

MASTER LABOR AGREEMENT BETWEEN  
CITY OF HOPKINS  
AND  
HOPKINS POLICE PUBLIC SERVICE OFFICER  
(L.E.L.S. LOCAL #143)

January 1, 2021- December 31, 2021

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**ARTICLE 1 PURPOSE OF AGREEMENT**

This Agreement is entered into between the City of Hopkins, hereinafter called the Employer, and the Hopkins Public Service Officer, L.E.L.S. Local #143, hereinafter called the Union. It is the intent and purpose of this Agreement to:

- 1.1 Establish procedures for the resolution of disputes concerning this Agreement's interpretation and/or application; and
- 1.2 Place in written form the parties' agreement upon terms and conditions of employment for the duration of this Agreement.

**ARTICLE 2 RECOGNITION**

- 2.1 The Employer recognizes Law Enforcement Labor Services, Inc. as the exclusive representative, under Minnesota Statutes, Section 179.71, Subdivision 3, for all police personnel in the following job classification:

All Public Service Officers employed by the City of Hopkins Police Department, Hopkins, Minnesota, whose employment service exceeds the lesser of 14 hours per week or 35 percent of the normal workweek and more than 100 workdays per year, excluding all other employees.

- 2.2 In the event the Employer and the Union are unable to agree as to the inclusion or exclusion of a new or modified job class, the issue shall be submitted to the Bureau of Mediation Services for determination.

**ARTICLE 3 DEFINITIONS**

- 3.1 UNION: The Hopkins Public Service Officer, L.E.L.S. Local #143
- 3.2 UNION MEMBER: A member of the Hopkins Public Service Officer Local #143
- 3.3 EMPLOYEE: A member of the exclusively recognized bargaining unit.
- 3.4 DEPARTMENT: The City of Hopkins Police Department.
- 3.5 EMPLOYER: The City of Hopkins.
- 3.6 CHIEF: The Chief of the Hopkins Police Department.
- 3.7 OFFICER: Officer elected or appointed by the Hopkins Public Service Officer Local #143
- 3.8 BASE PAY RATE: The Employee's hourly pay rate exclusive of overtime, court time pay or any special allowance.

- 3.9 OVERTIME: Work performed at the express authorization of the Employer in Excess of the Employee's scheduled shift.
- 3.10 SCHEDULED SHIFT: A consecutive work period including rest breaks and a lunch break.
- 3.11 REST BREAKS: Periods during the SCHEDULED SHIFT during which the Employee remains on continual duty and is responsible for assigned duties.
- 3.12 TRAINING: Actual hours spent on assigned training shall be credited to the fulfillment of the normal work year. Travel time to and from training sessions will not be credited.
- 3.13 LUNCH BREAK: A period during the SCHEDULED SHIFT during which the Employee remains on continual duty and is responsible for assigned duties.

**ARTICLE 4 EMPLOYER SECURITY**

The Union agrees that during the life of this Agreement that the Union will not cause, encourage, participate in or support any strike, slow-down or other interference with the normal function of the Employer.

**ARTICLE 5 EMPLOYER AUTHORITY**

- 5.1 The Employer retains the full and unrestricted right to operate and manage all manpower, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct, and determine the number of personnel; to establish work schedules, and to perform any inherent managerial functions not specifically limited by this Agreement.
- 5.2 Any term and condition of employment not specifically established or modified by this Agreement shall remain solely within the discretion of the Employer to modify, establish, or eliminate.

**ARTICLE 6 UNION SECURITY**

- 6.1 The Employer shall deduct from the wages of Employees who authorize such a deduction in writing an amount necessary to cover monthly Union dues. Such monies shall be remitted as directed by the Union.
- 6.2 The Union may designate Employees from the bargaining unit to act as Steward and an alternate and shall inform the Employer in writing of such choice and change in the position of Steward and/or alternate.
- 6.3 The Employer shall make space available on the Employee bulletin board for posting Union notice(s) and announcement(s).

6.4 The Union agrees to indemnify and hold the Employer harmless against any and all claims, suits, orders, or judgments brought or issued against the Employer as a result of any action taken or not taken by the Employer under the provisions of this Article.

