.
- C. An employee who terminates employment with the Employer is entitled to a lump-sum payment equal to one-fourth (1/4) of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall be computed on the basis of the employee's salary or wage at the time of such termination of employment. The payment therefore shall be the responsibility of the Employer. No employee shall forfeit any sick leave rights or benefits accrued prior to July 1, 1971. If an employee transfers to a state or county agency within the Employer's jurisdiction, a lump-sum payment shall not be due. In such a transfer, the receiving agency shall assume liability for the accrued sick leave credits and transferred with the employee.
- D. An employee who received a lump-sum payment pursuant to this Agreement and who is again employed by the Employer, shall not be credited with any sick leave for which the employee has been previously compensated or lost under the sick leave compensation lump-sum payment outlined in 8.2.B. above.
- E. Sick leave credits must be earned prior to their use.
- F. Sick leave charges in excess of earned sick leave credits may be charged to earned and available annual leave.
- G. Sick leave charges shall be charged to the nearest quarter (1/4) hour.
- H. Medical appointments, during the employee's scheduled work shift, shall be charged to sick leave, in quarter (1/4) hour increments. Each absence shall be reported to the supervisor prior to sick leave use.
- I. Employees covered by the Worker's Compensation Act are entitled to benefits administered by the Worker's Compensation Division when they suffer injury or illness as a result of their employment. Employees may elect to use sick leave credits or Worker's Compensation payments.
- J. Any holidays that fall during a period that an employee is on sick leave will be charged as a holiday and not taken off the total accumulated sick leave.

- K. If an employee is sick for ~~six (6)~~ **three (3)** consecutive working days then his/her supervisor may request a return to work notification from a licensed physician upon that employee returning to work. In addition, if an employee is off ~~six (6)~~ **three (3)** working days, he/she must provide periodic updates as to the healing progress/expected return to work date. Any physician visits needed to obtain the necessary return to work information or update information would be paid for by the employee.
- L. Proven abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this Agreement. The Employer must be able to substantiate any charges of sick leave abuse that result in an employee's dismissal and forfeiture of the lump-sum payment. A physician's certificate to substantiate a sick leave charge may be required by an employee's supervisor. In the event an employee is required to furnish a physician's certificate, such expense shall be paid by the Employer. The City reserves the right to select the physician and schedule such appointments. Failure to comply with these requirements may result in disciplinary action. In the event an employee becomes incapable of performing the duties of his regular classification through illness or injury, the Employer may transfer the employee, with the employee's consent, to a position for which the employee is qualified, provided the change can be accomplished without displacing another employee. **If no transfer is made, the employee will be terminated.**
- M. **FAMILY EMERGENCY SICK**~~NECESSARY SICK LEAVE FOR FAMILY:~~ Necessary sick leave for family **Family Emergency Sick** will be charged against an employee's sick leave credits and shall not exceed a total of forty (40) hours per contract year. This time must be used for an accident, illness, exposure to a contagious disease that required quarantine, or a medical, dental, or vision examination or treatment of an immediate household family member, and/or parents and/or parents-in-law, and must be reported to the supervisor prior to sick leave use. Employees are allowed to use sick leave for family in either a block of time or intermittently, but no less than fifteen (15) minute increments; however, the total time per year may not exceed forty (40) hours.
- N. In the event of the death of an employee, a check for one hundred (100) percent of the unused earned sick leave shall be made out to the employee at his/her regular rate of pay.
- O. ATTENDANCE INCENTIVE PLAN: There is an attendance incentive plan, which provides up to twenty four (24) hours of additional vacation time per contract year, depending upon the employee's attendance record. The amount of incentive to be awarded will be determined at the end of each contract year. The maximum of twenty-four (24) hours will be reduced, hour for hour, for each hour of sick leave which the employee has used during the contract year. Funeral leave will not be considered as sick leave when determining attendance incentive awards.

### 8.3 MATERNITY/PATERNITY LEAVE:

- A. Maternity/Paternity Leave: For the birth or adoption of a child, the provisions of the Family and Medical Leave Act and the Montana Maternity Act apply. Please refer to City policy. ~~must be charged against sick leave first, until it is exhausted, then vacation leave and compensatory leave. Sick leave, vacation, and compensatory time must be exhausted prior to going into a leave without pay status.~~
- B. ~~The Employer shall not:~~
- ~~1. Terminate a woman's employment because of her pregnancy, or~~
  - ~~2. Refuse to grant the employee a reasonable leave of absence for such pregnancy, or~~
  - ~~3. Deny to the employee, who is disabled as a result of the pregnancy, any compensation to which she is entitled as a result of the accumulation of leave benefits accrued pursuant to plans maintained by her Employer; provided that the Employer may require disability as a result of pregnancy to be verified by medical certification that the employee is not able to perform her employment duties, or~~
  - ~~4. Retaliate against any employee who files a complaint with the Commission under the provisions of this Section, or~~
  - ~~5. Require that an employee take a mandatory maternity leave for an unreasonable length of time.~~
- C. ~~Paternity Leave: For the birth or adoption of a child, the provisions of the Family and Medical Leave Act apply. Time off will first be charged against the employee's sick leave until it is exhausted. Once sick leave is exhausted, the employee will then have time off charged against vacation and compensatory time. Leave without pay will not be authorized until all of sick leave, vacation, and compensatory time is exhausted.~~
- D. ~~These provisions shall also apply when the employee has finalized the adoption of a child.~~

### 8.4 HOLIDAYS:

- A. Employees shall be granted the following holidays without loss of pay:
1. January 1 - New Year's Day.
  2. Third Monday in January - Martin Luther King Day

3. Third Monday in February - Lincoln's and Washington's Birthday.
  4. Last Monday in May - Memorial Day.
  5. July 4 - Independence Day.
  6. First Monday in September - Labor Day.
  7. Second Monday in October - Columbus Day.
  8. November 11 - Veteran's Day.
  9. Fourth Thursday in November - Thanksgiving Day.
  10. December 25 - Christmas Day.
  11. Every day declared a legal holiday by the Governor of Montana, or the Mayor of Billings.
  12. Every day in which a general election is held throughout the State of Montana.
  13. Personal Days: Employees are entitled to schedule a two personal days off. These two days will be paid at the straight time rate of pay. These two days an employee may use as his/her personal days must be scheduled with his/her supervisor the same as a vacation day. The personal days must be taken by the employee between July 1 and June 30, or lost. **If an employee is hired on or after March 1<sup>st</sup>, then they will only have access to one (1) personal day through June 30<sup>th</sup>.** An employee cannot work on his/her personal days; they must be a day off. Eight (8) hours is the time allowed for an employee to be paid for each personal day; however, if the employee works a ten 10-hour shift, then ten (10) hours is the maximum time allowed for an employee to be paid for each personal day. The maximum number of hours paid by the City for a each personal day will not exceed ten (10) hours.
- B. Employees required to work on a holiday will be paid at the rate of one and one-half (1 1/2) times the regular rate of pay for hours worked or may accumulate compensatory time at the rate of one and one-half (1 1/2) times the number of hours worked at the employees option.
- C. The dates when employee's accumulated compensatory time shall be granted shall be determined by agreement between each employee and their supervisor, to the best interest of Employer, as well as the best interests of each employee.
- D. Employees will not be charged vacation or sick leave for holidays that fall while an employee is on authorized vacation or sick leave.

- E. When a holiday falls on a full time employee's scheduled day off, the employee shall receive the equivalent of his/her customary work shift at straight time. Employees working a five (5) day, eight (8) hour shift, and not required to work the holiday, shall receive forty (40) hours pay for thirty-two (32) hours work and any work over 32 hours shall be considered overtime. Employees working shifts greater than eight (8) hours will be treated in a like manner.
  - F. Any full-time employee who is scheduled for a day off on a day which is observed as a city recognized holiday shall be entitled to receive a day off with pay. This would allow a day off with pay in addition to the employee's regularly scheduled day off. By mutual agreement of the supervisor and the employee, the holiday must be taken any day within the workweek in which the recognized holiday falls. In either case, once the holiday is set, it cannot be changed for any reason, including if the employee is sick on the designated holiday. Part-time employees receive pay for the holiday on a pro-rated basis.
- 8.5 MILITARY LEAVE: An employee who is a member of the organized National Guard of the State of Montana or who is a member of the organized reserve corps, or forces of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, shall be given leave of absence with pay, after six (6) months of employment, for attending regular encampments, training cruises, or similar training programs, not to exceed fifteen (15) working days per calendar year under military orders properly issued by military authorities. Such absence shall not be charged against other leave credits earned by the employee. Paid military leave is not intended for weekend duty or regularly recurring drill.
- 8.6 FUNERAL LEAVE: In the event of a death in the immediate family (spouse, parents, stepparents, brother, stepbrother, sister, stepsister, children, stepchildren, household dependents, grandparents, grandchildren, and all the same relatives of the employee's spouse in like degree) an employee shall be entitled to a maximum of 40 sick leave hours off, with pay, to attend the funeral. Funeral leave will be granted to common-law spouses as long as the common-law form is completed and on file in Human Resources.
- 8.7 JURY SERVICE AND SUBPOENA: The employee shall inform his/her supervisor immediately upon receipt of the notice of summons for jury duty or a witness subpoena so that proper scheduling may be maintained. Each employee who is under proper summons as a juror or subpoenaed as a witness shall collect all fees and allowance payable as a result of the service and forward the fees to the Employer. Juror and witness fees shall be applied against the amount due the employee from the City. However, if an employee elects to charge his juror or witness time against his annual leave, he shall not be required to remit to the Employer. In no instance is an employee required to remit any expense or mileage allowance paid by the court. Employees shall not lose cumulative benefits because of juror or witness service.
- 8.8 LEAVES WITH OR WITHOUT PAY:

- A. Employees may take leaves of absence with or without pay, subject to the prior approval of the Employer. Requests must be submitted in writing to the immediate supervisor within a reasonable time prior to the requested starting date. The request must also state the reason for the leave and the requested duration of the leave. The supervisor shall respond to the employee in writing giving the reasons for denial. With the exception of B. below, all vacation and compensatory time must be exhausted before a leave without pay may be requested.
- B. Any employee subject to this Agreement elected or appointed to public office shall be entitled to a leave of absence not to exceed one hundred eighty (180) days per year while such employee is performing public service. Any employee granted such leave shall make arrangements to return to work within ten (10) days following the completion of the service for which the leave was granted unless such employee is unable to do so because of illness or disabling injury certified to by a licensed physician.

8.9 GENERAL LEAVE PROVISIONS: Absence from work without permission constitutes just cause for discipline up to and including discharge.

## **ARTICLE 9 - INSURANCE**

9.1 ~~INDUSTRIAL ACCIDENT~~ **WORKERS' COMPENSATION** AND UNEMPLOYMENT: The Employer shall carry ~~Industrial Accident~~ **Worker's Compensation** Insurance on all employees. **(MCA 39-71-401)** The Employer shall make all necessary arrangements to insure that all employees covered by this Agreement will be covered by Unemployment Insurance.

