



**BOARD OF MAYOR AND ALDERMEN
AGENDA for April 7, 2025**

1. Call to Order

2. Prayer and Pledge

3. Roll Call

4. Approval of Agenda

5. Presentation

- A.** CEC presentation on Airport Road detention

6. Public Hearing

- A.** Resolution No. 25-18 - A Resolution to annex property at 700 and 706 North Broadway, containing 27.8 +/- acres upon written consent of the owner and to adopt a plan of services.

7. Public Comment Period

In accordance with Tennessee Public Chapter No. 300 and City Resolution In accordance with Tennessee Public Chapter No. 300 and City Resolution #24-21, public comments are allowed when those comments are germane to agenda items, except where otherwise prohibited; and the number of individuals speaking may be limited to ensure opposing viewpoints are fairly represented. Comments are limited to 5 minutes per individual.

8. Communications from Council Members

9. Mayor's Report

10. Consent Calendar

- A.** Ordinance No. 25-09 – Second Reading - An Ordinance to repeal and replace Title 8 Chapter 1 Intoxicating Liquors of the Municipal Code of the City of Portland.
- B.** Ordinance No. 25-10 –Second Reading - An Ordinance to repeal and replace Title 7 Fire Protection and Fireworks Chapter 6 Fireworks of the Municipal Code of the City of Portland.
- C.** Minutes from March 17, 2025 Work Study and Council Meeting
- D.** Department Reports

11. Community Development – Vice-Mayor Megann Thompson

12. Finance – Alderman Vince Ellis

13. Fire Department – Alderman Jody McDowell

- A.** Resolution No. 25-28 - A Resolution to purchase a new fire engine and necessary equipment beginning in fiscal budget year 2027/2028 not to exceed \$1,300,000.

14. Human Resources – Alderman Vince Ellis

- A.** Ordinance No. 25-08 –Second Reading – An Ordinance to repeal and replace Ordinance No. 20-07 Personnel Policy for the City of Portland, TN.

15. Legislative – Mayor Mike Callis

16. Municipal Airport – Alderman Mike Hall

17. Parks & Recreation – Alderman Brian Woodall

- A.** Ordinance No. 25-12 - First Reading - An Ordinance to enter into an agreement with Olympian Construction Co., LLC for construction of the Splashpad at Richland Park.

18. Planning & Codes – Vice-Mayor Megann Thompson

- A.** Ordinance No. 25-01 – Second Reading - An Ordinance amending Title 12 Chapter 6 of the Portland Municipal Code by adding Section 12-603 Dangerous Buildings.
- B.** Ordinance No. 25-11 –Second Reading - An Ordinance to authorize the Mayor to enter into a Developer’s Agreement with Steven Staggs for the water improvements, including the installation of a new 8-inch water main through the development, a new 8-inch water main along College Street and a new 8-inch sewer main throughout the development, for the Ruby Springs Development, located at 780 College Street, Portland, Tennessee.
- C.** Ordinance No. 25-06 – First Reading - An Ordinance to amend the City of Portland, Tennessee zoning map by rezoning 700 and 706 North Broadway, from county RR (Rural Residential), RS-20(Low Density Residential) and RS-40 (Low Density Residential) to PUD (Planned Unit Development).
- D.** Resolution No. 25-18 - A Resolution to annex property at 700 and 706 North Broadway, containing 27.8 +/- acres upon written consent of the owner and to adopt a plan of services.

19. Police Department – Alderman Drew Jennings

20. Public Works – Alderman Brian Woodall

- A.** Discussion - Airport Rd detention basin
- B.** Discussion - Rates, fees and billing

21. Utility Infrastructure – Alderman Charles Cole

- A.** Resolution No. 25-29 – A Resolution amending the engineering agreement with OHM Advisors, approved by Ordinance 21-37 & Resolution 23-77 for additional construction phase services and construction project observation for the Oak Hill Water System Improvements ARPA in the amount of \$670,120.
- B.** Ordinance No. 25-13 – First Reading – An Ordinance to rescind and replace in its entirety Ordinance 24-65, the developer’s agreement with Steve Kirby on the Twin Lakes Residential Subdivision, which is now in the name of the developer 925 Broadway LLC for the project located at 925 North Broadway in Portland, Tennessee.
- C.** Ordinance No. 25-14 – First Reading - An Ordinance to authorize the mayor to enter into a developer’s agreement with Javasion Portland Property LLC to pay-in-lieu of installing 153 feet of twelve (12) inch water main for the entire length of

their road frontage along Hwy 52W, for the Scooter's Coffee development, located at 413 Highway 52W, in Portland, Tennessee.

- D.** Ordinance No. 25-15 – First Reading - An Ordinance for the City of Portland to enter into a contract with the Tennessee Department of Transportation (TDOT) for relocation of water utilities within the proposed State Route-109 (Portland bypass), from State Route-52, west of Portland, to existing State Route-109, north of Portland.
- E.** Ordinance No. 25-16 – First Reading – An Ordinance for the City of Portland to enter into a contract with the Tennessee Department of Transportation (TDOT) for relocation of sewer utilities within the proposed state route 109 (Portland bypass), from state route-52, west of Portland, to existing state route-109, north of Portland.
- F.** Ordinance No. 25-17 - First Reading - An Ordinance for the City of Portland to enter into a contract with the Tennessee Department of Transportation (TDOT) for relocation of gas utilities within the proposed state route 109 (Portland bypass), from state route 52, west of Portland, to existing state route 109, north of Portland.
- G.** Resolution No. 25 – 30 - A Resolution authorizing change order #6 extending the contract time one hundred and twenty (120) additional days with Cumberland Pipeline, LLC for the Masons Tank 12-inch connector American Rescue Plan (ARP) Project.
- H.** Resolution No. 25-31 – A Resolution authorizing change order #6 extending the contract time one hundred twenty (120) additional days with Cumberland Pipeline, LLC for the Oak Hill Water System Improvements American Rescue Plan (ARP) Project.

Adjournment

RESOLUTION

City of Portland, Tennessee

No. 25 – 18

A RESOLUTION TO ANNEX PROPERTY AT 700 AND 706 NORTH BROADWAY, ALSO IDENTIFIED AS (SUMNER COUNTY MAP 19 PARCEL 39.01 AND 40.01) CONTAINING 27.8 +/- ACRES UPON WRITTEN CONSENT OF THE OWNER AND TO ADOPT A PLAN OF SERVICES

WHEREAS, the owner has requested annexation of this property into the City of Portland corporate limits and said property is within the Urban Growth Boundary; and

WHEREAS, the owner will be responsible for the extension of any utilities; and

WHEREAS, this annexation will only be authorized if and when the Broad North Planned Unit Development is approved upon second reading through city council ; and

WHEREAS, the annexation will add no right-of-way to the city; and

WHEREAS, the Portland Municipal Planning Commission recommended approval of this Annexation and Plan of Services to the Mayor and Board of Aldermen by a vote of 8-0 at the February 11, 2025 meeting.

NOW, THEREFORE, BE IT Ordained by the City of Portland, Tennessee, as follows:

Section 1. That Tennessee Code Annotated 6-51-102 authorizes the City of Portland to annex land at the request of the landowner when it appears that the prosperity of the municipality and the territory will be materially underachieving, and the welfare of the inhabitants and property endangered if the property is not annexed. The City of Portland hereby determined that the prosperity of the municipality and territory described herein will be materially underachieving and the welfare of the inhabitants and property endangered if the property is not annexed.

Section 2. That pursuant to Section 6-51-101 through 6-51-114, Tennessee Code Annotated, the property described herein be, and the same is hereby annexed into the City of Portland, Sumner County, Tennessee, and incorporated within the corporate boundaries thereof.