## **ARTICLE 7 EMPLOYEE RIGHTS GRIEVANCE PROCEDURE**

### **7.1 DEFINITION OF GRIEVANCE**

A Grievance is defined as a dispute or disagreement as to the Interpretation or application, of the specific terms and conditions of this Agreement.

### **7.2 UNION REPRESENTATIVES**

The Employer will recognize Representatives designated by the Union as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article. The Union shall notify the Employer in existing of the names of such Union Representatives and of their successors when so designated as provided by 6.2 of the Agreement.

### **7.3 PROCESSING OF A GRIEVANCE**

It is recognized and accepted by the Union and the Employer that the processing of grievances as hereinafter provided is limited by the job duties and responsibilities of the Employees and shall therefore be accomplished during normal working hours only when consistent with such Employee duties and responsibilities.

The aggrieved Employee and Union Representatives shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the Employer during normal working hours provided that the Employee and the Union Representative have notified and received the approval of the designated supervisor who has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer.

### **7.4 PROCEDURE**

Grievances, as defined by Section 7.1, shall be resolved in conformance with the following procedures:

Step 1. An Employee claiming a violation concerning the interpretation or application of this Agreement shall within twenty-one (21) calendar days after such alleged violations have occurred, present such grievance in writing to the Employee's supervisor as designated by the Employer. The Employer-designated representative will discuss and give an answer to such Step 1 grievance within ten (10) calendar days after receipt. A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on setting forth the nature of the grievance, the facts on which it is based, the

provision or provisions of the Agreement allegedly violated, the remedy requested, and shall be appealed to Step 2 within ten (10) calendar days after the Employer-designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

Step 2. If appealed, the written grievance shall be presented by the Union and discussed with the Employer-designated Step 2 representative. The Employer-designated representative shall give the Union the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance. A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Employer-designated representative's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered waived.

Step 3. If appealed, the written grievance shall be presented by the Union and discussed with the Employer-designated Step 3 representative. The Employer-designated representative shall give the Union the Employer's answer in writing within ten (10) calendar days after receipt of such Step grievance. A grievance not resolved in Step 3 may be appealed to Step 4 within ten (10) calendar days following the Employer-designated representative's final answer in Step 3. Any grievance not appealed in writing to Step 4 by the Union within ten (10) calendar days shall be considered waived.

Step 4. A grievance unresolved in Step 3 and appealed to Step 4 by the Union shall be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act of 1971. The selection of an arbitrator shall be made in accordance with the "Rules Governing the Arbitration of Grievances as established by the Bureau of Mediation Services.

## 7.5 ARBITRATOR'S AUTHORITY

- A. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this Agreement. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.
- B. The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) days following close of the hearing or the submission of briefs by the parties, whichever be later, unless the parties agree to an extension. The decision shall be binding on both the Employer and the Union and shall be based solely on the arbitrator's interpretation or application of the express terms of this agreement and to the facts of the grievance presented.
- C. The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the Employer and the Union provided that each party shall be responsible for

compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made providing it pays for the record. If both parties desire a verbatim record of the proceedings, the cost shall be shared equally.

## 7.6 WAIVER

If a grievance is not presented within the time limits set forth above, it shall be considered "waived." If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the Employer's last answer. If the Employer does not answer a grievance or an appeal thereof within the specified time limits, the Union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual written agreement of the Employer and the Union in each step.

If, as a result of the written Employer response in Step 3, the grievance remains unresolved, and if the grievance involved the suspension, demotion, or discharge of an Employee who had completed the required probationary period, the grievance may be appealed either to Step 4 of the Article 7 or a procedure such as: Civil Service, Veteran's Preference, or Fair Employment. If appealed to any procedure other than Step 4 of Article 7, the grievance is not subject to the arbitration procedure as provided in Step 4 of Article 7.

The aggrieved Employee shall indicate in writing which procedure is to be utilized - Step 4 of Article 7 or another appeal procedure-and shall sign a statement to the effect that the choice of any other hearing precludes the aggrieved Employee from making a subsequent appeal through Step 4 of Article 7.