9.2 HEALTH AND LIFE INSURANCE:

- A. The following language will apply to health insurance:
  - 1. Future contribution changes to the City's Health Insurance Plan shall be shared equally (50%/50%) between the employees and the City. Contribution changes can be either increases or decreases. Contribution adjustments can be either in dollars contributed or in modifications to the plan benefits. All modifications shall be with the approval of the Insurance Committee. It is the intent of the Committee to reach the consultant recommended reserve level over a period of time.
  - 2. Billings Health Insurance Committee: The City of Billings shall establish a City of Billings Health Insurance Committee to maintain a group health insurance plan for employees of the City of Billings and their dependents. The committee shall consist of 15 members appointed as follows:
    - a. Three (3) members of each employee union appointed by each union.

- b. Six (6) members appointed by the City Administrator. One (1) member shall be a retired city employee currently covered by the city health insurance plan.

The Committee will manage the City Health Insurance Plan and report directly to the City Administrator. The committee shall meet at least quarterly to:

- 1). Review the existing city group health insurance plan;
- 2). Review the claims experience, projections and plan problems;
- 3). Maintain the plan on a sound actuarial basis;
- 4). Be responsible for all changes in plan design, administrators or carriers;
- 5). Establish plan premium rates and cost sharing by both the City and the employees;
- 6). Advise the City Administrator on all other group insurance matters;
- 7). Decisions will be made by a simple majority vote where all members have one vote and can vote by absentee ballot.

**c. The Committee will periodically reevaluate the Plan to make sure the City is receiving the best cost and services.**

- B. Coverage shall be extended to all insurable employees and their insurable dependents, following the period of exclusion provided by the terms of the master insurance policy. All employees and dependents' participation and coverage shall be solely governed by the terms and conditions of the master insurance contract as signed by the City and the insurance carrier. Coverage shall be extended to only those employees while in an active pay status. Employees on an approved absence without pay may elect to continue their group coverage by directly paying the City the total premium cost during their absence.
- C. The Health and/or Accident Insurance coverage shall be extended to employees, on a leave of absence without pay, due to job related injury or illness, for a maximum of six (6) **consecutive** months. **The employee and dependents will become ineligible for active health insurance coverage after six (6) months, and will then be offered the option to elect COBRA coverage.**

## **ARTICLE 10 - GENERAL CONDITIONS**

10.1 UNION BULLETIN BOARDS: The Employer agrees to provide suitable space for the Union bulletin boards. There should be no more than one bulletin board per division, which shall be placed in an area generally frequented by employees, and not by the general public. The decision on size and placement of the bulletin boards shall be made by the Employer in consultation with officials of Teamsters Local #190.

Posting by the Union on such boards shall be confined to official business of the Union. In order to assure the Union and the Employer that only official business is posted on said bulletin boards, each announcement so posted shall have prior approval by the Secretary-Treasurer of Teamsters Local #190, or his designated representative.

It shall be the responsibility of the Union to monitor the bulletin boards.

10.2 SAFETY: Employees shall be required, in the performance of their duties, to:

- A. Exercise precaution;
- B. Use normal safe working practices;
- C. Observe and obey safety postings and rules;
- D. Use and care for required protective equipment and gear, as furnished by the City;
- E. Report all accidents to their supervisor as soon as reasonably possible.

The Employer will maintain all equipment in a safe working condition. However, it shall be the responsibility of the employee to immediately call to the supervisor's attention any unsafe condition. If an employee has safety concerns that are not addressed by the supervisor, then the employee needs to go to the Division Manager. The Division Manager will consult with qualified and/or certified experts and/or documentation, including but not limited to Fleet Services, OSHA manuals, and the Citywide Safety Committee. The Division Manager shall determine the corrections needed to remedy the situation. Less immediate safety concerns also should be reported to the Citywide Safety Committee. An employee will not be disciplined for reporting the safety concern to either the Division Manager, the Safety Committee or invoking his/her rights under city, state or federal laws.

The City of Billings will maintain a Citywide Safety Committee meeting the requirements of the Safety Culture Act administered by the Montana Safety and Health Bureau. Members will consist of Management and representatives from all Unions. It is agreed that the Teamster employees will be represented on the Citywide Safety Committee by three (3) Union selected members. The Citywide safety committee shall meet on a bimonthly basis and maintain a tracking system for items brought forward to the committee.

10.3 UNIFORMS: The City agrees to furnish eleven (11) sets of uniforms to all uniformed employees, currently receiving nine (9) sets and safety equipment, to employees during the term of this agreement. The City's contribution for safety shoes for those employees who are required to wear safety shoes will be \$130.00 per year. The City agrees to provide body armor to Airport Police, up to \$130.00 per year for shoes for Airport Police officers, any new Airport officer will be provided a duty weapon (caliber and design determined by the Director of Aviation & Transit), and mechanics will be provided eleven (11) sets of uniforms. Meter enforcement personnel will be provided a winter coat to be replaced on an as needed basis, and will have shorts added to the approved clothing list. Garage attendants will be provided three (3) tee shirts and three (3) sweatshirts. Safety equipment (i.e., glasses and steel-toed boots (does not include standard hard-soled work shoes/boots) as required by the City will also be provided if not previously required as part of the job.

City agrees to purchase overshoes for MET Transit employees and allow cargo shorts as a uniform selection.

City agrees to purchase four (4) polo shirts for the Police Support Specialists.

City agrees to a polo shirt for Parking Enforcement with "Parking" silkscreened on the back and the Parking Enforcement badge on the chest.

City agrees to provide \$255.00 per year for uniforms for drivers in the MET Transit division. In addition, the City agrees to provide a rain suit (jacket and pant) if requested by the driver.

10.4 PARKING: The City will provide free rooftop parking for all employees covered by this Agreement.

10.5 INSPECTION BY BUSINESS REPRESENTATIVES: The City of Billings agrees that Business Agents of the Union shall be given access at the places of business of the City during normal hours of operation, for the purpose of grievance investigation and handling and to ascertain whether or not the terms of this Agreement are being observed, providing the Business Agent notifies the supervisor prior to entering the place of business.

10.6 SHIFT TRADING: Upon approval of the supervisor any employee may exchange shifts or trade time with any qualified employee in their division. The practice of exchanging shifts or trading time will be a voluntary program (no penalty or cost shall be incurred against the City) by the employee in order to permit an employee to absent him/herself from work to attend purely personal pursuits. If an employee fails to cover an agreed to shift trade, he/she will lose their right to trade shifts for 3 months, with the exception of payback time/shifts already owed at the time of this contract.

10.7 VACANCY ANNOUNCEMENTS: When the Employer determines that a permanent position is vacant, the position will be posted on the bulletin boards City-wide on the nearest business

day before or after public notification. The announcement will contain the vacant position title, location, assigned hours and days of work, salary and the dates for applying. All employees interested in applying for the vacant position must apply in writing within the application dates through the Human Resources Office. On such vacancy announcements, the City shall also denote positions filled.

- A. The City and the Union agree that all Teamster designated position vacancies shall be filled by the City on the basis of experience, skill, training, job performance, disciplinary record, attendance record, and work-related references. Should these factors be relatively equal, the senior qualified employee shall be awarded the position. For purposes of this section, the most senior qualified employee is defined as the person with the most citywide seniority. In cases where it is contended that a promotion was arbitrarily made, the decision of the City shall be subject to review by the grievance process. If arbitration is held concerning the assertion that the City's decision was arbitrary, then the arbitrator shall decide and may consider the City's basis for making the hiring decision including the experience, skill, training, job performance disciplinary record, attendance record and work-related references, of the prevailing applicant.
- B. The City agrees that an interview shall be given **up** to ~~at least~~ the four (4) most senior teamsters' applicants who possess the minimum qualifications for the position.
- C. Employees shall not have the right to apply for posted job vacancies outside their present Division within one (1) year from the date of hire, transfer, or promotion. The City shall, however, have the right to waive this requirement by mutual agreement, if in the best interests of the City and it would result in maintaining the efficiency and productivity of the City's operations.
- D. The days of work for the advertised position shall remain as posted in the vacancy announcement for the first 30 calendar days from the date the position is filled.
- E. If an employee who successfully applies for a job returns to his old job within thirty (30) working days, the next qualified applicant (subject to paragraph C of the Article) will be awarded the job.

Within the first thirty- (30) working days on a new job, the employee may voluntarily return to his previous job. The employer may return an employee to his previous job at any time within thirty (30) working days. This time period may be extended with mutual agreement. Provided nothing herein shall prevent a voluntary trial period on a new position prior to actual transfer at the employee's option. If the employee returns to his or her previous position for either of the above reasons, the provisions of paragraph C will apply to that individual.

#### 10.8 JUSTIFIABLE CAUSE:

- A. Employees may be subject to disciplinary action by the Employer for just cause.
- B. For other than serious infractions, disciplinary action shall be based upon progressive discipline based upon warning letters, suspension and/or termination. The employee and the Union shall be notified in writing of any disciplinary action within fifteen (15) business days after the violation, or the first knowledge of the violation in question, is known to the City. **In cases where a due process hearing is involved this notification shall be increased to within twenty (20) business days.** However, both parties recognize that from time to time additional information may be needed and that hasty action would be detrimental to all parties. Therefore upon notification, the fifteen (15) business day period will be waived for a reasonable period of time.

~~Disciplinary notices shall be considered current and in effect for a period of twelve (12) months after the date of issue.~~ **All disciplinary notices will be considered current and in effect for a period of twenty-four (24) months after the date of issue.**

- C. New employees shall be on probation for a period of twelve (12) months from the date of their employment: All probationary employees may be discharged at the sole option of the Employer without recourse to the grievance procedure. Probationary periods for temporary employees shall begin on the first day of employment as a permanent employee in a new job classification. If a temporary employee becomes a permanent employee in the same position they held as a temporary employee both the probationary period and seniority shall run from their date of hire as a temporary employee.

10.9 CROSS-TRAINING: The City agrees to implement a means by which an employee may voluntarily cross-train in his/her department for a job task that carries a higher grade and rate of pay. In order for an employee to be eligible to participate in a cross-training program, he or she must possess the necessary aptitude and attitude as determined by the City. An employee in a cross-training program shall be paid at his/her regular rate of pay until such time as the employee is spending over twenty-four (24) cumulative work hours in one (1) work week in the higher pay grade position. Exception - The Communication Center can cross-train on an unlimited basis, without having to pay the higher pay rate, in order to train employees. The City agrees not to use cross-training individuals to fill full-time openings that should be put up for bid.

10.10 NEW HIRE NOTIFICATION TO UNION: The City agrees to notify the Union each Monday morning of all new hires within the bargaining unit excluding temporary help. However, the City agrees to notify the Union if the temporary help should become a full-time regular or part-time employee. The City shall also notify the Union of all terminations.

10.11 NON-DISCRIMINATION LANGUAGE: The Union and the City agree that no employee will be discriminated against on the basis of race, color, religion, sex, age, disability, or Union activity.