PROPERTY DESCRIPTION: Approximately 27.8 +/- acres more or less, located at 700 and 706 North Broadway, as shown on the attached map.

For reference, see Record Book 3367, Pages 79-81 in the Register's Office of Sumner County, Tennessee, and being shown as Map 19 Parcel 39.01 and 40.01 for Sumner County, Tennessee.

Section 3. This annexation is contingent upon City Council passing the 2nd reading rezone for 700 and 706 North Broadway. That this ordinance takes effect 30 days from and after its final passage, the public welfare requiring it.

Plan for Serving the Annexation Area

1. **Police Protection**
Patrolling, radio response to calls, and other routine police services using the City's personnel and equipment will be provided on the effective date of the annexation.
2. **Fire Protection**
Fire protection by the present personnel and the equipment of the fire fighting force, within the limitations of available water and distances from fire stations, will be provided on the effective date of annexation.
3. **Gas, Water, and Sewer**
 - a. Gas - The City may require improvements by the owner as the property develops to ensure needed capacity is available.
 - b. Water - The City may require improvements by the owner as the property develops to ensure needed capacity is available.
 - c. Sewer - The City may require improvements by the owner as the property develops to ensure needed capacity is available.
 - d. Fire Hydrants - The City may require improvements by the owner as the property develops to ensure the needed capacity is available.
4. **Electric Service**
There are existing Cumberland Electric Membership Corporation power lines on this lot.
5. **Public Works**
 - a. Stormwater – Stormwater services will be available to this property in the same manner they are available to the rest of the City. Any improvements that must be completed as a result of development are the responsibility of the developer.
 - b. Sanitation – City sanitation services will be available at the time of annexation in accordance with existing City Ordinances.
 - c. Street and Right-of-Way Repair and Maintenance
 - i. This annexation adds no additional right-of-way to the City.
 - ii. The City and/or the County may require road improvements by the owner as the property develops.
6. **Schools**
This property is currently served by Sumner County School System.
7. **Inspection and Codes Enforcement**

All inspection and building/code enforcement programs existing within the City will be extended to the annexation areas on the effective date of the annexation.

8. Planning and Zoning

The zoning jurisdiction of the City will extend to the annexation areas upon the effective date of the annexation and all municipal planning activities will encompass the needs of the annexed areas.

a. The requested zoning for the annexation is PUD (Planned Unit Development).

9. Animal Control

Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

10. Voting Rights and City Elections

a. If an eligible voter's permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.

b. If an eligible voter is in the category of a property rights voter, then that voter must register at the Election Commission Office prior to voting in a City election.

Notice of the Public Hearing was published in the Portland Sun on December 24,2024.

NOW THEREFORE BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Portland
; and

BE IT FURTHER RESOLVED that this Resolution shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Approved this day of



ORDINANCE

City of Portland, Tennessee

No. 25 - 09

Second Reading

AN ORDINANCE TO REPEAL AND REPLACE TITLE 8 CHAPTER 1 INTOXICATING LIQUORS OF THE MUNICIPAL CODE OF THE CITY OF PORTLAND

WHEREAS, the City of Portland desires to modify the provisions of the Municipal Code of the City of Portland with respect to the subject of Title 8 Alcoholic Beverages Chapter 1 Intoxicating Liquors;

WHEREAS, the hereinafter provisions relating to Title 8, Chapter 1, entitled "Intoxicating Liquors" are substituted for any existing provisions of the Municipal Code in effect relating to the same subject matter and highlights include updated formatting, wording for clarification, the incorporation of previous amendments, increase fees (8-106), and updated Certificate of Compliance language (8-111):

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Definitions.
- 8-103. Manufacturing prohibited within corporate limits.
- 8-104. Selling prohibited within corporate limits.
- 8-105. License required.
- 8-106. Application for certificate.
- 8-107. Applicant to appear before city council; duty to give information.
- 8-108. Action on application.
- 8-109. Applicants for certificate who have criminal record.
- 8-110. Limitations on issuance of certificate of compliance.
- 8-111. Limitations on certificate of compliance.
- 8-112. Bonds of licensees.
- 8-113. Retailer's license.
- 8-114. Display of license.
- 8-115. Transfer of license restricted.

- 8-116. Expiration date of license.
- 8-117. New license after revocation.
- 8-118. Federal license; effect of.
- 8-119. Inspection fee.
- 8-120. Failure to pay inspection fee.
- 8-121. Regulations for purchase and sale of alcoholic beverages.
- 8-122. Solicitation.
- 8-123. Regulations of retail sales.
- 8-124. Mayor to determine if provisions are being complied with.
- 8-125. Violation and penalty.
- 8-126. Visible possession prohibited.
- 8-127. Severability.
- 8-128. Limitations of the number of licenses.

8-101. Alcoholic Beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this municipality except as provided by Tennessee Code Annotated, title 57, by rules and regulations promulgated thereunder, and as provided in this chapter.

8-102. Definitions. Whenever used herein unless the context requires otherwise:

1. "Alcoholic beverages" or "beverage" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight, or less.
2. "Certificate of compliance" means the certificate authorized under the provisions of Tennessee Code Annotated, § 57-3-208.
3. "License" means the license issued herein and "licensee" means any person to whom such license has been issued.
4. "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.
5. "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.
6. "Manufacturer" means and includes distiller, vintner, and rectifier. "Manufacture" means and includes distilling, rectifying, and operating a winery.
7. "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.
8. "Wholesaler" means any person who sells at wholesale beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101 – 57-3-112.
9. "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine; and

10. The word "gallon" or "gallons" wherever used herein, shall be construed to mean a wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces. The word "quart" whenever used herein will be construed to mean one-fourth (1/4) of a wine gallon. The word "pint" wherever used shall be construed to mean one-eighth (1/8) of a wine gallon.
11. Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural.
12. The term "federal license" as used herein shall not mean tax receipt or permit.

8-103. Manufacturing prohibited within corporate limits. The manufacture of alcoholic beverages is prohibited within the corporate limits.

8-104. Selling prohibited within corporate limits. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits except to a duly licensed local city retailer, as provided herein.

8-105. License required. For the retail sale of alcoholic beverages, a license may be issued as herein provided. Any person, firm or corporation desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the city recorder for a Certificate of Compliance, which application shall be in writing on forms prescribed and furnished by the city recorder; subject to the issuance of a retail license by the Alcoholic Beverage Commission, State of Tennessee.

8-106. Application for certificate.

1. Before any certificate, as required by Tennessee Code Annotated, § 57-3-208, or a renewal as required by § 57-3-213, shall be signed by the mayor, or by any member of the city council, an application in writing shall be filed with the city recorder on a form to be provided by the city, together with a non-refundable application fee of fifteen hundred dollars (\$1500.00), giving the following information:
 - a. Name, age and address of the applicant.
 - b. Occupation or business and length of time engaged in such occupation or business.
 - c. Whether or not the applicant or any owner of the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
 - d. If employed, the name and address of employer.
 - e. If in business, the kind of business and location thereof.
 - f. The location of the proposed store for the sale of alcoholic beverages
 - g. The name and address of all owners of the store.
 - h. If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation or limited liability company, the name, age and address of the stockholders or members and their percentage of ownership of the corporation or limited liability company.