## **ARTICLE 8 SAVINGS CLAUSE**

This Agreement is subject to the laws of the United States, the State of Minnesota and the City of Hopkins. In the event any provision of this Agreement shall be held to be contrary to law by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provisions shall be voided. All other provisions of this Agreement shall continue in full force and effect. The voided provision may be renegotiated at the written request of either party.

## **ARTICLE 9 SENIORITY**

- 9.1 Seniority shall be determined by the Employee's length of continuous employment with the City of Hopkins and posted in an appropriate location. Seniority rosters may be maintained by the Chief on the basis of time in grade and time within specific classifications. Employees re-entering employment with the City of Hopkins, after less than one year from their date of separation, shall have their seniority as of the date of separation restored.
- 9.2 During the probationary period, a newly hired or rehired Employee may be discharged at the sole discretion of the Employer. During the probationary period, a promoted or reassigned Employee may be replaced in their previous position at the sole discretion of the Employer. The probationary period for new employees shall be one year.







- 13.6 Overtime will be calculated to the nearest fifteen (15) minutes.
- 13.7 Employees have the obligation to work overtime or call backs if requested by the Employer unless unusual circumstances prevent the Employee from so working.
- 13.8 Employees must receive prior authorization from the employee's immediate supervisor before working any overtime, except in cases of emergency.

**ARTICLE 14 COURT TIME**

- 14.1 An Employee who is required to appear in Court during the Employee's scheduled off-duty time shall receive a minimum of three (3) hours pay at one and one-half (1 1/2) times the Employee's base pay rate. An extension or early report to a regularly scheduled shift for Court appearance does not qualify the Employee for the three (3) hour minimum.
- 14.2 Employees required by the Employer to be on Standby for a court appearance during the Employee's scheduled off-duty time shall be paid for such standby time at the rate of one hour's pay for each hour on standby.
- 14.3 An Employee who was scheduled for court during the Employee's scheduled off-duty time shall receive one (1) hour of pay at one and one-half (1 1/2) times the employee's base pay rate for cancellation of a court appearance within 24 hours of the scheduled appearance. If an Employee has been on standby for court and the appearance is canceled, compensation shall be the greater of one (1) hour of pay at one and one-half (1 1/2) times the employee's base pay rate or the standby pay earned.

**ARTICLE 15 CALL BACK TIME**

An Employee who is called to duty during scheduled off-duty time shall receive a minimum of two (2) hours pay at one and one-half (1 1/2) times the Employee's base pay rate. An extension or early report to a regularly scheduled shift for duty does not qualify the Employee for the two (2) hour minimum.

**ARTICLE 16 WORKING OUT OF CLASSIFICATION**

Employees assigned by the Employer to assume the full responsibilities and authority of a higher job classification shall receive the salary schedule of the high classification for the duration of the assignment. Additionally, Employees assigned as the Property Room Clerk shall be paid premium pay of \$1.50 per hour above their normal hourly rate as called for in Appendix A.

**ARTICLE 17 INSURANCE**

- 17.1 Effective January 1, 2021 the EMPLOYER will contribute the following increase amounts based off the total increase for the Open Access Plan (for example, if the total increase for the single plan was \$100, the Employer would pay \$95 towards the increase).



## **ARTICLE 19**

## **INJURY ON DUTY**

- 19.1 Employees injured during the performance of their duties for the EMPLOYER and thereby rendered unable to work for the EMPLOYER will be paid the difference between the employee's regular pay and Workers Compensation insurance payments for a period not to exceed ninety (90) working days (720 hours) per injury, after a five (5) working day initial waiting period per injury. The five (5) working day waiting period shall be charged to the employee's sick leave account less Workers Compensation insurance payments.