10.12 JOINT LABOR MANAGEMENT COMMITTEE: When appropriate, a Joint Labor/Management Committee shall be created in any department/or division, upon mutual agreement. This committee will be made up of no more than three (3) union employees and three (3) management employees. A business representative and a representative from Human Resources may also participate. This committee shall meet, as needed, during the life of this contract to discuss work issues. Recommendations will be made by consensus. If parties are unable to reach consensus, then the issue shall exit the Committee and each party will have the same rights and or obligations related to the issue that each had prior to the issue being submitted to the Committee.

10.13 CREATE, COMBINE OR RECLASSIFY JOBS: The Union recognizes the City's management right to create, combine or reclassify jobs during the duration of this contract. Whenever jobs are created, combined or reclassified, the City shall notify the local Union before the changes occur. The City shall be allowed to establish a temporary rate of pay for such job changes and will negotiate with the Union a regular rate of pay after the job duties for the position have been standardized.

10.14 MET Transit:

- A. For any blocks of work that have three (3) start times per day, the City will modify the block of work so that there are only two (2) start times per day. All future blocks of work will have no more than two (2) start times.
- B. City will change from 4 - 80 hour blocks of work to 9 - 80 hour blocks of work. City will change from 9 - 78 to 79 hour blocks of work to 11 - 78 to 79 hour blocks of work.
- C. Fulltime 40 hour Paratransit Blocks will have scheduled start times with variable end times that may fluctuate on a daily basis depending on demand from the ridership.

## **ARTICLE 11 - TERMS OF AGREEMENT AND NEGOTIATIONS**

This Agreement shall become effective on the 1st day of July ~~2013~~ **2015**, and shall continue in full force and effect through the 30th day of June ~~2015~~ **2018**.

The parties acknowledge that during the negotiations that resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that all the understandings and agreements arrived at by the parties after their exercise of that right and opportunity are set forth in this Agreement. Therefore, Employer and Union, for the life of this Agreement, each voluntarily and unqualified waives the right and releases the other from the obligation to bargain collectively with respect to any subject or matter referred to or covered in the Agreement, or with respect to any subject or matter not specifically referred to or covered in the Agreement, even

though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement. As well, this Agreement supersedes all prior written agreements or MOU's of any kind unless they are reduced to writing and incorporated into this agreement.

The foregoing waiver shall not be binding if the parties mutually agree to engage in collective bargaining, with respect to a particular subject or matter covered or not covered in this Agreement.

### **ARTICLE 12 - MINIMUMS CLAUSE**

The terms hereof are intended to cover only minimum wages, hours, working conditions and other employee benefits. Employer may place superior wages, hours, working conditions and other employee benefits in effect and may reduce the same to the minimums herein prescribed without the consent of the Union.

During the life of this Agreement or any extension thereof, neither party shall be obligated to bargain collectively with respect to any matter unless specifically required to do so under existing law or by the express terms of this Agreement.

### **ARTICLE 13 - SAVINGS CLAUSE**

Should any Article, Section, or portion thereof of this Agreement be held unlawful or invalid by any court or agency of competent jurisdiction, such decision shall apply only to the specific Article, Section, or portion thereof directly specified in the decision. Upon issuance of such a decision, the parties agree to negotiate immediately a substitute for the invalidated Article, Section, or portion thereof. Any City ordinance passed subsequent to the adoption of this Agreement that would contravene the terms of this Agreement shall not apply during the life of this Agreement.

### **ARTICLE 14 – NO STRIKE – NO LOCKOUT**

The Employer and Union agrees to the essential nature of services provided by its members to the public. In recognition of this fact, the Union agrees that there shall be no work interruptions, sympathy strikes, slowdowns, or strikes at any time during the Agreement. In the event of unauthorized interruptions, the Union agrees it will join the Employer in requiring its members to return to work immediately. The Employer agrees that there shall be no lockout of employees during the life of this agreement.

IN WITNESS WHEREOF, said parties of this Agreement hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, ~~2015~~ 2013.

**FOR THE CITY OF BILLINGS**

By: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

By: \_\_\_\_\_  
Billie Guenther, City Clerk

**FOR THE TEAMSTERS LOCAL 190**

By: \_\_\_\_\_  
Jim Larson, Secretary-Treasurer

ATTACHMENTS:

1. Departmental Order, Order Number 019B, Subject: Airport Standby/Pager Policy
2. Departmental Order, Order Number 20, Subject: ARFF/AFM Division Holiday Pay Policy
3. Letter of Understanding, Winter Overtime policy for the Department of Aviation & Transit ARFF/AFM employees.
4. Memorandum of Understanding on the City/County 911 Center breaks.
5. Memorandum of Understanding regarding City Ordinance Safety Issues
6. Memorandum of Understanding regarding ARFF/ARM Employee Standby Pay
7. Memorandum of Understanding Public Works Department – Treatment Plant Technicians
8. Teamster Range Placement Table (use updated titles)

Appendix: Random Drug/Alcohol and Reasonable Suspicion Policy

**July 1, 2004**

**DEPARTMENTAL ORDER  
ORDER NUMBER 019B**

**MEMORANDUM**

TO: All ARFF/AFM Employees  
FROM: Thomas H. Binford, A.A.E., Assistant Director of Aviation  
SUBJECT: **AIRPORT STANDBY/PAGER POLICY**  
CANCELLATION NO: 019A  
EFFECTIVE DATE: **July 1, 2004**  
APPROVED BY: J. Bruce Putnam, A.A.E., Director of Aviation and Transit

I. The following policy was developed to direct ARFF/Airfield Operations employees in regard to Division standby and pager requirements.

II. Standby requirements will be as follows:

1. Employees who are assigned to be on standby will be issued an electronic paging device and are required to remain available at all times, while off regular duty, and for call-outs.

A standby schedule listing employee names and associated hours of standby duty will be posted.

Additional personnel may be placed on standby as determined necessary by Airport Management.

2. Call-outs are used to manage ALL:
  - Snow Removal Operations
  - ARFF Emergencies
  - FAR Part 139 Violations – Airfield
  - FAR Part 107 Violations – Security
  - Other conditions/circumstances deemed urgent by Airport Management which are necessary for the safe operation of the Airport.
3. Upon activation of the pager tone, employees must acknowledge the page by calling Airfield Operations on the telephone at 657-8496, or on AIR 1 (800 MHz Radio) within fifteen (15) minutes to receive instructions.

After receiving instructions from a supervisor, or his/her designate to report to work, the employee shall respond to the Airfield Operations Building within one (1) hour.

If it is determined that not all of the employees on standby are needed at the time of the page, employees will be called out with regard to seniority and by function.

4. Standby pay shall be interrupted for all actual hours paid at the overtime rate. The overtime rate begins at the time the employee is notified and instructed to respond to work.
5. It is the responsibility of each employee using a pager to ensure that it is functioning properly at all times, and any problems associated with the paging system are immediately reported to the supervisor.
6. When it is determined that standby personnel are needed to respond, the ARFF/Airfield Operations employee on shift shall be responsible for the following:
  - Notification of the on-call supervisor prior to activating pagers.
  - Activating paging system.
  - Receiving call-backs from standby personnel on 657-8496.
  - Acknowledge response times of personnel called out.
7. Trading of standby shifts and requests for leave while on standby status must be approved by a supervisor.

## ARFF/AFM DIVISION HOLIDAY PAY POLICY

January 4, 1995

DEPARTMENTAL ORDER  
ORDER NUMBER 20

### MEMORANDUM

TO: All ARFF/AFM Employees  
FROM: Thomas H. Binford, A.A.E., Assistant Director of Aviation  
SUBJECT: **ARFF/AFM DIVISION HOLIDAY PAY POLICY**  
CANCELLATION NO: None  
EFFECTIVE DATE: November 2, 1994  
APPROVED BY: J. Bruce Putnam, A.A.E., Director of Aviation and Transit

- I. The following policy was developed to clarify how overtime is paid for holidays.
- II. ARFF/AFM Division Employee's customary work shift is recognized as eight (8) hours.
- III. As per Section 8.4,F of the Teamster Contract, employees working a five (5) day, eight (8) hour shift, and not required to work the holiday, shall receive forty (40) hours pay for thirty-two (32) hours work and any work over 32 hours shall be considered overtime. Employees working shifts greater than eight (8) hours will be treated in a like manner.
- IV. An employee working forty (40) hours in a week and a holiday falls on one of the employee's scheduled days off, that employee shall receive a maximum of eight (8) hours overtime for the holiday.

This policy has been reviewed and approved by the City Human Resources Director. Should you have questions concerning this Departmental Order, please see the Airfield Maintenance Supervisor.

cc: Departmental Orders  
Chrono  
Office Binder  
T. Binford  
B. Putnam  
K. Annin  
C. DeVeau

LETTER OF UNDERSTANDING **Replace with Signed Letter**

Effective: November 13, 2001

The City of Billings Aviation and Transit Department and the Teamster's Local Union #190 have agreed to the following:

- In order to maintain consistent and efficient operations during snow removal, the Aviation and Transit Department, ARFF/AFM Division may deviate from the seniority language in Article 2, Section 2.1 (H) of the present Agreement, effective July 1, 2001- June 30, 2004.
- The intent of this Letter of Understanding is to allow the scheduling of snow removal crews in a manner that maintains consistency with regard to assigned functions (ARFF or AFM work groups) and work shifts. Every effort will be made to limit short turn-a-round shifts and movement between morning and nighttime shift rotations.
- During all other overtime conditions, the ARFF/AFM Division will adhere to the present labor Agreement when assigning overtime.
- The Union and/or the City of Billings Aviation and Transit Department retains the right to cancel this Letter of Understanding at any time that (1) the provisions of this Letter no longer provide operational benefit, or (2) the union feels that the City is not complying with the intent of the Agreement.

In witness whereof, said parties of this Letter of Understanding have hereunto set their hands and seals this the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Dennis M. Taylor, City Administrator  
CITY OF BILLINGS

\_\_\_\_\_  
Joe Dwyer, Secretary-Treasurer  
TEAMSTERS, LOCAL 190

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE



# CITY OF BILLINGS

OFFICE OF CITY ADMINISTRATOR

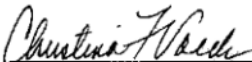
P.O. BOX 1178  
BILLINGS, MONTANA 59103  
(406) 657-8433  
FAX (406) 657-8390




## MEMORANDUM OF UNDERSTANDING

The purpose of this Memorandum of Understanding is to clarify Article 6.6, Breaks, as related to the City-County 9-1-1 Center. Both parties recognize that the work load of the 9-1-1 Center is very unpredictable and is driven by the public safety needs of the community. Therefore, as applied to the Center, the parties agree that the long-standing practice of allowing employees to take their breaks only when there is minimal impact to the operational requirements of 9-1-1 and the public safety dispatch services shall continue. Center employees shall be allowed a total of 30 minutes per 8 hour work shift, or 45 minutes for shifts over 11 hours, which may be taken in whatever increments the employee chooses so long as the 9-1-1 Center operation and efficiency is not affected.

In witness whereof, said parties of this Memorandum of Understanding have hereunto set their hands and seals this the 31<sup>st</sup> day of May, 2007.