- i. The name and address of the owner of the real property of the proposed location, together with a letter from such owner affirming either that the parties have reached a written agreement on the terms of a lease, or that the parties have reached a written agreement on the terms of the sale of the premises to the applicant.
2. If the owners (individually, stockholders, partners, or members) exceed two (2) in number, the application fee shall be increased by one hundred dollars (\$100.00) for each owner in excess of two (2).
3. If a new certificate of compliance is required by the State of Tennessee Alcoholic Beverage Commission after the initial issuance of a certificate of compliance but before a renewal certificate of compliance is issued, or between the time of the issuance of the renewal certificate of compliance and subsequent renewals of compliance, an additional four hundred dollars (\$400.00) will become due and payable at time of the request.
4. At the time of a request for a renewal certificate of compliance there will be a one thousand dollar (\$1000.00) application fee due provided the number of owners (individually, stockholders, partners, or members) does not exceed two (2) in number. If the number of owners exceeds two (2) in number the application fee shall be increased by one hundred dollars (\$100.00) for each owner in excess of two (2).
5. The information in any application shall be verified by the oath of the applicant. If the applicant is a partnership, a corporation or a limited liability company, the application shall be verified by the oath of each owner of the entity.

8-107. Applicant to appear before city council; duty to give information. An applicant for a Certificate of Compliance shall be required to appear in person before the City Council for such reasonable examination as may be desired by the Council.

8-108. Action on application.

1. Every application for a Certificate of Compliance shall be referred to the Chief of Police for investigation and shall submit his findings to the city recorder within fifteen (15) days of the date each application was filed.
2. The City Council may issue a Certificate of Compliance to any applicant meeting all the regulations contained herein, which shall be signed by the mayor or by a majority of the city council
3. The meeting of the City Council at which the Certificate of Compliance will be considered shall be duly advertised as it pertains to matters requiring a public hearing.

8-109. Applicants for certificate who have criminal record. No Certificate of Compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or venting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such Certificate of Compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

8-110. Limitations on Zoning Districts and Locations.

1. The applicant is responsible for securing a location for the business which complies with all local laws, building codes, fire codes, and all the provisions of the City of Portland Zoning Ordinance No. 387.
2. No license shall be granted for the operation of a retail store for the sale of alcoholic beverages which retail store is not located on an arterial road or located on property adjacent to a road having direct access to an arterial road within the City of Portland and which property is zoned General Commercial Services (GCS) or Interchange Service District (ISD) or Central Business District (CBD) as a permissible zone for package liquor stores.
3. As per State guidelines, a retail store must be located on the ground floor with one (1) main entrance opening on a public street with no other door or entrance for use by the public unless the store is located on the corner of two public streets. Under those circumstances, a retail store could have a door opening on each of the public streets.

8-111. Limitations on Certificate of Compliance.

1. All Certificate of Compliance letters expire one (1) year from the passage of the authorizing Resolution and certificates cannot be traded, sold, or otherwise transferred to another party.
2. Active Certificates of Compliance are not to exceed the numerical limit as set forth in 8-128 of this ordinance.
3. No person(s), partnership(s), entity(s), or other business structure may simultaneously hold more than one Certificate of Compliance for businesses within the City of Portland, or operate multiple sites as set forth in 8-123.1 of this ordinance.

8-112. Bonds of licensees. Any bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee.

8-113. Retailer License Restrictions and Limitations.

1. No retailer's license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissioners where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.
2. No retailer shall be a person who has been convicted of a felony involving moral turpitude, within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

3. No license shall under any condition be issued to any person who, within ten years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverages or who has, during said period, been engaged in business alone or with others, in violation of any said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.
4. No manufacturer, brewer or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.
5. It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the mayor and city council and approved by them. Where such interests is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.
6. No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.
7. No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale or distribution of alcoholic beverages.
8. No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted, he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.
9. The issuance of a license does not vest a property right to the licensee but is a privilege subject to revocation or suspension according to this chapter.
10. Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter.

8-114. Display of license. Persons granted a license to carry on the business or undertaking contemplated therein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license.

8-115. Transfer of license restricted. The holder of a license may not sell, assign or transfer such license to any other person, partnership, or entity unless same is approved by a majority of the board of mayor and aldermen and the state alcoholic beverage commission and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military force of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section.

8-116. Expiration date of license. Licenses issued under this chapter shall expire and be renewed as provided by the rules and regulations of the State of Tennessee Alcoholic Beverage Commission.

8-117. New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective.

8-118. Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter.

8-119. Inspection Fee. The City of Portland hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

8-120. Failure to pay inspection fee. Failure to pay said fee and make said report accurately may be cause for suspension and /or revocation of said license. Whenever any person licensed hereunder fails to account for or pay over to the city any inspection fee, or defaults in any of the conditions of his bond, the mayor and/or city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such inspection fee.

8-121. Regulations for purchase and sale of alcoholic beverages.

1. It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.
2. No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.
3. No licensee shall sell alcoholic beverages at retail in connection with any other business or in the same store where any other business is carried on.

8-122. Solicitation. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such license receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises.

8-123. Regulation of retail sales.

1. No retailer shall directly or indirectly operate more than one (1) place of business in this municipality for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.
2. No retailer shall sell, lend or give away any alcoholic beverages to any person who is visibly intoxicated nor shall any retailer selling alcoholic beverages sell, lend or give away to any person accompanied by a person who is visibly intoxicated.
3. No retailer shall sell, lend or give away any alcoholic beverages to a person under twenty-one (21) years of age.
4. No retailer store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Monday through Saturday and between ten o'clock a.m. (10:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Sunday.
5. No retailer shall sell, lend or give away any alcoholic beverages upon Easter, Thanksgiving, and Christmas Day.
6. No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.
7. No retailer as herein defined shall own, store or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state.

8-124. Mayor to determine if provisions are being complied with. The mayor and/or designated agent thereof is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. The refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license.

8-125. Violation and penalty. Any violation of the terms of this chapter shall be punishable by a fine; in such cases, suspension of said license by mayor for thirty (30) days shall be mandatory, and in the discretion of the board of mayor and aldermen may be cause for revocation of said license.

8-126. Visible possession prohibited. Visible possession of alcoholic beverages in unsealed container upon any public street or within any governmental building shall be a violation of this chapter.

8-127. Severability. If any provision of this Ordinance is hereafter determined to be unenforceable or unconstitutional by a court of competent jurisdiction then the other provisions of this Ordinance shall not be affected and shall remain valid.

8-128. Limitations of the number of licenses. The maximum number of licenses for retail liquor stores authorized to be issued within the municipal boundaries of the City of Portland is limited to four (4) and no new licenses shall be issued until the population of the city reaches the number of 20,001 according to the latest legal census certified by the government. Thereafter the number of licenses authorized is one (1) license per five thousand residents according to the latest legal census certified by government or the number of licenses authorized by the statutes of the State of Tennessee.

NOW THEREFORE, the aforementioned provisions relating to Title 8 Alcoholic Beverages, Chapter 1 Intoxicating Liquors, are substituted for any existing provisions of the Municipal Code in effect relating to the same subject matter.

BE IT FURTHER ORDAINED, that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading: March 17, 2025

Passed Second Reading:

ORDINANCE

City of Portland, Tennessee

No. 25 - 10

Second Reading

AN ORDINANCE TO REPEAL AND REPLACE TITLE 7 FIRE PROTECTION AND FIREWORKS CHAPTER 6 FIREWORKS OF THE MUNICIPAL CODE OF THE CITY OF PORTLAND

WHEREAS, The City of Portland is authorized to regulate the sale and use of fireworks within its boundaries and has determined that revisions are necessary; and

WHEREAS, Title 7 Fire Protection and Fireworks, Chapter 6 Fireworks, of the Portland Municipal Code shall be repealed and replaced with the following and highlights of this revision include new formatting, wording for better clarity, a \$100.00 permit fee increase (7-602), expanded time for discharging fireworks (7-604), and a site cleanup provision (7.607); and

CHAPTER 6

FIREWORKS

- 7-601. Permissible fireworks.
- 7-602. Permit required.
- 7-603. Period of time for seasonal retailers to sell.
- 7-604. Period of time for discharging fireworks.
- 7-605. Safe storage and sale of permissible fireworks.
- 7-606. Safe discharge of permissible fireworks.
- 7-607. Site cleanup.
- 7.608. Violations and penalties.