## **ARTICLE 20**

## **SICK LEAVE**

(Does not apply to employees receiving Flex Leave)

- 20.1 Sick leave with pay shall be granted to all probationary and permanent full time Employees at the rate of one (1) working day for each calendar month or major fraction thereof. Sick leave shall be computed on a calendar year basis and may be accumulated to a total of not more than one hundred twenty (120) working days, with banking after this maximum, which bank can only be used for extended illness.
- 20.2 Employees who receive Worker's Compensation payments shall be allowed to use sick leave to make up the difference between the Worker's Compensation payments and their regular wage.
- 20.3 Sick leave may be granted when necessary for personal illness, legal quarantine or because of serious illness in the employee's family as defined in Minn. Stat § 181.9413 or death of spouse, children, grandchildren, parents, brothers, sisters, grandparents, mother-in-law, or father-in-law of the Employee.
- 20.4 In order to be eligible for sick leave for pay, the Employee shall:
- 1) report promptly to the department head the reason for the Employee's absence.
  - 2) keep the department head, at all times, fully informed of the Employee's condition including permission for City Manager to make inquiries of such Employee's physician, surgeon or other health establishment.
  - 3) furnish upon demand to the City Manager any other information or medical certificate that may be required.
- 20.5 No sick leave shall be granted except as permitted in this Article or ordinance, and the claiming of sick leave whenever herein prohibited may be cause of disciplinary action including transfer, suspension, demotion or dismissal by the City Manager.
- 20.6 Employees will continue to accrue leave while using paid leave. Employees will not accrue leave while on unpaid leave, leave accruals will be prorated for pay periods where there is both paid and unpaid leave. Policy will be consistent with applicable state and federal laws.

**ARTICLE 21**

**PAID TIME OFF**

(Does not apply to any employee receiving Flex Leave)

21.1 All EMPLOYEES shall be eligible for paid time off except that no EMPLOYEE shall be allowed to use paid time off until after the completion of the first six (6) months of the probationary period. Without the specific permission of the Employer. Paid time off is accrued on a per pay period basis and may be used subsequent to the pay period in which it was earned.

21.2 EMPLOYEES shall earn paid time off according to the following schedule:

PTO	
0 - 5 years	184 hours
After 5 years	224 hours
After 10 years	232 hours
After 11 years	240 hours
After 12 years	248 hours
After 13 years	256 hours
After 14 years	264 hours
After 25 years	304 hours

21.3 Paid Time Off may be used as earned, provided that the Employer shall in each case determine the time when such paid time off may be taken.

21.4 Employees may accrue paid time off to a maximum of 200% of their annual entitlement. Any Employee whose accrued paid time off exceeds their cap on December 31 of any year will lose all of the time that exceeds the cap. An Employee may appeal to the City Manager to exceed the cap if department scheduling problems or other unusual circumstances prevent the Employee from using sufficient paid time off during the year. The Employee's supervisor must attest to the existence of the problem.

21.5 Conversion Option: In December, Employees may submit an irrevocable election to convert up to 40 hours of paid time off to the City's deferred compensation program or cash in January of the following year. After 15 years, an employee may convert up to 80 hours. After 25 years, an employee may convert up to 120 hours. An Employee may appeal to the City Manager to convert a higher number of hours if department scheduling problems or other unusual circumstances prevent the Employee from using sufficient leave during the year. The Employee's supervisor must attest to the existence of the problem. Employees are not able to adjust these submissions during the present year.

21.6 No Employee shall be permitted to waive leave for the purpose of receiving double pay.

21.7 Upon termination of employment with the City an Employee will be paid all of the paid time off remaining in the Employee's Paid Time Off Account and Conversion Bank

**ARTICLE 22**

**FLEX LEAVE**

- 22.1 The Public Service Officer Union hereby adopts the City of Hopkins Flex Leave Program.
- 22.2 Union members can continue on the existing paid time off and sick leave program or choose to participate in the Flex Leave Program. Employees who choose to participate in the Flex Leave Program cannot return to the paid time off and sick leave program.
- 22.3 Union employees hired after July 1, 2002 shall participate in the Flex Leave Program without option.
- 22.4 Employees will accrue flex leave based on the following schedule.