  
\_\_\_\_\_  
Christina F. Volek  
CITY OF BILLINGS  
5/31/07  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
Joe Dwyer, Secretary-Treasurer  
TEAMSTERS, LOCAL 190  
5/31/2007  
\_\_\_\_\_  
DATE

*Billings Pride*  
City-wide

MEMORANDUM OF UNDERSTANDING

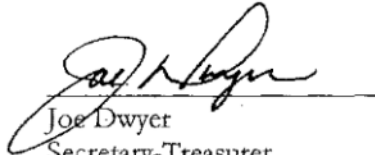
The City of Billings and Teamsters Local 190 enter into this Memorandum of Understanding regarding Article 5.5 Administrative Review Process of the Agreement between the City of Billings and Teamsters Local 190 as follows:

The decision of the Administrative Review Board, formed under Article 5.5 of the Agreement, shall be binding on both parties in the settlement of non-grievable disputes submitted to it.

Dated this 29th day of July, 2002



Dennis M. Taylor  
City Administrator  
City of Billings



Joe Dwyer  
Secretary-Treasurer  
Teamsters Local 190

**This Memorandum of  
Understanding is DELETED  
from the agreement**



**CITY OF BILLINGS**  
**OFFICE OF CITY ADMINISTRATOR**

P.O. BOX 1178  
BILLINGS, MONTANA 59103  
(406) 657-8433  
FAX (406) 657-8390



**Memorandum of Understanding**

**City Ordinance Safety Issues**

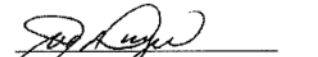
No later than 45 days from the ratification of the Collective Bargaining Agreement, the City agrees that employees will not be required to pick up yard rubbish in violation of City Ordinance, except in cases of emergency. The Union acknowledges that situations may arise in city parks or city streets that may require the removal of rubbish that is in violation of the City Ordinance and the City recognizes their obligation to authorize the necessary manpower and equipment to safely remove the rubbish in question.

Further, by October 1, 2007 a process will be developed with input from the union to develop a process to report safety issues to a City designated Safety Officer.

In witness whereof, said parties of the Memorandum of Understanding have hereunto set their hands and seals this the 28 day of June, 2007.

  
Christina F. Volek  
CITY OF BILLINGS

6/28/07  
DATE

  
Joe Dwyer, Secretary-Treasurer  
TEAMSTERS, LOCAL 190

6/28/07  
DATE

*Billings Trade*  
*City-wide*

Memorandum of Understanding  
Public Works Department – Treatment Plant Technicians

- The Technician IIA position will be renamed to a Technician III. The job description will remain the same except for changing the title from a Technician IIA to a Technician III and it will remain at the same grade of 181. Any employee currently classified as a Technician IIA will now be a Technician III.
- The Technician I will be paid at grade 156 for years 1 and 2 (no change).
- Beginning the third year, Technician I's will move to a new grade for Technician 2 of 171 (more than half way between a Technician I and the current Technician IIA).
- Once the Treatment Technician has completed the City's maintenance certification and completes four years of experience at the respective City of Billings facility, they will be promoted to a Technician III at grade 181 (same grade as a current Tech IIA).
- All existing employees in the Technician I classification as of July 1, 2011 will be addressed as per the attached table.
- All new employees hired as a Technician I or Technician II shall complete the steps required by the city for operator certification within one year from the date of hire and maintenance certification within four years from the date of hire.
- Both parties recognize that Water Treatment Technicians and Wastewater Treatment Technicians jobs are not interchangeable. The range placement table will be changed to reflect Water Treatment Plant Technicians I, II and III and Wastewater Treatment Technicians I, II and III at the grades discussed here. The job descriptions will be adjusted to reflect this change.
- All other practices and requirements regarding the Technicians remain the same.
- Any non-probationary employee that is currently classified as a Technician II as of July 1, 2011 will be grandfathered and will be at grade 179 (current grade for a Technician II). It is our understanding that this affects four employees at the wastewater treatment plant and no employees at the water treatment plant. There is only one probationary Technician I as of July 1, 2011, Ronald Hull at the Water Treatment Plant, and he will be required to complete the maintenance certification. Existing Technician II's are eligible to become Technician III's upon completion of the maintenance certification and four years of experience.
- With these changes, the Technician IA classification will no longer be needed.

- This applies to both water and wastewater and will be effective July 1, 2011.

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Christina F. Volek                      Date  
City Administrator  
City of Billings

---

Joe Dwyer                                      Date  
Secretary-Treasurer  
Teamsters, Local 190



**Pay Rate Change Teamsters 2015**

Range Number	Recommended Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
115	Library Svcs Spec I	10.5450	11.0653	11.6069	12.2015	12.7857	13.4546	14.0918
	Parking Garage Attendent							
130	Facilities Maint. Support I	12.1272	12.7219	13.3803	14.0174	14.7395	15.4829	16.2475
C30	Library Svcs Spec II	12.2122	12.8174	13.4759	14.1555	14.8139	15.5678	16.3643
	Parking Enforcement Officer							
	Pkg Garage Attnndt/Acct Clerk I							
	Stores Clerk							
135	Emergency Serv Opr (Training)	12.8281	13.4759	14.1555	14.8457	15.5891	16.3643	17.1820
	Library Svcs Spec III							
139	Pkg Meter Collection/Maint. Wkr	13.2635	13.9219	14.6333	15.3661	16.1200	16.9378	17.7873
C39	Account Clerk II	13.3590	14.0068	14.7183	15.4405	16.2156	17.0227	17.8723
	Account Clerk II/Courier							
	Administrative Support I							
	Building Permit Technician							
	Courtroom Collections Clerk							
	Library Svcs Spec IV							
	Municipal Court Baliff/Clerk							
	Permit Clerk							
	Police Support Specialist							
	140	Lead Fac Maint. Support I	13.4016	14.0600	14.7608	15.5041	16.2688	17.0758
147	Transit Service Worker	14.3573	15.0900	15.8227	16.6192	17.4475	18.3183	19.2315
	Vehicle Service Technician							
C47	Emergency Services Operator	14.4210	15.1537	15.9289	16.7042	17.5431	18.4457	19.3590
	Inventory Cntrl Spec							
	Transit Services Dispatcher							
C52	Emergency Serv Disp I	15.1643	15.9395	16.7148	17.5537	18.4669	19.3696	20.3253
154	Animal Control Officers	15.3980	16.1626	16.9802	17.8191	18.7006	19.6457	20.6333
	Facilities Maint. Support II							
	Landfill Attendant							
	Maintenance Worker							
C54	Crime Analyst	15.4829	16.2475	17.0545	17.9147	18.8174	19.7519	20.7289
	Identification Technician							
	Property/Evidence Technician							
	Senior Account Clerk							
156	Electrical Technician I	15.7059	16.4918	17.3307	18.1909	19.0828	20.0386	21.0368
	Field Service Representative							
	Mechanic I							
	Meter Maintenance Rep							
	Water Trt Plant Tech I							
	WW Trt Plant Tech I							



updated 7-1-2015

### Pay Rate Change Teamsters 2015

Range Number	Recommended Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
157	Lab Technician	15.8440	16.6510	17.4793	18.3395	19.2634	20.2509	21.2386
	Lead Transit Serv Dispatcher							
	On Call Transit/Paratrans Opr							
	Transit/Paratransit Opr							
159	Senior Animal Control Officer	16.1626	16.9802	17.8085	18.7112	19.6457	20.6333	21.6527
C59	Emergency Serv Disp II	16.2581	17.0652	17.9253	18.8280	19.7625	20.7395	21.7908
160	Plant Maintenance Electrician I	16.3324	17.1502	18.0209	18.9236	19.8581	20.8563	21.8970
161	Equipment Oper/Maint. Worker	16.5130	17.3413	18.2015	19.0934	20.0704	21.0581	22.1200
	Parks Maintenance Mechanic							
C61	Code Enforcement Clerk	16.5980	17.4156	18.2758	19.1996	20.1554	21.1749	22.2156
	Planning Clerk							
162	Combination Inspector I	16.6616	17.5006	18.3820	19.3165	20.2616	21.2811	22.3324
	Drafting Technician							
C69	Emergency Serv Disp III	17.9466	18.8493	19.7837	20.7819	21.8120	22.9164	24.0739
171	Library Technician	18.2333	19.1466	20.1023	21.1005	22.1518	23.2669	24.4350
	WW Trt Plant Tech II*							
	Water Trt Plant Tech II*							
175	AFM/Worker/Mechanic I	18.9660	19.9217	20.9306	21.9713	23.0545	24.2013	25.4120
	ARFF/Airfield Maint Worker							
	Sr. Equip/Operator/Maint Worker							
176	Building Maintenance Mechanic	19.1572	20.1130	21.1217	22.1837	23.2775	24.4669	25.6774
	Electrical Technician II							
	Facilities Maintenance Mech							
	Mechanic II							
177	Airport Police Officer	19.3590	20.3147	21.3448	22.4173	23.5218	24.6899	25.9323
	Arborist							
	Librarian							
178	Combination Inspector II	19.5501	20.5165	21.5571	22.6297	23.7553	24.9553	26.1977
179	Water Trt Plant Tech II (Grandfathered)	19.7412	20.7289	21.7589	22.8527	24.0102	25.1890	26.4526
	WW Trt Plant Tech II (Grandfathered)							
180	Mechanic III	19.9324	20.9412	21.9819	23.0757	24.2438	25.4438	26.7287
	Plant Maintenance Electrician II							
181	Electrical Technician III	20.1447	21.1536	22.2049	23.3199	24.4880	25.6987	26.9836
	Water Trt Plant Tech III							
	WW Trt Plant Tech III							
185	Combination Inspector III	20.9625	22.0032	23.1075	24.2651	25.4756	26.7500	28.0986
	Lead Airfield Maint Worker/Mech							
	Mechanic IV							
	Plant Maintenance Electrician III							
186	Lead Building Maintenance Mech	21.1749	22.2156	23.3412	24.4986	25.7412	27.0155	28.3535
	Lead Facilities Maint Mech			44				
195	AFM/Electrician II	23.0545	24.2013	25.4120	26.6650	28.0136	29.4048	30.8915

\*Wastewater and Water Treatment Techs advance to this grade after 2 years

## TEAMSTERS' RANDOM DRUG/ALCOHOL AND REASONABLE SUSPICION POLICY

### **PURPOSE:**

The purpose of this policy is to provide an alcohol and drug-free workplace for the protection and well being of the City of Billings, its employees, and the public it serves along with City property, equipment, and operations. Employees are expected to report to work alcohol and drug free in order to enable safe and efficient job performance. Employees, while on-the-job, while on department premises, or in the scope and course of employment are expected to engage in activities which are appropriate for the work environment and do not compromise the City's integrity or interest in maintaining a safe, secure, and alcohol and drug free workplace.

For purposes of random drug testing, employees who are required to have Commercial Driver's Licenses are subject to the Commercial Driver's License (CDL) policy for the random drug testing , not this policy. MET Transit drivers are subject to the Federal Transportation Administration (FTA) policy for random drug testing, not this policy. CDL employees and MET transit drivers are also subject to the reasonable suspicion and other directives, restrictions, and prohibitions that are set forth in this policy.