7-601. Permissible fireworks.

1. Generally, only those fireworks deemed as 1.4G Consumer Fireworks by the U.S. Department of Transportation, or those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations, are eligible for public sale and/or discharge.

2. Any fireworks or pyrotechnic display not designed or designated for the general consumer must be under the control of a licensed pyrotechnics technician.

7-602. Permit required.

1. A permit for a fireworks seasonal retailer is required to be obtained from the State of Tennessee, along with a permit from the City of Portland, Tennessee, to permit the seasonal sale of consumer class Fireworks within the city limits of Portland, Tennessee.
2. A fee of one thousand five hundred dollars (\$1500.00) per each fireworks stand/tent shall be paid, and this amount covers all associated City fees such as any sign permit and transient vendor license.
3. All necessary insurance and licenses shall be supplied for permit approval. Each seasonal permit is valid for the selling periods as defined in 7-603.
4. Each seasonal retailer stand/tent must have at least one (1) sign plainly visible to the public of not less than two hundred (200) square inches that details the hours and days that fireworks can be legally discharged (shot) in the City as detailed in 7-604, in addition to the no smoking signs as detailed in 7-605(2).
5. Permits are not transferable.
6. No sales may begin prior to the issuance of permits and all sales must be in accordance with T.C.A. § 68-104-101(8) as defined in 7-603.
7. All necessary permissions, affidavits, insurance, and site certifications are required before the issuance of a permit and are the responsibility of the retailer to ensure they have been obtained.
8. All required signage within this chapter is the responsibility of the retailer.
9. It is the responsibility of each retailer to ensure that all sales taxes are properly remitted according to the correct point of sale.

7-603. Period of time for seasonal retailers to sell.

1. The period of time for the sale of permissible fireworks as allowed in T.C.A. § 68-104-101(8), is broken into two (2) separate sell periods within each single selling season and shall be from June 20th through July 5th and from December 10th through January 2nd.
2. These two (2) separate selling periods define the length of one (1) selling season, and both are covered under one permit that must be renewed annually.

7-604. Period of time for discharging fireworks.

1. Unless otherwise excluded, the permissible discharge dates and times are as follows:
 - a. From June 18th to July 5th from 11am to 9pm; with the exception of June 19th and July 4th, where the time shall be 10am to 11pm; and
 - b. From 11am to 9pm on Memorial Day weekend (Saturday, Sunday, Monday) as recognized per each calendar year; with the exception of Memorial Day (last Monday in May), where the time shall be 10am to 11pm and
 - c. From December 24th to Jan 1st from 11am to 8pm; with the exception of December 31st where the time shall be from 10am on December 31st until 12:30am on January 1st.
2. Permitted festivals, events, and City functions are excluded.
3. In the event a burn ban is instituted that prohibits the discharge of fireworks during the normally prescribed dates and times, the first full weekend immediately following the lifting of the burn ban against discharging fireworks will serve as permissible make-up days due to the burn ban. The hours for discharging fireworks during the Saturday and Sunday make-up weekend shall be 11am to 9pm.

7-605. Safe storage and sale of permissible fireworks.

1. No person shall smoke within a structure where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, pipes, or other open flame within a structure where fireworks are offered for sale.
2. At all places where fireworks are sold or stored, for the purpose of sale during the time periods set forth in this chapter, signs must be posted with the words "Fireworks- No Smoking" in letters not less than four (4) inches high.
3. Each retail vendor must have at least one (1) properly rated fire extinguisher with a valid inspection tag on site at all times.
4. Fireworks shall not be stored in residential districts, except for personal use.
5. Fireworks shall not be sold from any property zoned residential, from the right-of-way, from a sidewalk or alley way, or from City owned property.
6. All unsold product must be removed within five (5) days of the ending of each separate sales period as defined in 7-603.
7. Fireworks shall not be stored or sold within 50 feet of a fuel source.
8. Each retail vendor is required to ensure that adequate parking is available so that customer vehicles do not create hazards for roadway traffic; and may be required to show the proposed parking area on site plan.
9. Fireworks shall not be sold to anyone under sixteen (16) years of age, or to any visibly intoxicated/impaired person.
10. Fireworks shall not be sold from any property zoned residential; or from property otherwise used for the public such as a road, sidewalk, alleyway, or City owned property.
11. Mobile retail vendors are not permitted; fireworks are only allowed to be sold from stationary permitted sites.
12. Seasonal retail sites are subject to inspections from the City Fire Inspector and that of the State Fire Inspector to ensure safe operation.

7-606. Safe discharge of permissible fireworks.

1. Fireworks shall not be discharged during any burn ban issued by the Fire Chief.
2. Except for permitted or City functions, no fireworks can be discharged from, or launched onto, City property.
3. Adequate provisions for safety must be made to prevent possible fire caused by the discharging of fireworks from spreading to any structure, dry ground cover, mulch, or other property.
4. The discharging of fireworks requires competent supervision at all times.
5. Fire extinguishing equipment should be readily available for use such as a garden hose connected to the water supply, or a properly rated and working fire extinguisher.
6. No accelerants, explosives, flammable gas, nor any hazardous material is allowed to be used during the discharge of fireworks.
7. Fireworks shall not be ignited inside of, or thrown from, a vehicle whether moving or parked.
8. Fireworks shall not be discharged from, or launched onto, the property of those who have not given permission.
9. Fireworks shall not be discharged from any public road, public right-of-way, public sidewalk, public alleyway, or any City owned property.
10. Fireworks shall not be discharged in the direction of any person, animal, motor vehicle, train, airplane, business, building, electrical substation, or other equipment or machinery.

11. Fireworks shall only be discharged during the permitted times listed within 7-604.

7-607. Site cleanup.

1. All trash, banners, and signs must be fully removed from site within five (5) days of the end of each separate sales period as defined in 7-603.
2. Each permitted site must contain sufficient trash receptacles so as not to have debris, boxes, and other trash stacked or piled up onsite.

7-608. Violations and penalties.

1. It shall be unlawful for any person to violate any of the provisions of this chapter or fail to comply with any other applicable order.
2. Violations may lead to City, County, State, or Federal penalties.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland that Title 7 Chapter 6 of the municipal code has been replaced with the aforementioned language.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading: March 17th, 2025

Passed Second Reading:



Work Study Minutes Monday, March 17, 2025 at 4:00 PM

1. Call to Order

Mayor Mike Callis called the meeting to order at 04:05 PM.

2. Roll Call

Present: Alderman Cole(@4:53 pm)Alderman Jennings, Alderman Woodall, Alderman McDowell(@ 4:09 pm), Alderman Ellis(@ 4:11 pm) - Quorum @ 4:11pm.

Also, Present: Mayor Mike Callis, City Recorder Tracy Kizer, Finance Director Rachel Slusser,

Absent: Alderman Hall, Vice-Mayor Thompson

3. Approval of Agenda Mayor Callis called for approval of the agenda at 4:11 pm, once a quorum was present.

Motion to: Approve

By: Alderman Woodall

Second: Alderman Jennings

Yes: Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Cole, Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

4. Public Hearing

- No one spoke

5. Discussion

A. 2025 - 2026 Budget

Mayor Callis turned over the meeting to Finance Director Rachel Slusser.

Director Slusser said she wanted direction from the Board and presented the personnel, capital outlays and requests.