Flex Leave Accrual Schedule										
Year	Leave		Year	Leave		Year	Leave		Year	Leave
	Hours			Hours			Hours			Hours
1	248		6	280		11	304		16	328
2	256		7	288		12	304		17	328
3	264		8	288		13	312		18	328
4	272		9	296		14	320		19	328
5	280		10	296		15	328		20	328
									21	328
									22	328
									23	328
									24	328
									25	368

- 22.5 Employees may accrue and carry over up to two times the Employee's annual accumulation. Employees, whose accrued flex leave exceeds this cap as of December 31, will lose all time in excess of the cap.
- 22.6 In December of each year, Employees may submit an irrevocable election to convert up to 40 hours (5 days) of flex leave each year to the City's deferred compensation program or cash in January of the following year. After 15 years, an Employee may convert up to 80 hours (10 days). After 25 years, an Employee may convert up to 120 hours (15 days). An Employee may appeal to the City Manager to convert a higher number of hours if department scheduling problems or other unusual circumstances prevent the Employee from using sufficient leave during the year. The Employee's supervisor must attest to the existence of the problem. Employees are not able to adjust these submissions during the present year.
- 22.7 Upon termination of employment with the City, an Employee will be paid all of the accrued flex leave remaining in the Employee's Flex Leave Account and Conversion Bank
- 22.8 No Diminution of Benefits. The Employer will not diminish or decrease benefits available under the Flex Leave Program while this Agreement is in effect.

**ARTICLE 23**

**HOLIDAYS**

23.1 An Employee required to work a shift on New Year's Day, Martin Luther King's Birthday, President's Day, Easter, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, Veterans Day, the Day after Thanksgiving, Christmas Eve or Christmas, shall be eligible for holiday pay. For the purpose of this section, if 50% or more of a full work shift falls on one of the holidays, the full shift shall be compensated at holiday pay. If less than 50% of any full shift falls on one of the above holidays, no holiday pay will be paid.

23.2 Holiday pay shall be 1/2 times the basic hourly rate, making the full compensation for a holiday shift one and one-half (1 1/2) times the basic hourly pay rate. However, for hours that are worked in excess of the employee's regularly scheduled shift on a holiday, employees shall be compensated at two (2) times their regular base rate of pay. Under no circumstances shall the total compensation for work on a holiday exceed two (2) times the basic pay rate.

**ARTICLE 24**

**SEVERENCE PAY**

(Does not apply to employees receiving Flex Leave)

24.1 Employees shall receive severance pay upon separation of employment according to the following schedule:

a) After five (5) years of service: 1.5 days per year of service.

OR

a) After five (5) years of service: 20% of accumulated sick leave.

b) After fifteen (15) years of service: 25% of accumulated sick leave.

c) After twenty (20) years of service: 33.33% of accumulated sick leave.

24.2 The Employee may choose whichever formula provides the higher pay off.

**ARTICLE 25**

**ADVANCE RESIGNATION NOTICE PROGRAM**

The City of Hopkins Advance Resignation Notice Program is hereby adopted.

The City's Advance Resignation Notice Program is designed to improve the efficiency and stability of the City's workforce by encouraging Employees to give the City advance notice of their intent to

resign. The purpose of this program is to begin the process of replacing an Employee who is leaving the City as soon as possible after notice is received. This will reduce the time that the position remains unfilled. <sup>1</sup>

This program is available to regular full-time non-union Employees and any regular full-time union Employees whose union has adopted this policy into their contract.

In order to be eligible for an Advance Notice payment an Employee must give at least 60 days notice before the Employee's last day of work.<sup>2</sup> The agreement must be signed by both the Employee and the City Manager in order to be effective. The City reserves the right to refuse to enter into this agreement with any Employee.

The City will provide the following compensation for advance notice:

Sixty (60) days:	\$325.00
Ninety (90) days:	\$600.00
One Hundred and Twenty (120) days:	\$925.00
One Hundred and Eighty (180) days:	\$1,300.00

An Employee has ten (10) days from the date they sign the agreement to rescind the decision. After this, it is not possible for an Employee to change their mind about resigning. There will no longer be a position available after the agreed upon termination date. Refusing the Advance Notice payment will not void the agreement.