### **POLICY:**

The City of Billings is committed to protecting the safety, health, and well being of all employees and the individuals with whom the employees come into contact. Therefore, the City establishes an alcohol and drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

If there are employees who have drug or alcohol problems, the City encourages affected employees to seek help through the Employee Assistance Program (EAP) and the benefits available through the City's medical plan. The City will not terminate employment, discipline, or discriminate against an employee solely because an employee voluntarily seeks treatment for an alcohol or substance abuse problem by following the City's controlled substance safe-harbor procedures prior to any occurrence, including testing notification.

The unlawful manufacture, distribution, possession, sale, transfer, or use of illegal drugs; or illegal use of a legally obtainable drug or substance; or misuse of alcohol is strictly prohibited. Illegal possession of drug paraphernalia is prohibited. As a condition of employment, all employees must abide by this prohibition while in any employment capacity with the City, and while on City property, in any City vehicle, or at any City office or facility. All employees are expected to be at work without being under the influence of drugs and/or alcohol, including controlled substances, in order to enable safe and efficient job performance.

Violation of this policy will result in the discipline set out in the attached procedures.

The provisions of the Workforce Drug and Alcohol Testing Act, Sections 39-2-205 through 39-2-211, MCA, provide the basis for this policy.

## DEFINITIONS:

For the purposes of this policy.

**Alcohol** – means an intoxicating agent in alcoholic beverages, food, or medication; ethyl alcohol, also called ethanol; or the hydrated oxide of ethyl.

**Controlled Substance(s)** – means any drug, substance, or precursor included in Schedules I through V as defined by Section 812 of Title 21 of the United States Code (21 USC 812) or any drug, substance, or precursor included within the definition of "Dangerous Drug" in Title 50 Chapter 32 Part 2, Montana Code Annotated (for example, but not limited to: cocaine, marijuana, medical marijuana, and methamphetamine) For the purpose of this policy, the term 'controlled substance' does not include the use of prescribed drugs, which have been legally obtained and are being used in the manner and for the purpose for which they were prescribed. The term does not include distilled spirits, wine, malt beverages, or tobacco. It does include medical marijuana.

**Illegally Used Drugs / Illegal use of drugs** – means:

- a. any prescribed drug which is legally obtainable but has not been legally obtained or is not being used for prescribed purposes or in the prescribed manner;
- b. any other over-the-counter or non-drug substances (for example, but not limited to: airplane glue) being used for other than their intended purpose.

## EMPLOYEES SUBJECT TO THIS POLICY

- A. All part-time, full-time, and seasonal employees of the City of Billings engaged in the performance, supervision, or management of work in a hazardous work environment, security position, position affecting public safety, or fiduciary position are subject to Random Drug Testing. All part-time, full-time, and seasonal employees of the City of Billings are subject to Reasonable Suspicion Drug Testing.
- B. Prospective job applicants are subject to pre-employment testing and a positive test will result in the prospective employee not being hired. .

## **ROLES AND RESPONSIBILITIES:**

### **A. Employees are prohibited from:**

- Using, consuming, distributing, or possessing alcoholic beverages or illegal drugs while on duty or reporting for duty while under the influence of alcoholic beverages or illegal drugs.
- Use of, consumption of, distribution of, or possession of alcoholic beverages and illegal drugs by employees are prohibited in City worksites and at all times whether on duty or off duty. The term “worksites” includes City vehicles and private vehicles while being used by employees in the performance of their duties.
- Use, distribution, dispensation, possession, manufacture, or sale of (illegal drugs) while off duty which adversely affects the employee’s work performance, the safety of the employee or others at work, or the City’s regard of reputation in the community. This includes reporting to duty while under the influence of illegal drugs.
- Use of alcohol off duty that adversely affects the employee’s work performance, the safety of the employee or others at work, or the City’s regard or reputation in the community. This includes reporting to duty while under the influence of alcohol.

### **B. Employees shall notify Human Resources of any drug or alcohol criminal conviction no later than five (5) calendar days after conviction.**

### **C. Supervisors are required to:**

1. attend training sessions on alcohol misuse, controlled substance misuse, and the illegal use of drugs in the workplace when offered;
2. when reasonable suspicion is confirmed, initiate an alcohol/drug test as described in this policy;
3. refer employees to the City’s designated Substance Abuse Professional (SAP) under appropriate conditions for assistance in obtaining counseling and rehabilitation upon a finding of alcohol abuse, use of controlled substances or illegal use of legal drugs;
4. initiate appropriate disciplinary action upon a finding of alcohol use, controlled substance use, and/or the illegal use of legal drugs;
5. in conjunction with Human Resources, assist higher-level supervisors and the SAP Administrator in evaluating employee performance and/or personnel

problems that may be related to alcohol misuse, use of controlled substances or the illegal use of legal drugs; and

6. ensure confidentiality of all information regarding employee testing, disciplinary action and rehabilitation.

D. Human Resources shall:

1. direct and implement this program to ensure it is administered consistently;
2. consult with Department Head or designee in determining appropriate action for situations related to this program; and
3. ensure that all records and information of personnel actions taken against employees with verified positive test results remain confidential and only shared with individuals having a legal right to access.

#### **AUTHORITY TO IMPLEMENT PROCEDURES**

The City Administrator is authorized to develop and maintain procedures to enact this policy.

#### **PERIODIC REVIEW**

This policy will be reviewed by the City Council with each proposed new Teamster's Collective Bargaining Agreement.

## **PROCEDURES**

**Based on the Alcohol and Drug-Free Workplace Policy adopted by the City Council on \_\_\_\_\_, the following procedures are hereby adopted by Administrative Order \_\_\_\_\_. Changes to the policy or procedures that affect Teamsters employees will be bargained with that organization.**

### **I. EMPLOYEE ASSISTANCE PROGRAM**

- A. Any employee needing help in dealing with drug or alcohol problems is encouraged to use the City's Employee Assistance Program (EAP) and the benefits available through the City's medical plan. Additional information regarding the City's EAP available in Human Resource's Policy Manual-Employee Assistance Program Policy. Employees who have questions or need more detailed information should contact Human Resources. The City EAP plays an important role in preventing and resolving problem alcohol and drug use by:
1. Providing confidential counseling and assistance to employees and their qualifying family members who self-refer for treatment or whose tests have been verified positive and monitoring the employee's progress through treatment and rehabilitation;
  2. Providing educational materials and training to employees on alcohol & drug use issues;
  3. Ensuring the confidentiality of test results and related medical treatment and rehabilitation records, which they maintain.
- B. The EAP will not be involved in the collection of test samples or the initial reporting of test results. The City's designated testing professional will be responsible for such testing.

### **II. SAFE HARBOR REFERRAL**

- A. A fundamental purpose of the City's Alcohol and Drug-Free Workplace Policy and Procedures is to assist employees who themselves are seeking treatment for alcohol or controlled substance use or misuse of prescription drugs. For this reason, the City will not initiate disciplinary action against any employee regarding the disclosure of his or her drug or alcohol related problem when the employee meets all three of the following conditions:
1. Voluntarily identifies him/herself to Human Resources as an abuser\_of alcohol and/or illegal drugs and/or as someone who misuses prescription drugs, as they

apply to this policy, prior to being identified through other means, such as reasonable suspicion, or prior to being asked to provide a urine and/or breath sample for testing;

2. Obtains evaluation, counseling or rehabilitation from an approved facility; and
3. Thereafter refrains from using controlled substances or misusing prescription drugs and/or alcohol. The employee may be subject to a return-to-work agreement.

B. This provision is not intended to allow an employee to evade disciplinary action. The key to this provision's rehabilitative effectiveness is an employee's willingness to admit his/her problem. Since the key to this provision's rehabilitative effectiveness is an employee's willingness to admit the problem, this provision is not available to an employee who requests protection under this provision after:

1. Being identified through other means; or
2. Being asked to provide a urine sample for testing; or
3. Having a verified positive test result for alcohol and/or controlled substances pursuant to this policy.

C. Drug or alcohol related incidents that are subject to discipline and occurred prior to seeking Safe Harbor are not covered by Safe Harbor protections.

### **III. ALCOHOL, CONTROLLED SUBSTANCE AND/OR DRUG MISUSE**

These prohibitions apply while an employee is on duty in City-owned facilities, any City-owned property; any City owned or rented vehicle and any City approved activity

- A. Employees are prohibited from consuming alcohol or controlled substances or engaging in the illegal use of drugs while on duty, during an approved activity such as training, or while on standby.
- B. Employees are prohibited from reporting to work or to a City approved, work-related activity under the influence of alcohol or drugs.
- C. Employees are prohibited from reporting to work or to a City approved activity exhibiting signs of having consumed alcohol (such as the odor of alcohol on the breath) or controlled substances, or of engaging in the illegal use of drugs.

- D. This policy includes unanticipated call-out situations. If an employee cannot meet the requirements of call-out, it is his or her responsibility to tell a supervisor or person initiating the request to return to work that he/she cannot report to work. He/she shall suffer no reprisals for doing so.
- E. Alcohol is a legal substance for those ages 21 or older. Therefore, it is not the intention of this policy to prohibit employees from consuming alcohol when not on duty in paid status and the employee's performance of duties has concluded for the day. However, employees are expected to use good judgment and behave in a professional and respectable manner while attending events that are connected to their job duties.
- F. Misuse of drugs/and or alcohol as set out in this policy and these procedures or performing any duties under the influence of drugs and/or alcohol is a violation of this policy and will result in disciplinary action as set forth herein.
- G. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited.
- H. The illegal use of a legally obtainable drug or substance is prohibited.
- I. Use and possession of legally obtained prescription drugs when taken as prescribed and over-the-counter drugs is not prohibited by this part subject to the following:
  - 1. Employees who must use a prescription drug or over-the-counter medication that causes adverse side effects (e.g. drowsiness, impaired reflexes or reaction time) or may affect ability to perform work in a safe and productive manner must notify his or her supervisor prior to starting work or operating City equipment.
  - 2. A supervisor, under reasonable suspicion, *may* relieve an employee from duty if it is determined that a medication is causing impairment to an employee's ability to perform the functions of his or her job. The employee will be required to utilize his/her accrued sick or leave time until such time that the employee is no longer impaired by the medication. If the employee runs out of leave time he/she will then be placed in an unpaid leave status.