List of both was presented to the Board.

- Each Department Director presented their need for additional personnel.
- The requested capital outlay projects and projects were reviewed.
- Items that are continued from last year, part of impact fees, part of a grant, or part of a new loan were marked in the list of items.
- Department Directors presented and explained their capital projects and needs.

After discussion, Mayor Callis reported the status of the water grant. The City of Gallatin will be signing contracts soon and needs a guarantee of funding from Portland for the Competitive TDEC ARP Regionalization Grant. Director Slusser reviewed the loan options for funding the grant.

Mayor Callis requested that two Resolutions be added to the Council Meeting Agenda to cover the intent of funding and pursue financing options for the water system improvements.

Mayor Callis also brought to the Board the need to have the display strawberries in town need to be repainted. He requested to move forward with having them repainted and back on display before the Strawberry Festival.

Mayor Callis reviewed the budget information and it was agreed that everything listed, except for three items, would be included in the budget draft. The second meeting in April will have a 4 pm work study that will determine the first reading of the budget in May.

Adjournment

Motion to Adjourn by Alderman Woodall; Second by Alderman Jennings;

Motion passed by voice vote to **adjourn at 5:50 PM.**



BOARD OF MAYOR AND ALDERMEN
Minutes for March 17, 2025 at 5:00 PM

1. Call to Order

Mayor Mike Callis called the meeting to order at 06:05 PM.

2. Prayer and Pledge

Mayor Mike Callis led the prayer and pledge.

3. Roll Call

Present: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Also, Present: Mayor Mike Callis, City Attorney John Bradley, City Recorder Tracy Kizer, Finance Director Rachel Slusser,

Absent: Alderman Hall, Vice-Mayor Thompson

4. Approval of Agenda Mayor Callis advised that two (2) Resolutions that were discussed in the Work Study, need to be added to the agenda.

1. Resolution No. 25-26 - Intent for the City of Portland to fund the TDEC ARP grant.
2. Resolution No. 25-27 - Allowing the Finance Director to seek funding for the TDEC ARP grant.

Motion to: Add two Resolutions to the agenda and approve the revised agenda.

By: Alderman Jennings

Second: Alderman Ellis

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

5. Presentation

No Presentations

6. Public Hearing

A. Certificate of compliance for Dhruv Patel of Portland Wine and Spirits located at 144 West Knight Street, Portland, TN.

- No one spoke

B. Los Potrillos - On-premises Beer Permit for Sebastian Alonzo Castaneda at 105 N. Broadway, Portland, TN.

- No one spoke

7. Public Comment Period

Ashley Washington of 517 W Market St spoke for Ordinance No. 25-10.

8. Communications from Council Members

Alderman McDowell questioned why the compliance certificate was on both the Beer Board and Legislative. After discussion, it was determined to remove it from the Beer Board agenda.

9. Mayor's Report

1. During the March 11th meeting with TDOT, it was announced that the widening of I-65 from Millersville to Rivergate would start in a few weeks.
2. Also discussed during the TDOT meeting was the Portland by-pass. Bids are scheduled for August 15th and construction will start October 1st, 2025.
3. The Gateview Road extension project has been delayed for years. Discussions about moving forward with the project will be held soon.
4. The Preserving Portland meeting is on March 27, 2025, at Richland gym from 5:30 to 7 pm.
5. Community clean-up day is set for Saturday, March 29, 2025. Sign up on the Chambers web page.

10. Alcohol Beverage Board

Chair McDowell called the meeting to order at 6:16 PM.

- A. Certificate of compliance for Dhruv Patel of Portland Wine and Spirits located at 144 West Knight Street, Portland, TN.

Removed from the Agenda by Board.

- B. Los Potrillos - On-premises Beer Permit for Sebastian Alonzo Castaneda at 105 N. Broadway, Portland TN.

Motion to: Approve

By: Alderman Jennings

Second: Alderman Ellis

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion (voice vote)

The Beer Board Meeting adjourned at 6:17 pm.

11. Consent Calendar

Motion to: Approve

By: Alderman Woodall

Second: Alderman McDowell

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- A. Resolution No. 25-25 – A Resolution to appoint certain members to the Industrial Development Board.

- B. Minutes - March 3, 2025

12. Community Development – Vice-Mayor Megann Thompson

- No Items

13. Finance – Alderman Vince Ellis

- No Items

14. Fire Department – Alderman Jody McDowell

- No Items

15. Human Resources – Alderman Vince Ellis

- A. Discussion - Personnel Policy Manual

Alderman Ellis opened the meeting for discussion with Human Resources Director Hazel Johnson available to answer questions.

No one had any questions or additions to the Employee Handbook.

16. Legislative – Mayor Mike Callis

- A. Ordinance No. 25-09 – First Reading - An Ordinance to repeal and replace Title 8 Chapter 1 Intoxicating Liquors of the Municipal Code of the City of Portland.

Motion to: Approve

By: Alderman McDowell

Second: Alderman Cole

Discussion: Mayor Callis advised that the fees have been raised, and state requirements brought up-to-date.

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- B.** Ordinance No. 25-10 – First Reading - An Ordinance to repeal and replace Title 7 Fire Protection and Fireworks Chapter 6 Fireworks of the Municipal Code of the City of Portland.

Motion to: Approve

By: Alderman McDowell

Second: Alderman Woodall

Discussion: Mayor Callis explained the only changes were changing the discharge dates to start July 4th on June 18th, add Memorial Day weekend and December 24 to July 1st.
Alderman McDowell advised the sale time frame of fireworks is controlled by the state.
Alderman McDowell also discussed the discharge times.

Motion to: Mirror the July 4th discharge end time to the other holidays, June 19th, Memorial Day and make-up day.

By: Alderman McDowell

Second: Alderman Ellis

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

Vote to: Approve as amended

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- C.** Resolution No. 25-20 - A Resolution authorizing a certificate of compliance for Dhruv Patel of Portland Wine and Spirits located at 144 West Knight Street, Portland, TN.

Motion to: Approve

By: Alderman McDowell

Second: Alderman Cole

Discussion: Alderman McDowell explained this is the existing liquor store on West Knight Street and the prior owner had recently passed away, so Mr. Patel will take ownership of this store. This will void the prior Certificate of Compliance for the Hwy 52 Liquor store.

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- D.** Resolution No. 25-26 - A Resolution approving the intent of the City of Portland to acquire and appropriate the necessary funding to complete the Competitive TDEC ARP Regionalization Grant.

Motion to: Approve

By: Alderman Woodall

Second: Alderman Ellis

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- E.** Resolution No. 25-27 - A Resolution authorizing the Mayor and Finance Director of the City of Portland to pursue financing options for the costs of necessary improvements and extensions of the City's Water System.

Motion to: Approve

By: Alderman Cole

Second: Alderman Woodall

Discussion: Mayor Callis advised Director Slusser will be checking on loans and will bring the options back to the Council for choice and approval of an option.

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

17. Municipal Airport – Alderman Mike Hall

- No Items

18. Parks & Recreation – Alderman Brian Woodall

- No Items

19. Planning & Codes – Vice-Mayor Megann Thompson

- A.** Ordinance No. 25-11 – First Reading - An Ordinance to authorize the Mayor to enter into a Developer's Agreement with Steven Staggs for the water improvements, including the installation of a new 8-inch water main through the development, a new 8-inch water main along College Street and a new 8-inch sewer main throughout the development, for the Ruby Springs Development, located at 780 College Street, Portland, Tennessee.

Motion to: Approve

By: Alderman Cole

Second: Alderman Ellis

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- B.** Resolution No. 25-21 - A Resolution to approve the Order of Presentations for Planned Unit Developments.