**ARTICLE 26 SUBSTANCE ABUSE**

The Employer and the Union agree to, jointly promote, a drug-free work environment. In an effort to achieve this goal, the Union agrees to all non-random drug and alcohol testing of its members by a State certified testing agency upon the request of the Employer provided such request, test and subsequent action are within the guidelines of State law (Section 181.950) and the City policy attached as Appendix D.

**ARTICLE 27 BEREAVEMENT LEAVE**

Employees are eligible for the City's Bereavement Leave Program.

**ARTICLE 28 WAIVER**

- 27.1 Any and all prior arrangements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment, to the extent inconsistent with the provisions of this Agreement, are hereby superseded.
- 27.2 The parties mutually acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any term or condition of employment not removed by law from bargaining. All agreements and understandings arrived at by the parties are set forth in writing in this Agreement. The Employer and the Union each voluntarily and unqualifiedly waives the right to meet and negotiate regarding any and all terms and conditions of employment referred to or covered in this Agreement or with respect to any term or condition of



employment not specifically referred to or covered by this Agreement, even though such terms or conditions may not have been within the knowledge or contemplation of either or both of the parties at the time this contract was negotiated or executed.

The City reserves the right to not replace any Employee who resigns or to modify the position and duties prior to hiring a new Employee. This decision will not affect an Employee's eligibility for an Advanced Notice payment.

<sup>2</sup>  
The last day of work is defined, for this program, as the last day that an Employee will be actively working for the City. The Employee may use accumulated paid time off or flex leave to extend their termination date, which is defined as the last day the Employee is on the payroll.

ARTICLE 29

DURATION

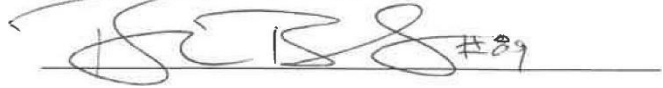
This Agreement, between the Hopkins Police Public Service Officer and the City of Hopkins, shall be effective as of January 1, 2021, through December 31, 2021, and continue thereafter until amended or modified by mutual agreement by the parties. Notice shall be given at least sixty (60) days prior to the expiration of the Contract of the intent to amend or modify.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 19th day of January 2021.

FOR THE CITY OF HOPKINS

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FOR LEIS, LOCAL #143



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## APPENDIX A: PUBLIC SERVICE OFFICERS

Step increases take place annually on employee's anniversary date.

STEPS	1/1/2021 – 2.0%
1	\$ 22.67
2	\$ 23.35
3	\$ 24.00
4	\$ 24.65
5	\$ 25.31
6	\$ 25.98
7	\$ 26.64
8	\$ 27.31
9	\$ 27.97
10	\$ 28.63
11	\$ 29.28
12	\$ 29.96
13	\$ 30.60

Any PSO assigned to train a paid employee of the department shall receive an additional \$2.00 per hour for each hour that they are actually training.

Any PSO assigned to Property Room Clerk will receive an additional \$1.50 per hour.

## **APPENDIX B: DRUG AND ALCOHOL TESTING POLICY AND PROCEDURES**

### **1. PURPOSE**

- 1.01 The purpose of this policy is to provide written guidelines in compliance with MN Statutes 181.950-181.957 for requesting or requiring employees or job applicants to undergo drug and/or alcohol testing.

### **2. DEFINITIONS**

2.01 For purposes of this policy, the following definitions will apply:

- a. "City" means the City of Hopkins.
- b. "Commissioner" means the Commissioner of the Minnesota Department of Health.
- c. "Confirmatory test" and "confirmatory retest" mean a drug or alcohol test that uses a method of analysis approved by the Commissioner under MN Stat. 181.953, Subd. 1, as being reliable for providing specific data as to the drugs, alcohol, or their metabolites detected in an initial screening test.
- d. "Drug" means a controlled substance as defined in MN Stat. *152.01*, Subd. 4.
- e. "Drug and alcohol testing", "drug or alcohol testing," and "drug or alcohol test" mean analysis of a body component sample approved by the Commissioner under MN Stat. 181.953, Subd. 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
- f. "Employer" means the City Manager and anyone appointed by the City Manager to a regular position with the City who is paid through the City's payroll system.
- g. "Initial screening test" means a drug or alcohol test that uses a method of analysis approved by the Commissioner under MN Stat. 181.953, Subd. 1, as being capable of providing data as to general classes of drugs, alcohol, or their metabolites.
- h. "Job applicant" means a person who applies to become an employee of the City and has received a job offer made contingent on the person passing drug testing. Temporary or seasonal employees who do not operate any City vehicles or motorized equipment are not subject to this policy. Anyone who works for the Police Department is subject to this policy.
- i. "Medical Review Officer" means the individual at Park Nicollet who will receive all laboratory results.
- j. "Positive test result" means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested by a confirmatory test in levels at or above the