#### **IV. TYPES OF TESTING**

##### **A. Reasonable Suspicion Testing**

- 1. All employees will be tested for alcohol and/or controlled substances when there is reasonable suspicion of on-duty use or impairment. Reasonable suspicion testing may be based on, but not limited to:

- a. observable phenomena, including but not limited to direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol such as the odor of alcohol on the;
  - b. a pattern of abnormal conduct or erratic behavior;
  - c. conviction for a drug or alcohol-related offense. An employee will be tested only once for this conviction upon return to work.
  - d. evidence that the employee has tampered with a previous alcohol or drug test.
2. Although reasonable suspicion testing does not require certainty, mere hunches alone are not sufficient to meet the standard for a test.
  3. If an employee is suspected of using or being impaired by alcohol, controlled substances or illegal drugs in violation of this policy, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion and will present those for concurrence with another supervisor, up to and including the department head, if possible. The immediate\_supervisor, division head or\_department head will report the suspicion to Human Resources for further action if it is during the regular office hours of Human Resources.
  4. The employee shall remain on duty, but shall not be allowed to operate a vehicle or perform job functions until the circumstances are evaluated.
  5. Employees who are subject to reasonable suspicion testing shall be transported to and from the collection facility identified by the City as an appropriate collection site.  
After hours, when Human Resources is unavailable, the employee will be transported to a designated testing facility.
  6. Testing will be conducted in compliance with the selected collection site's protocols.
  7. The employee's division manager will, within 48 hours, prepare a written report on a Reasonable Suspicion Incident Record (attached), detailing the circumstances that formed the basis to warrant the testing. This report should include the appropriate dates and times of reported alcohol or drug-related incidents, reliable/credible sources of information, rationale leading to the test and the action taken. All documentation related to the determination shall be forwarded to Human Resources.

## B. Post-Incident Testing

1. Employees involved in critical incidents, on-the-job accidents, or who engage in unsafe on-duty job-related activities that pose a danger to themselves or others or the overall operation of the City shall be subject to testing. If the employee's act, or failure to act, results in:
  - a. Death; or
  - b. Personal injury requiring immediate emergency room or urgent care center treatment; or
  - c. Damage to government or private property estimated in excess of \$1,500; or
  - d. At the request of the employee.
2. An employee subject to post-incident testing shall remain immediately available for up to two (2) hours for such testing, or the City may consider the employee to have refused to submit to testing.
  - a. If there were extenuating circumstances that kept the employee from submitting to a test within 2 hours after the incident, Human Resources shall evaluate those circumstances and make the final determination as to whether or not it will be deemed a refusal.
  - b. An employee subject to post-incident testing shall not consume alcohol or drugs, either legal or illegal, prior to the testing. Exceptions may be made for previously prescribed maintenance medications and/or medications administered to treat any personal injury.
3. If a test under this provision is not administered within two (2) hours of the occurrence, the supervisor shall document the reason(s) why it was not promptly administered. If more than eight (8) hours pass, then no alcohol test will be administered. If more than thirty-two (32) hours pass, no drug test shall be administered. If either test is not completed, Human Resources shall document the reason(s) why.

#### C. Random Testing

1. Random testing for alcohol and/or controlled substances will be conducted on all employees before, during or after their scheduled shift.
2. Random tests will be unannounced and will occur throughout the calendar year.

3. The random selectees will be notified by a designated human resources representative using a lottery system conducted by an outside agency. The Random, the CDL, and the FTA testing will be conducted by the same agency. To ensure that all employees who have been designated for testing have an equal chance of being randomly tested, a scientifically valid random process is used.
  - a. The annual number of random alcohol tests will be no more than ten percent (10%) of the average number of employees subject to random testing.
  - b. The annual number of random drug tests will be no more than twenty-five percent (25%) of the average number of employees subject to random testing.
4. Human Resources will notify the employee's supervisor or designee and provide the name of the individual selected for random testing. The employee shall not be given advance notice of the scheduled testing. Upon notification by the supervisor, employees shall proceed immediately to the testing site.

**D. Substances Tested For During Reasonable Suspicion, Post-Incident and Random Testing**

1. The City will test for the following substances:
  - (a) Alcohol;
  - (b) Marijuana;
  - (c) Cocaine;
  - (d) Amphetamines;
  - (e) Opiates; and
  - (f) Phencyclidine (PCP).
2. The following cutoff concentration shall be applicable to determine whether specimens are negative or positive for the following drugs or classes of drugs utilizing the initial test procedure. The cutoff levels used by the Department's DHHS certified lab may change, and if so, those changes will be published in the Code of Federal Regulations and Federal Register and shall take precedence over the levels listed herein. All cutoff concentrations are expressed in nanograms per milliliter (ng/mL).

Type of drug or metabolite	Initial test	Confirmation test
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	(ng/mL)	(ng/mL)
(1) Marijuana metabolites		
(i) Delta-9-tetrahydrocanna-binol-9-carboxylic acid (THC)	50	15
(2) Cocaine metabolites (Benzoylecgonine)	150	100
(3) Phencyclidine (PCP)	25	25
(4) Amphetamines	500	250
(i) Amphetamine	500	250
(ii) Methamphetamine <sup>1</sup>		250
(5) Opiate metabolites	2000	
(i) Codeine		2000
(ii) Morphine		2000
(iii) 6-acetylmorphine (6-AM) <sup>2</sup>		10
(iv) MDMA <sup>6</sup>	500	250

<sup>1</sup> Specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/mL.

<sup>2</sup> Test for 6-AM in the specimen. This test conducted only when specimen contains morphine at a concentration greater than or equal to 2000 ng/mL.

<sup>6</sup> Methylenedioxymethamphetamine (MDMA).

3. Employees should be aware that use of hemp oil products will not be an acceptable defense for a positive Delta-9-tetrahydrocanna-binol-9-carboxylic acid (THC) test.
4. Alcohol shall be confirmed positive if both the initial and confirmation tests reveal a breath alcohol content of greater than .04 grams of alcohol per 210 liters of breath or higher. If the initial and confirmation test is above .02 but .04 or below, the employee will not be allowed to perform safety-sensitive functions until the start of his or her next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

#### E. Return to Duty and Follow-up Testing

1. After a verified positive test result for drugs and/or alcohol, employees must have a negative test result before returning to work.

2. All employees referred through administrative channels that undergo counseling or rehabilitation program will be subject to unannounced drug and/or alcohol testing for a period of one year following completion of such a program.
  - a. Such employees shall be tested at the frequency recommended by the SAP.
  - b. Return to duty testing is distinct from testing which may be imposed as a component of a rehabilitation program.
3. Confirmation of and continuing participation in a rehabilitation program, as recommended by SAP, is required of an employee returning to duty.
4. In some instances, SAP may require completion of a program prior to returning to duty.
5. The SAP will notify Human Resources when an employee has completed a rehabilitation program.
6. After an employee returns to work during or following a rehabilitation program, a single positive test result for alcohol or a controlled substance or the illegal use of a legal drug or failure to successfully complete the recommended rehabilitation program will result in referral to Human Resources, and the penalty for any conduct described in this part shall be termination of employment.

## **V. TEST PROCEDURES**

- A. Drug testing will be done by the split sample method. Testing services shall be provided by a designated contractor at a designated collection site with collection personnel trained in accordance with U.S. Department of Health and Human Services (DHHS) standards and analyzed by an independent DHHS certified lab. The personnel involved in testing and processing results are not employees of the City.
- B. Employees subject to testing shall comply with all requirements of the testing process and personnel. Employees will complete all requirements of initial and follow-up tests. Failure to do so will result in termination of employment.
- C. Procedures for Alcohol Testing

1. All alcohol tests will be by breath testing only.
2. Upon arrival at the collection site, the employee will show photo identification. Acceptable identification includes an actual Montana driver's license or department ID.
3. Initial breath alcohol testing.
  - a. Initial breath alcohol testing is performed by a Breath Alcohol Technician (BAT) who is employed by the collection facility and who is trained in the operation of an evidential breath testing device (EBT) as approved by the National Highway Traffic Safety Administration (NHTSA).
  - b. The employee will receive instructions such as 'blow with a strong continuous breath until advised to stop.'
  - c. If the result of the initial breath test is an alcohol concentration of .02 or greater, a confirmatory test shall be conducted.
4. Confirmation or verification alcohol breath testing
  - a. Confirmation/verification tests shall only be conducted by a Breath Alcohol Technician who is employed by the collection facility.
  - b. The confirmatory test may be conducted on the same EBT as the initial test.
  - c. Before the confirmatory test is given, the employee shall be observed for 20 minutes prior to testing and shall be instructed not to eat, drink, or place anything in his/her mouth until the conclusion of the breath test.
  - d. The employee will receive instructions such as 'blow with a strong continuous breath until advised to stop.'
  - e. Collection site personnel may require the employee to sign forms.
  - f. If the employee has any concerns following the testing process, the employee should advise a supervisor at the collection site, the employee's supervisor, or Human Resources.

D. Procedures for Drug Testing

1. An employee will be verbally notified by a supervisor that he/she has been chosen for a random drug test.
2. The employee will report immediately to the collection site.
3. The employee will strictly follow all directions from collection site personnel before, during, and after collection.
4. Upon arrival at the collection site, the employee will show photo identification. Acceptable identification includes an actual Montana driver's license or Departmental ID.
5. The employee will remove outer garments, such as a jacket or coat. The employee will not be required to remove clothing such as a shirt and pants, and will not be required to put on a hospital gown. All personal belongings, such as a bag or purse, must remain with the outer garments. The employee may retain a small wallet.
6. An employee subject to testing for controlled substances or illegally used drugs under this policy shall be permitted to provide urine specimens in private and in a restroom stall or similar enclosure so that the employee is not visually observed while providing the sample.
7. Collection site personnel may be within hearing range so they can confirm the sample was physically produced at that time.
8. The employee is encouraged to observe the entire collection procedure.
9. Collection site personnel may require the employee to sign forms.
10. If the employee has any concerns following the testing process, the employee should advise a supervisor at the collection site, the employee's supervisor, or Human Resources.

**VI. SPECIAL DRUG TESTING PROCEDURES**

## A. Direct Observation Testing

1. Collection site personnel of the same gender as the employee tested may observe the employee provide the urine specimen when:
  - a. Collection site personnel may have reason to believe that a particular individual has altered or substituted the specimen, or
  - b. the employee has previously tampered with a sample, or
  - c. the employee has equipment or implements capable of tampering with or altering urine samples.
2. Direct observation shall not be the norm.
3. In addition to the procedures listed under Random Testing, the procedure will include direct inspection of the employee with shirt lifted and trousers lowered.
4. Collection site personnel will directly observe the urine leaving the body and entering the collection container.

## B. Specimen Temperature Outside of Range

If the temperature of the specimen is outside the range of 32-38 degrees C / 90-100 degrees F or shows signs of contaminants, then there is reason to believe the donor may have altered or substituted the specimen, and another specimen shall be collected for testing under the direct observation of a representative from the collection facility.

## C. Dilute Sample

1. If the Medical Review Officer (MRO) notifies the City that an employee's test was positive and dilute, the test will be treated as verified positive. The employee shall not be required to submit another test.
2. If the MRO notifies the City that an employee's test was negative and dilute, and there is no acceptable medical explanation, the following procedures will be

followed. If the employee declines to complete or does not complete these procedures, it will be treated as a refusal.

- a. If the creatinine concentration of the dilute specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL, another sample will be collected under direct observation.
  - (1) This test will be conducted unannounced (with the minimum possible advance notice) as soon as possible after the initial test.
  - (2) The employee will be escorted by a supervisor immediately to the collection site.
  - (3) The employee will be directed not to ingest anything until after the test is completed.
  - (4) If the result of the direct observation test is also negative and dilute, the employee will not be required to take an additional test. The result shall be considered confirmed positive.
  