Motion to: Approve

By: Alderman McDowell

Second: Alderman Ellis

Discussion: Mayor Callis explained the current order of planning developments and would like to see the Board have input in the beginning.

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- C.** Discussion - Jetton Farms PUD Conceptional Presentation
Planning Director Nate Heisler introduced Rich Speckman of the M2 Group to give an overview of the PUD located behind the north fire hall.

Mr. Speckman presented plans for the development.

Discussion of traffic lights on Highway 109 North. Mayor Callis explained that TDOT is going to put traffic light in and will have a final plan shortly.

The floor was open for questions.

Discussions were held about monetary donations, modeling letters, lot size, home size, HOA responsibilities, parking, alleyway, school bus stop, trash pick-up and lift station.

20. Police Department – Alderman Drew Jennings

- A.** Resolution No. 25-22 – A Resolution authorizing five (5) change orders in the net amount of \$38,922.11 for a contract with MDI Construction, Inc. for the purchase and installation of a steel main door and frame, a brick facade, (10) ten circuits for temporary office space, new bathroom and shower, and flooring change.

Motion to: Approve

By: Alderman Jennings

Second: Alderman Cole

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- B.** Resolution No. 25-23 - A Resolution to purchase certain identified patrol items needed to enhance security and department readiness.

Motion to: Approve

By: Alderman Jennings

Second: Alderman Ellis

Discussion: Chief Arnold explained that he would order 27 stopsticks, rifles, optics. Discussion was held about purchasing or testing for a year of the Flock trailer.

Motion to: Amend to 27 stop sticks, 27 rifles, 27 optics, changing the total cost to \$115,110.00.

By: Alderman Woodall

Second: Alderman Ellis

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Amended Motion Passed (voice vote)

Vote to: Approve - as amended

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

21. Public Works – Alderman Brian Woodall

- A.** Resolution No. 25-24 - A Resolution authorizing the City of Portland to participate in the “Safety Partners” matching grant program.

Motion to: Approve

By: Alderman Woodall

Second: Alderman Cole

Discussion: Director Carlton Cobb advised funds used to purchase road barricades, light bars for trucks, and safety cabinets for chemicals.

Yes: Alderman Cole, Alderman Ellis, Alderman Jennings, Alderman McDowell, Alderman Woodall

Absent: Alderman Hall, Vice-Mayor Thompson

Motion Passed (voice vote)

- B.** Discussion - Property and delinquent Property Tax
Director Cobb started the discussion about two properties on West McGlothlin Street. There have been several studies about water drainage in this area. The city has several liens on the property from delinquent taxes, upkeep and removing a building from the property several years ago.
Attorney Bradley advised the County taxes would be more than the City taxes and delinquent taxes only go back ten years. Attorney Bradley will look into the property and if the City should pursue ownership.

22. Utility Infrastructure – Alderman Charles Cole

- A.** Discussion - Water Meters - Director Bryan Price advised the transmitters on the meters are being replaced at a high rate. The following was discussed:

- Having a company install several in a short period of time.
- Over 600 need to be replaced quickly.
- The approval to have transmitters installed has already occurred, and the funding is in the budget.
- The White House Utility District advised that they could install them quickly.

Mayor Callis advised that the White House Utility District is continuing to compile information and conduct studies about Portland Water Utilities. A discussion was held about WHUD taking over the water system. Attorney Bradley reminded the Board that WHUD still has to follow the same State regulations that the City has to follow.

Mayor Callis reminded everyone that the City is getting a 40 million-dollar water improvement project for 10 million dollars with the TDEC ARP Regionalization grant.

Adjournment

Motion to Adjourn by Alderman Jennings; Second by None;

Motion passed by voice vote to **adjourn at 7:25 PM.**

BUSINESS OFFICE MONTHLY REPORT

FEBRUARY 2025

Total Payments Received	9,086	\$4,933,764
Utility Bills Processed	10,242	\$2,368,670
Total Service Orders Processed	588	

Total Customers by Service	
Water	8370
Sewer	4709
Gas	5361
Sanitation	4871
Stormwater	5113

New Service Connect/Disconnect	
Water Disconnected	75
Water Connected	48
Gas Disconnected	39
Gas Connected	23

Taps Sold Feb 2025		Taps Sold YTD 2025	
Gas	3	Gas	10
Water	7	Water	35
Sewer	0	Sewer	19

Leak Adjustments Processed	22
Pool Adjustments Processed	0

Municipal Court Findings	
Citations Suspended	5
Citations Dismissed	21
Defendants Found Guilty	93
Defendants Given Traffic Class	38

Business Licenses	
Active Licenses	633
New Licenses	3
Renewed Licenses	22
Active Food Vendors	7

Property Taxes Processed	
Bills Processed	1333
Amount Received	\$2,664,069
Property Taxes Collected YTD	
2022	99.5%
2023	98.5%
2024	91.7%
Tax Relief	
New & Existing Applicants YTD	228
Submitted to State Dec 2024	27
Payment Approved Dec 2024	32

Building Codes - February - 2025 Report

Permit Type	No. of Permits	Amount
Residential Building	0	\$0.00
Commercial / Industrial	3	\$24,001.45
Plan Review	7	\$27,422.59
Stand Alone Building	0	\$0.00
Fire Alarm/Fire Sprinkler	0	\$0.00
Plumbing	9	\$31,721.05
Mechanical	6	\$9,051.30
Use & Occupancy	1	\$35.00
Swimming Pool	1	\$135.00
Demolition	0	\$0.00
Fire Works	0	\$0.00
Total	27	\$92,366.39

Impact Fees Collected - February - 2025

Parks	\$3,222.00
Police	\$2,310.00
Fire	\$4,372.00
Total	\$9,904.00

General Fund - YTD Totals

\$264,580.82

General Fund - Fiscal YTD

\$468,695.42

Impact Fees - YTD

Parks - \$ 8,595.00
Police - \$ 34,556.88
Fire - \$111,636.12

Impact Fees - Fiscal YTD

\$13,132.00
\$49,449.49
\$154,082.65

Inspections/Re-Inspections Provided

Commercial	37
Residential	61
Totals	98

Inspections - Totals YTD

69
103
172

Economic Development 2025 February Report

Commercial

Developer Meetings
Preeapp Meetings 6

Industrial IDB

Project Mercury Calls 3
Monthly State Update ECD Calls
TVA Summit Nashville
Legislature Lunch Nashville

MISC

Council Meetings 1
Staff Meetings 3
Planning Meeting 1
Sumner County Grant Meeting BRC 2
Board Meetings 2

Community

Ribbon Cuttings 3

Grants

CMAQ - 109 to 52 to College St
College Street Sidewalks
Water Resource Protection
Kirby Road Paving
AFG - Assistance to Firefighters Grant
SIA Project Commodore
THSO - Police
TLETA Police
VCIF Police
LPRF Local Parks and Recreation
ARPA
ARP
Diesel Grant- Medium Truck
Railroad Crossing
Scattersville Road Project
Airport DGA
Airport Land Acquisition Grant
Airport Annual Maintenance Grant
Interstate Lighting I- 65
TDOT 109 Bypass North
TDOT 109 Bypass South

Value of Grants/Projects \$19,500,000
(not including 109 Bypass)



Office of the Finance Director
 5. Russell Street Portland, TN 37148
 615-325-6776

*As of February 28, 2025
 Fiscal Year has elapsed - 67%*

	Amount	Unspent Committed Funds
GO Bond 2020	\$3,921,537	\$2,622,837
W/S Bond 2020	\$18,238,174	\$0