threshold detection levels set by the Department of Health rules. An alcohol test will be considered positive if the testee has an alcohol concentration level of at least .05.

- k. "Reasonable suspicion", means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
- l. "Threshold detection level" means the level at which the presence of a drug, drug metabolite, or alcohol can be reasonably expected to be detected by a confirmatory test by a certified laboratory.

### **3. CIRCUMSTANCES UNDER WHICH TESTING MAY OCCUR.**

3.01 Drug testing is required for all job applicants, as defined in Section 2.01 of this policy.

3.02 Drug and alcohol testing may be requested or required during on duty hours if the city has a reasonable suspicion that a current employee:

- a. Is under the influence of drugs or alcohol; or
- b. Has violated the City's written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the City's premises or operating the City's vehicle, machinery, or equipment;  
or
- c. Has sustained or caused another person to sustain substantial bodily harm or greater (as defined in Minnesota Statutes 609.02, subdivision 7a); or
- d. Has caused a work related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work related accident.
- e. Employees who have been referred by the City for chemical dependency treatment or evaluation or who are participating in a chemical dependency treatment program as a result of a positive drug or alcohol test or is participating in a chemical dependency treatment program under an employee benefit plan. Such employees will be required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.
- f. Has discharged a firearm other than (a) on a target range, or (b) while conducting authorized ballistics tests, or (c) as authorized by Hopkins Police Department General Order 101.21 concerning destruction of animals.

### **4. CITY REQUIREMENTS AND PROCEDURES**

4.01 The City will post and maintain a notice in appropriate and conspicuous locations at its facilities that this policy has been adopted and that copies are available for inspection at specified locations.

4.02 The City will use a facility for drug and/or alcohol testing which has been licensed by the Department of Health.

4.03 Before a job applicant or employee is required to submit to an alcohol and/or drug test, the City will provide a form on which shall:

- a. indicate whether the employee or job applicant has seen the City's drug and alcohol testing policy, and
- b. indicate that the employee or job applicant consents or does not consent to the drug test. Failure to sign the consent form means that the employee or job applicant refuses to submit to an alcohol and/or drug test.

4.04 The City's designated laboratory will automatically perform a confirmatory test on all samples that test positive. No adverse personnel action will be taken based on an initial screening test that has not been verified by a confirmatory test.

4.05 Within three business days of the City's receipt of the results, the City will notify the employee or job applicant of the results of the alcohol and drug test and of the individuals rights specified in Sections 6 and 7 below and MN Statute 181.953, Subd. 10 and 11.

## **5. RIGHTS OF EMPLOYEES AND JOB APPLICANTS TO REFUSE TESTING**

5.01 Applicants. If a job applicant for an affected position refuses to submit to a drug test, any offer of employment shall be withdrawn and the City shall not consider the individual for employment.

5.02 Employees. Employees who refuse to submit to an alcohol and/or drug test under the circumstances enumerated in this policy may be subject to discipline up to and including dismissal.

## **6. EFFECT OF POSITIVE CONFIRMATORY TEST**

6.01 Applicants. If a job applicant for an affected position tests positive on a confirmatory test for drugs, any offer of employment shall be withdrawn and the City shall not consider the individual for employment.

6.02 Employees. Employees who test positive for alcohol and/or drugs for the first time, will be given the opportunity to enter a City-approved drug and/or alcohol counseling or rehabilitation program at the individual's own expense or through the employee's health care provider. The City will consult with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency before approving a program. Employees who refuse to enter or fail to complete a program, may be dismissed.