- b. If the creatinine concentration of the dilute specimen is greater than 5 mg/dL, another test will be collected, but shall not be conducted under direct observation, unless there is another basis for utilization of direct observation.
  - (1) This test will be conducted unannounced (with the minimum possible advance notice) as soon as possible after the initial test.
  - (2) The employee will be directed not to ingest anything until after the test is completed.
  
- c. If the 2<sup>nd</sup> specimen is positive and dilute, the test will be treated as positive.
  
- d. If the specimen is again negative and dilute, the following procedure will apply:
  - (1) If the creatinine concentration of the second dilute specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL, another test will be collected under direct observation in the same manner as listed under C2a above.
  - (2) If the result of this direct observation test is also negative and dilute, the employee will not be required to take an additional test because the result was dilute. The result shall be considered confirmed positive.
  - (3) If the creatinine concentration of the second dilute specimen is greater than 5 mg/dL, the employee will not be required to take an additional test because the result was dilute. The test will be considered negative.

#### D. Insufficient Urine Specimen Volume

45mL of urine is required to constitute sufficient testing volume. If the employee does not provide sufficient volume, the following “shy bladder” procedures will apply. If the employee declines to complete or does not complete these procedures, it will be treated as a refusal.

For purposes of this section, permanent or long-term medical conditions are those physiological, anatomic, or psychological abnormalities documented as being present prior to the attempted collection, and considered not amenable to correction or cure for an extended period of time, if ever. Examples would include destruction (any cause) of the glomerular filtration system leading to renal failure; unrepaired traumatic disruption of the urinary tract; or a severe psychiatric disorder focused on genito-urinary matters. Acute or temporary medical conditions, such as cystitis, urethritis or prostatitis, though they might interfere with collection for a limited period of time, cannot receive the same exceptional consideration as permanent or long-term conditions.

#### E. Shy Bladder Procedure:

1. The insufficient specimen will be discarded. Specimens may not be combined.
2. Employees will be advised to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. The employee may decline to drink, but will still be required to provide a sufficient urine specimen.
3. The employee shall remain in the testing area under observation during the three hour period.
4. If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection attempt will be discontinued, and the employer will be notified.
5. The employee will be directed to obtain, within seven calendar days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee’s failure to provide a sufficient specimen. (The MRO may perform this evaluation if the MRO has appropriate expertise.)
6. After completing the evaluation, the referral physician must provide a written statement of his/her recommendations and the basis for those to the MRO. Detailed information on the employee’s medical condition beyond what is necessary to explain the conclusion must not be in this statement. The MRO will seriously consider and assess the referral physician's recommendations in making

a determination about whether the employee has a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. The MRO will notify Human Resources as soon as a determination is made.

- a. If the employee refuses to obtain the evaluation, the test will be deemed a refusal.
- b. If the evaluation determines the employee has a medical condition, and the medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine, the test will be cancelled.
- c. If the evaluation determines that the employee's medical condition is a serious and permanent or long-term disability that is highly likely to prevent the employee from providing a sufficient amount of urine for a very long or indefinite period of time, the MRO will conduct a further medical evaluation to determine if there is clinical evidence that the employee is using a controlled substance or illegally using drugs.
  - (1) If the medical evaluation reveals no clinical evidence of controlled substance use or illegal use of drugs, the test result shall be negative.
  - (2) If the medical evaluation reveals clinical evidence of controlled substance use or illegal use of legal drugs, the test result shall be cancelled. (Because this is a cancelled test, it does not serve the purposes of a negative test, i.e., the employer is not authorized to allow the employee to begin or resume duty, because a negative test is needed for that purpose).
- d. If the evaluation determines that there is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine, the test will be considered a refusal.

## **VII. TEST REFUSAL**

A. Refusals will result in administrative action the same as if the test was verified positive. In the case of a breath test refusal, administrative action will be the same as if the test was verified in excess of .04.

B. Employees will be considered to have refused testing if they:

1. Refuse to provide a specimen; or
2. Refuse to complete all required tests as directed; or
3. Fail to report for a required test at the scheduled time; or
4. Engage in conduct that clearly obstructs the testing process; or
5. Tamper with the test; or
6. Alter or substitute the specimen; or
7. Fail to provide adequate breath or specimen volume without a verified medical explanation.

### **VIII. DEFERRAL OF TESTING**

- A. An employee selected for random drug and alcohol testing may obtain a deferral of testing if Human Resources concurs that a compelling need necessitates a deferral on the grounds that the employee is:
  1. In a leave status (sick, annual, administrative or leave without pay); or
  2. In official travel status away from the test site or imminently embarking on official travel scheduled prior to testing notification.
- B. An employee whose random drug and/or alcohol test is deferred will be subject to testing on his/her next regularly scheduled work shift.

### **IX. POSITIVE TEST RESULT PROCEDURE**

- A. Samples testing positive for controlled substances or illegally used drugs will undergo further testing to identify the specific type of drug(s) or substance(s) in the specimen.
- B. The applicant or employee will be contacted by the MRO and have the opportunity to provide an explanation of a positive result, which may include providing medical documentation of lawful use of a prescription or over-the-counter medication.
- C. If the MRO determines there is no justification for the positive result, such result will then be considered a verified positive test result.
- D. The MRO shall notify Human Resources of a verified positive test result.
- E. The MRO will notify the employee of the verified positive test result. Once notified, the employee may within 72 hours of notification request the split specimen be tested by another DHHS certified lab.
- F. If the employee is unable, for a legitimate reason, to make this request within the 72 hour period, the split specimen test will automatically be conducted.

G. The employer shall pay for the additional test if the additional test results are negative, and the employee shall pay for the additional tests if the additional tests are positive.

## **X. FINDINGS AND ADMINISTRATIVE DISCIPLINARY ACTION**

A. An employee may be found in violation of this policy on the basis of any appropriate evidence including, but not limited to:

1. Direct observation of prohibited alcohol use or drug use including misuse of prescription medication; or
2. Evidence obtained from an arrest or criminal conviction for a drug or alcohol related offense; or
3. A verified positive test result; or
4. An employee's voluntary admission, unless the employee is meeting the requirements as outlined under the Safe Harbor Referral; or
5. Test refusal.

B. An employee who is found to be in actual and illegal possession of a controlled substance, illegally used drug, and/or related paraphernalia while on duty and in or at any City-owned facility, City-owned property, City-approved activity, or City-owned vehicle, will be investigated and will be subject to termination. He/she may be prosecuted under the applicable state or federal law (refer to Federal Controlled Substances Act Title 21 United States Code, Offenses Involving Dangerous Drugs Title 45 Chapter 9 Montana Code Annotated, and Model Drug Paraphernalia Act Title 45 Chapter 10 Montana Code Annotated.)

C. Effects of Positive Drug Testing Results

1. Any employee receiving his or her first verified positive test for a controlled substance will be referred to Human Resources, and will be subject to mandatory administrative action including referral to the SAP, and one (1) day leave without pay. A second positive test indicating drugs and/or alcohol will result in termination of employment.
2. Any employee receiving his or her first verified positive test for illegally used drugs, i.e., prescription medication or over-the-counter medication, shall be referred to Human Resources and will be subject to mandatory administrative action including referral to the SAP, and to one (1) day leave without pay. A second positive test indicating drugs and/or alcohol will result in termination of employment.

3. Successful completion of any rehabilitation recommended will be a condition of continued employment.
  - a. The cost of rehabilitation will be the responsibility of the employee.
  - b. Employees may be allowed to use accrued leave (Sick leave followed by vacation and/or compensatory leave) to complete rehabilitation until such leave is exhausted, at which time the employee may be allowed to go on unpaid leave.
  - c. The employee remains responsible for successful completion of the SAP designated treatment program, and assertions regarding the effectiveness of a program shall not constitute either an acceptable explanation or excuse for continuing to misuse alcohol and/or drugs or a defense to disciplinary action if the employee does not complete treatment.
4. The City may initiate action to terminate an employee for refusing to obtain and complete counseling or rehabilitation through an SAP or a state licensed facility as recommended by SAP.
5. The employee must have a negative test result before returning to work.
6. The employee shall be subject to a return-to-duty agreement.
7. Following a verified positive test and after returning to duty, the employee will be subject to unannounced testing for a period of time determined by the SAP.

#### D. Effects of Positive Alcohol Testing Results

1. When an employee is found to be in violation of the alcohol provisions of this policy, he or she shall be referred to Human Resources and will be subject to mandatory administrative action, including referral to the SAP and one (1) day leave without pay. A second positive test indicating drugs and/or alcohol will result in termination of employment.
2. If the employee is retained, the SAP's recommended rehabilitation will be a condition of continued employment.

- a. The cost of rehabilitation will be the responsibility of the employee.
  - b. Employees may be allowed to use accrued leave to complete rehabilitation until such leave is exhausted at which time the employee may be allowed to go on unpaid leave.
  - c. The employee remains responsible for successful completion of a treatment program, and assertions regarding the effectiveness of a program shall not constitute either an acceptable explanation or excuse for continuing to misuse alcohol and/or drugs or a defense to disciplinary action if the employee does not complete treatment.
3. The City may initiate action to terminate an employee for refusing to obtain counseling or rehabilitation through an SAP or a state licensed facility.
  4. The employee must have a negative test result before returning to work.
  5. The employee shall be subject to a return-to-duty agreement.
  6. Following a verified positive test and after returning to duty, the employee will be subject to unannounced testing for a period of time determined by the SAP.
  7. Any subsequent positive test for alcohol use will subject the employee to termination of employment.
  8. An employee with a first breath alcohol test which shows a breath alcohol content of .02 or greater but .04 or less may not return to duty for the remainder of the scheduled work day and must take sick leave for the remainder of his/her shift. The employee shall have a negative test result before returning to work.

## **XI. RECORDS AND REPORTS**

- A. The employee's privacy shall be maintained. All testing information specifically relating to individuals pursuant to this program and any intervention steps, including referral for treatment, counseling or rehabilitation programs, is confidential and shall be treated as such by everyone authorized to review or compile program records.

- B. In order to efficiently implement this requirement and to make information readily retrievable, Human Resources shall maintain all records relating to testing, suspicion of tampering, and any other authorized documentation necessary to implement this policy. Such information shall remain confidential, with only authorized individuals who have a need-to-know having access to them.
- C. The results of a test of an employee for alcohol, controlled substances, or illegally used drugs along with all information, interviews, reports, statements, and memoranda will not be disclosed to an outside entity without the prior written consent of such employee, unless the disclosure is:
1. to the tested employee;
  2. to the MRO;
  3. to the SAP in which the employee is receiving counseling or treatment or is otherwise participating;
  4. to the Human Resources Director, the Department Director, and the City Administrator, the Assistant City Administrator or people with the legal right to access;
  5. pursuant to the order of a court of competent jurisdiction or where required by the Department to defend against any challenges of adverse personnel action by the City;
  6. report information that is required by law to be reported to a state or federal licensing authority in response to inquiries relating to a workplace accident involving death, physical injury, or property damage in excess of \$1,500 when there is reason to believe that the tested employee may have caused or contributed to the accident.
- D. Test results with all identifying information removed may be used for data collection and other activities necessary to comply with testing requirements.
- E. Information obtained through testing that is unrelated to the alcohol use, controlled substance use, or illegal use of a drug must be held in strict confidentiality by the Medical Review Officer and may not be released to the employer without the written consent of the employee tested.