		Board Passed	
		2/28/2025	% of Budget
GENERAL FUND			
Revenue			
Taxes & Licenses	8,759,533	10,213,000	85.8%
Planning & Codes	495,291	713,500	69.4%
Intergovernmental	1,382,468	2,422,000	57.1%
Miscellaneous	214,737	362,000	59.3%
Court	82,957	152,500	54.4%
Other Revenues	923,922	244,000	378.7%
Loan Proceeds - Other Fin Source	2,986,485	1,596,800	187.0%
Grants & Special Projects	18,619	1,772,800	1.1%
TOTAL	14,864,012	17,476,600	85.1%
Expense			
General Government	2,047,776	2,624,091	78.0%
Administrative & Mayor	278,983	382,095	73.0%
Human Resources	102,792	123,307	83.4%
Planning & Zoning	179,594	295,716	60.7%
Codes	132,929	158,353	83.9%
Court	55,490	88,810	62.5%
Police	2,903,849	4,439,278	65.4%
Fire	2,022,520	2,776,977	72.8%
Streets & Highways	820,585	1,446,088	56.7%
City Garage	129,297	171,915	75.2%
State Street Aid	334,884	480,000	69.8%
Animal Control	63,556	121,076	52.5%
Grants & Special Projects	675,977	6,795,100	9.9%
Golf Course	346,884	589,665	58.8%
Parks & Recreation	635,389	985,338	64.5%
Community Development	80,629	132,298	60.9%
TOTAL	10,811,133	21,610,107	50.0%

WATER & SEWER		2/28/2025	Board Passed Budget	% of Budget
Revenue				
	Revenue	8,950,016	13,727,000	65.2%
	TOTAL	8,950,016	13,727,000	65.2%
Expense				
	Water Plant	1,081,831	1,756,294	61.6%
	Water Distribution System	1,850,928	3,693,189	50.1%
	Grants & Projects	5,513,146	8,087,000	68.2%
	Sewer Collection	1,327,371	2,199,363	60.4%
	Sewer Plant	1,165,994	2,785,546	41.9%
	Business Office	313,300	548,960	57.1%
	Utility Administration	576,975	749,420	77.0%
	TOTAL w/ Bond	11,829,547	19,819,772	59.7%
NATURAL GAS FUND				
Revenue		3,974,572	6,478,000	61.4%
Expense		3,936,131	6,445,004	61.1%
AIRPORT FUND				
Revenue		\$751,622	\$708,465	106.1%
Expense		\$2,055,616	\$708,302	290.2%
DRUG FUND				
Revenue		\$18,876	\$4,000	471.9%
Expense		\$0	\$13,000	0.0%
STORMWATER				
Revenue		\$828,067	\$880,000	94.1%
Expense		\$728,932	\$1,262,415	57.7%
SOLID WASTE				
Revenue		\$1,123,265	\$1,385,603	81.1%
Expense		\$742,083	\$1,225,494	60.6%

		Board Passed		
		2/28/2025	Budget	% of Budget
IMPACT FEES				
Revenue				
	Parks	13,132	20,000	65.7%
	Police	49,449	15,000	329.7%
	Fire	153,361	7,500	2044.8%
	Interest	17,242	0	
	TOTAL	\$233,184	\$42,500	548.7%
Expense				
	Parks	0	8,500	0.0%
	Police	7,981	15,900	50.2%
	Fire	33,620	33,639	99.9%
	TOTAL	\$41,601	\$58,039	71.7%
DEBT SERVICE - GENERAL FUND				
Revenue	Transfer from General Fund	\$990,767	\$990,767	100.0%
Expense		\$169,865	\$990,767	17.1%

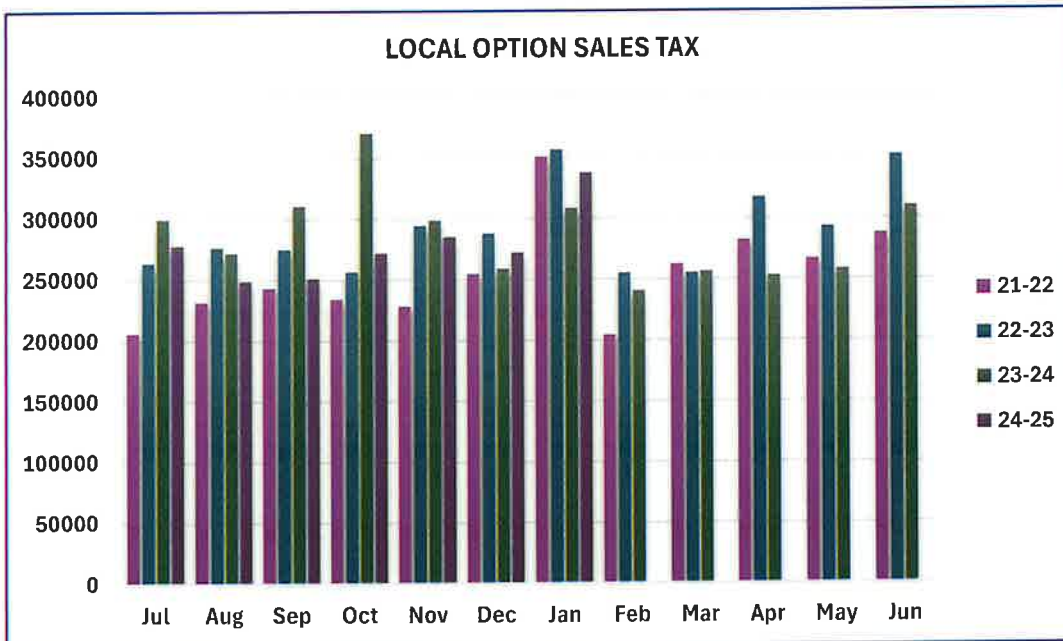
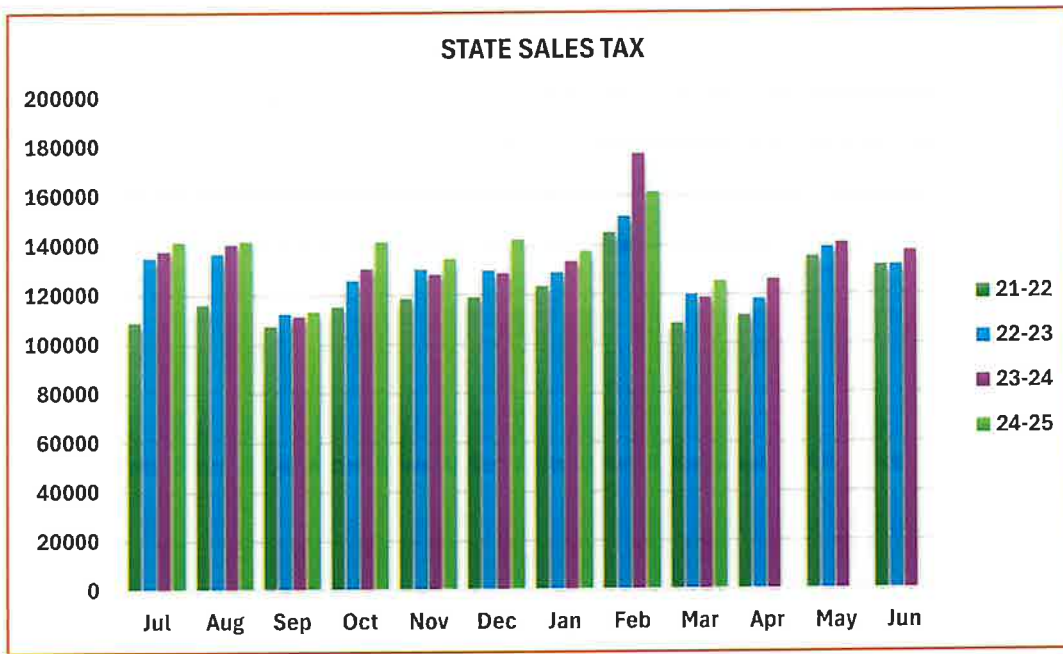
Rachel Slusser, CMFO