Employees who elect to enter a program will be required to submit to alcohol and or drug testing every six months. An employee who tests positive or refuses to submit to a test during the first two years following entrance to such a program will be dismissed immediately. This requirement for testing shall only apply to employees who enter such a program as a result of a positive drug or alcohol test.

- 6.03 Explained Results. If a positive confirmatory test is caused by a drug prescribed for the employee or an over the counter substance consumed in accordance with instructions, the City will not take disciplinary action toward an employee or withdraw a job offer. However, if the substance significantly impairs the employee's ability to perform assigned duties or creates a safety risk, the City may reassign the employee to a position whose duties can be safely and adequately performed, if one is available, or place the employee on sick leave.

## **7. EMPLOYEE AND JOB APPLICANT RIGHTS AFTER A TEST**

- 7.01 If an employee or job applicant tests positive for drug use, the employee shall be given written notice of the right to explain the positive test and the City may request that the employee or job applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.
- 7.02 Within five days after receiving notification of a positive test result, an individual may submit any information to explain the result and request in writing a confirmatory retest of the original sample at the employee's or job applicant's own expense. No adverse personnel action will be taken if the confirmatory retest does not confirm the original test.
- 7.03 An employee or job applicant may request and receive from the City, a copy of the drug or alcohol test result report.

## **8. APPEAL PROCEDURE.**

- 8.01 Employees may appeal decisions made by the City under this policy through the remedies available through their collective bargaining units. Employees, who are not represented by a collective bargaining unit, may appeal decisions through remedies available in the City's personnel policy. The City will not retaliate against an employee for pursuing an appeal or the other remedies provided in Minn. Stat 181.956. An employee may also appeal under the Veteran's Preference Act, if eligible.

## **9. MISCELLANEOUS.**

- 9.01 The City's designated laboratory shall disclose test result data only to the City Manager or, the Assistant City Manager of the City of Hopkins.
- 9.02 Test result reports and other data acquired by the City in the drug or alcohol testing process is private data on individuals pursuant to Minnesota Statutes. The City will disclose the information internally to management and confidential employees with a need to know and to the tested individual. The information will not be released to any third party without the written consent of the tested individual except under the following circumstances.

- a. The data may be used in an arbitration proceeding pursuant to a collective bargaining agreement, a veteran's preference hearing, other applicable state or local law, or a judicial proceeding, provided that the information is relevant to the hearing or proceeding.
  - b. The information may be disclosed to a federal agency or other unit— of the United States government as required by federal law, regulation, order, or contract.
  - c. The information may be disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.
- 9.03 Positive tests result from the City's drug or alcohol testing. program will not be used as evidence in a criminal action against an employee or job applicant.
- 9.04 The City may suspend an employee requested to submit to testing if the City believes that it is reasonably necessary for the protection of the individual,, other employees, or the public. The suspension will be with pay pending receipt of the test result, unless the employee has violated a city policy or work rule that justifies a suspension without pay regardless of the test result. In lieu of suspension, the City may temporarily transfer the employee to another position at the same rate of pay. Positive test results will be handled in accordance with Section 5, Effect of Positive Confirmatory Test, of this Policy. It shall be the responsibility of the City Manager to determine the date a suspended employee may return to work.
- 9.05 The City Manager shall be responsible for implementing this policy.

Revised: January 2002 June 2006



**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**CITY OF HOPKINS**  
**And**  
**LELS #143**

The purpose of this Memorandum of Understanding is to establish the POST EMPLOYMENT HEALTH CARE SAVINGS PROGRAM.

All members of Union will participate in the Minnesota State Retirement System (MSRS) Health Care Savings Plan (HCSP) pursuant to Minnesota Statute 352.98, which shall be administered as provided by law.

Each member of the union shall contribute the following amounts to the Plan:

- 1% of gross salary

The plan will be also be funded by 100% of severance pay and/or accumulated flex leave due to the employee upon separation from employment with the City.

For the City of Hopkins

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Mike Mornson, City Manager

For LELS #243



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Renee Zachman