## **XII. ADDITIONAL PROVISIONS**

- A. Department Educational Program: Annually, employees will be provided with information regarding controlled substances, alcohol, and illegal use of drugs. All supervisors shall receive training in compliance with 49 CFR 382.603.
- B. Notification of Conviction: Any employee who is convicted of a criminal drug or alcohol related violation must notify the City within five (5) calendar days of the conviction. A conviction, a plea of guilty, a plea of no contest, receiving a suspended imposition of a sentence, and a withheld judgment will all be considered the same as a conviction. This obligation to report applies even to deferred prosecutions and deferred impositions of sentence.
- C. Limitation of Adverse Action: No adverse action, including follow-up testing, may be taken by the employer if the employee presents a reasonable explanation confirmed by the MRO indicating that the original test results were not caused by the use of controlled substances, by alcohol consumption, or by the illegal use of drugs. Reasonableness shall be determined by Human Resources. If the employee presents a reasonable explanation confirmed by the MRO, the test results must be removed from the employee's record and destroyed.
- D. Employee's Right of Rebuttal: The employer shall provide an employee or prospective employee who has been tested under any qualified testing program with a copy of the test report. The employee or prospective employee will be given the opportunity to provide notification to the Medical Review Officer of any medical information that is relevant to interpreting test results, including information concerning currently or recently used prescription or nonprescription drugs. The employer is also required to obtain an additional test of the split sample by an independent laboratory selected by the person tested at the request of the employee. (See Section XI.) The employee must be provided the opportunity to rebut or explain the results of any test.
- E. New Employee Notification: Applicants for City positions will be informed about the drug-free workplace policy on the vacancy announcement. During the screening process applicants will be notified of the testing requirements and that appointment to the position is contingent upon a negative pre-employment drug test. Upon hiring, new employees will receive a copy of the policy in the Employee Policy Handbook.
- F Employee Policy Confirmation Receipt: Employees will be required to sign a statement that confirms that he/she has received a copy of the alcohol and drug-free workplace policy. The statement will be maintained in the employee's personnel file.

G. Cost: Testing will be at the employer's expense: If an employee contests the verification test results, another test will be conducted. If that test is positive, the employee will be responsible for payment. If it is negative, the employer will be responsible for payment. Employees will be compensated at the employee's regular rate, including benefits, for time attributable to the testing program.

H. Unintentional Ingestion: Any employee who unintentionally ingests a controlled substance shall immediately report the incident to his/her supervisor so that appropriate medical steps may be taken to ensure the employee's health and safety.

I. Voluntary Testing: Employees may volunteer for testing as part of a City investigation. The employee must cooperate with all parts of the test and complete all requirements of collection site personnel.

### **XIII. RESERVATIONS**

Employees who are enrolled in and are participating in, or have completed a supervised rehabilitation program and are no longer engaging in the misuse of alcohol, use of controlled substances, or illegal use of drugs, shall be protected from discrimination and harassment in accordance with the Americans with Disabilities Act of 1990. This prohibition does not preclude follow-up testing.

This program is intended to carry out the City's Alcohol and Drug-Free Workplace Policy. All situations will be handled in accordance with this policy and in consultation with representatives of Human Resources.

### **XIV. POLICY AND PROCEDURE DEFINITIONS**

**Adulterant** – Adulterating substance or agent aimed to corrupt, debase, or make impure.

**Adulterated specimen** – A urine specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration.

**Alcohol** – means an intoxicating agent in alcoholic beverages, food, or medication; ethyl alcohol, also called ethanol; or the hydrated oxide of ethyl.

**Alcohol concentration** – means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

**Breath Alcohol Technician (BAT)** – A person who instructs and assists individuals in the alcohol testing process and operates an EBT.

**Cancelled test** – A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test. Having a cancelled test does not relieve the employee of the responsibility to provide a test that produces a measured outcome.

**Collection site** – A place designated by the employer where employees present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs or providing a breath sample to be analyzed for the presence of alcohol.

**Confirmation test** - For alcohol, a second test following a screening test with a result of 0.02 or greater that provides a measure of alcohol concentration. For controlled substances and illegally used drugs testing, an analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screening test and which uses a different technique and chemical principle from that of the initial screening test in order to ensure reliability and accuracy.

**Controlled Substance** – means any drug, substance, or precursor included in Schedules I through V as defined by Section 812 of Title 21 of the United States Code (21 USC 812) or any drug, substance, or precursor included within the definition of "Dangerous Drug" in Title 50 Chapter 32 Part 2, Montana Code Annotated (for example, but not limited to: cocaine, marijuana, methamphetamine.) For the purpose of this policy, the term 'controlled substance' does not include the use of prescribed drugs, which have been legally obtained and are being used in the manner and for the purpose for which they were prescribed. The term does not include distilled spirits, wine, malt beverages, or tobacco. It does include medical marijuana.

**Conviction** – means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug or alcohol statutes.

**Critical Incident** – means any incident in which someone is killed or is seriously injured.

**Dilute specimen** – means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Direct observation** – means an employee being directly observed while providing a urine sample. The procedure will include direct inspection of the employee with shirt lifted and trousers lowered and will include direct observation of urine leaving the body and entering the collection container.

**Employee** – All part-time, full-time, , and seasonal employees of the City of Billings engaged in the performance, supervision, or management of work in a hazardous work environment, security position, position affecting public safety, or fiduciary position. It does not include an independent contractor. The term includes an elected official.

**Employee Assistance Program (EAP)** – means a contract-based counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range

of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

**Employer** – means the City of Billings.

**Evidential Breath Testing Device (EBT)** – means an instrument reliable in measuring alcohol concentration in breath, which meets the National Highway Traffic Safety Administration specifications and is listed in the conforming products list of evidential breath testing devices.

**Hazardous work environment** includes but is not limited to positions:

- i. For which controlled substance and alcohol testing is mandated by federal law, such as aviation, commercial motor carrier, railroad, pipeline, and commercial marine employees;
- ii. That involve the operation of or work in proximity to construction equipment, industrial machinery, or mining activities; or
- iii. That involves handling or proximity to flammable materials, explosives, toxic chemicals, or similar substances.

**Illegally Used Drugs / Illegal Use of Drugs** – means:

- A. any prescribed drug which is legally obtainable but has not been legally obtained or is not being used for prescribed purposes or in the prescribed manner;
- B. any other over-the-counter or non-drug substances (for example, but not limited to: airplane glue) being used for other than their intended purpose.

**Initial test or Screening test** – means a test for controlled substances or illegally used drugs to eliminate “negative” urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing. In alcohol testing, an analytical procedure to determine whether an employee has a prohibited concentration of alcohol in his or her system.

**Insufficient urine specimen** – means less than the 45mL of urine required to constitute a sufficient testing volume. An insufficient specimen will prompt “shy bladder” procedures.

**Medical Review Officer (MRO)** –Means a licensed physician trained in the field of substance abuse.

**Precursors** – means a biochemical substance which can be processed or synthesized into one of the categories of drugs to be tested under this policy.

**Prospective employee** means an individual who has made a written or oral application to the City of Billings to become an employee. **Qualified testing program** – means a program to test for the presence of controlled substances and alcohol that meets the criteria set forth in sections 39-2-207 and 39-2-208 Montana Code Annotated. **Random testing** – means a system of drug and alcohol testing imposed without individualized suspicion that a particular

employee is using controlled substances, alcohol, or illegally using drugs. The system is a statistically random sampling of such employees based on a neutral criterion, such as social security numbers.

**Referral Physician** – means a licensed physician, acceptable to the MRO, who has expertise in the medial issues raised when an employee provides and insufficient urine specimen. The MRO may act in this capacity if he/she has appropriate expertise.

**Return-to-Duty Agreement** – means an agreement between the City and an employee that allows an employee continued employment under stringent guidelines prohibiting use of drugs and alcohol. An employee's failure to meet the terms of the agreement, which may include successfully passing tests for alcohol and/or controlled substances and/or illegally used drugs, shall result in termination.

**Sample** – means a urine specimen, a breath test, or oral fluid obtained in a minimally invasive manner and determined to meet the reliability and accuracy criteria accepted by laboratories for the performance of drug testing that is used to determine the presence of a controlled substance or alcohol.

**Shy bladder procedure** – means the procedure that is followed when an employee does not provide a sufficient urine volume (45mL) for testing.

**Split specimen** – means, in drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

**Substance Abuse Professional (SAP)** – the City's substance abuse professional who evaluates employees who have violated drug and alcohol policies and makes recommendations concerning education, treatment, follow-up testing, and after care.

**Supervisor** – means a non-bargaining employee who exercises supervision of one or more employees.

**Unannounced test** – means a test for alcohol, control substances, and/or illegally used drugs previously scheduled and announced only to the employee just prior to the scheduled time, allowing only appropriate time for the employee to immediately proceed directly to the scheduled testing site.

**Under the Influence/Impaired** – When an employee is affected by a drug or alcohol or a combination of a drug and alcohol. The symptoms of influence and/or impairment are not confirmed to those consistent with misbehavior, or to obvious impairment of a physical or mental ability such as slurred speech or difficulty in maintaining balance. A determination of use, influence, and/or impairment can be established by a professional opinion, urine, blood or any other commonly used scientific valid tests and in some cases by a lay person's opinion. An employee will be presumed to be impaired and in violation of this policy whenever the presence of drugs is detected at levels determined by the testing laboratory as constituting a positive

indication for drugs. An employee will be presumed to be impaired by positive indication for drugs. An employee will be presumed to be impaired by alcohol whenever the presence of alcohol is detected at a level of .04% or greater.

**Verified Positive Test Result for Alcohol** – means the presence of alcohol in the breath at a level of greater than .04 as confirmed by two tests with evidential breath testing devices and administered by a trained and certified Breath Alcohol Technician.

**Verified Positive Test Result for Drugs** – means a test result that was positive for a controlled substance or illegally used drug on an initial FDA-approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, (or other confirmation tests approved by the U.S. Department of Health and Human Services), and reviewed and verified by the Medical Review Officer in accordance with this policy and the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

#### REFERENCES:

Montana Workforce Drug and Alcohol Testing Act  
39-2-205 through 39-2-211 Montana Code Annotated (MCA)

Procedures for Transportation Workplace Drug and Alcohol Testing Programs  
Title 49 Part 40 (and Part 382) Code of Federal Regulations (CFR)

Federal Controlled Substances Act  
Title 21 United States Code (USC)

Offenses Involving Dangerous Drugs and Procedural Provisions  
Title 45 Chapter 9 Montana Code Annotated (MCA)

Model Drug Paraphernalia Act  
Title 45 Chapter 10 Montana Code Annotated (MCA)

Controlled Substances Codes

Title 50 Chapter 32 Montana Code Annotated (MCA)