CAPITAL OUTLAY

Police	Police Cars X 4	✓
Public Works	Pickup Truck	✓
	Lawn Mower X 2	✓
	Mini Ex	Moved to next year
Animal Control	Pickup Truck	✓
	Outside Upgrades	In progress
Parks	Golf Sign	Moved to next year
	Golf Mower	On order
	Heating unit at Richland Park	On hold/moved to next year
	Tables & Chairs	Completed
	Camera System	Moved to next year
Stormwater	Pickup truck	✓
Water Dist	Truck X 2	1-✓
Sewer Collection	1 ton truck	Ordered
	Pickup truck	✓
Gas	Pickup truck X 2	1-✓, 1-ordered

PROJECTS

Comprehensive Plan	In progress
Parks Maintenance Bldg	In progress
Stormwater Bldg	Complete
Police Bldg Remodel	In progress
Irrigation - Golf Course	In progress
Splash Pad	2nd Bid open on Feb 28, 2025
Gym Floor	Complete
Waterline - Hwy 52 to Searcy	Complete
System meter change out	On going
Wastewater Treatment Plant upgrade	In progress
Mason's Transmission Line	In progress
Oakhill Waterline	In progress
Oakhill Tank	In progress
Paving	On going
Wheeler Sidewalks	Complete
Dan Jenkins Bldg	Bid awarded



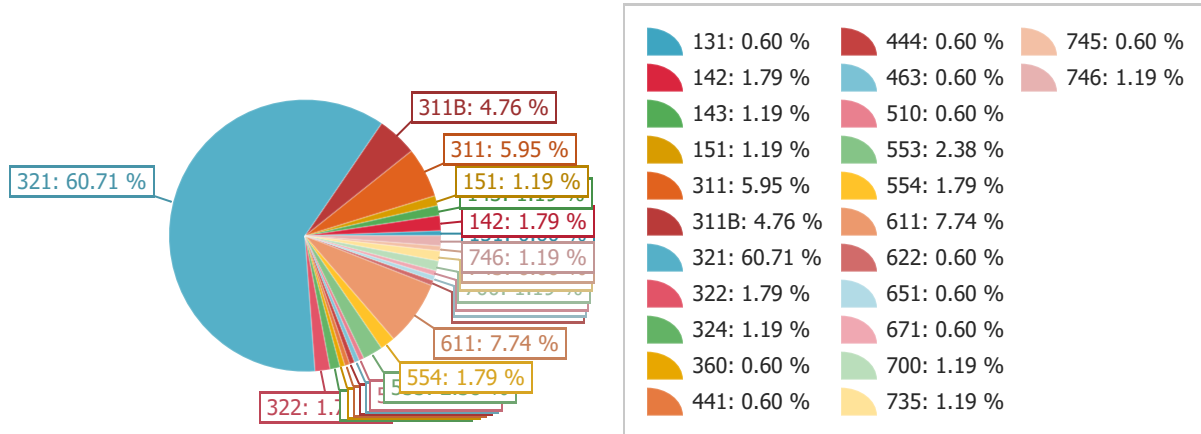


Portland Fire Department

111 Woods Road
Portland, Tennessee 37148
(615) 325-5649



Incident Reports By Incident Type, Summary



Incident Type

Total Incidents

Percent

131 - Passenger vehicle fire	1	0.60%
142 - Brush or brush-and-grass mixture fire	3	1.79%
143 - Grass fire	2	1.19%
151 - Outside rubbish, trash or waste fire	2	1.19%
311 - Medical assist, assist EMS crew	10	5.95%
311B - Public Assist	8	4.76%
321 - EMS call, excluding vehicle accident with injury	102	60.71%
322 - Motor vehicle accident with injuries	3	1.79%
324 - Motor vehicle accident with no injuries.	2	1.19%
360 - Water & ice-related rescue, other	1	0.60%
441 - Heat from short circuit (wiring), defective/worn	1	0.60%
444 - Power line down	1	0.60%
463 - Vehicle accident, general cleanup	1	0.60%
510 - Person in distress, other	1	0.60%
553 - Public service	4	2.38%
554 - Assist invalid	3	1.79%
611 - Dispatched & canceled en route	13	7.74%

March 04, 2025 10:00

Page 1 of 3

Incident Type	Total Incidents	Percent
622 - No incident found on arrival at dispatch address	1	0.60%
651 - Smoke scare, odor of smoke	1	0.60%
671 - HazMat release investigation w/no HazMat	1	0.60%
700 - False alarm or false call, other	2	1.19%
735 - Alarm system sounded due to malfunction	2	1.19%
745 - Alarm system activation, no fire - unintentional	1	0.60%
746 - Carbon monoxide detector activation, no CO	2	1.19%

Total Number of Incidents: 168

Total Number of Incident Types: 24

Incident Type

Total Incidents

Percent

Report Filter Settings

Report File Name: Incident Reports by Incident Type, Summary

Filter Name: Last Calendar Month

Filter Expression: [AlarmDateTime] is between '2/1/2025 12:00:00 AM' and '2/28/2025 11:59:59 PM'

Human Resources Monthly Report February 2025

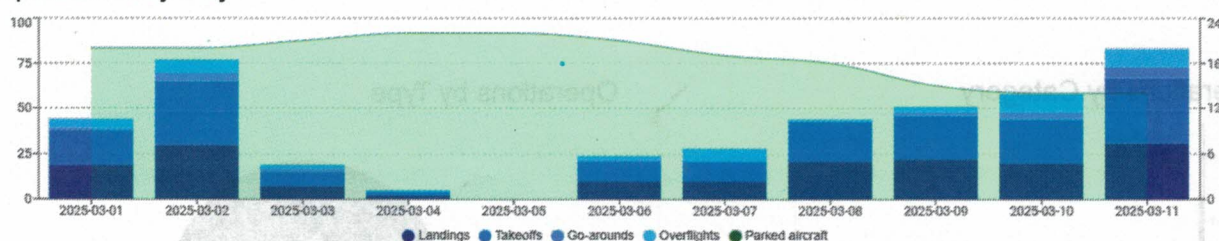
New Hire Orientations	Feb	YTD
Full-Time	7	11
Re-Hires	0	1
Part-Time	0	1
Retirements	0	0
Severances		
• Voluntary	4	6
• Involuntary	0	1
Workers Comp Claims	2	3
Current open positions	11	

1M5 - Douglas Hunter Field

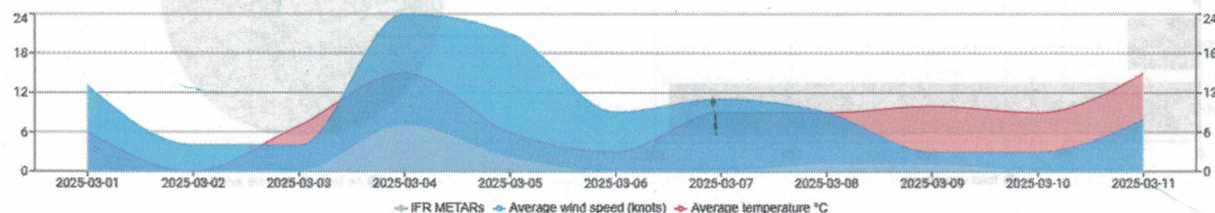
Operations Report for February 2025

Operations 433	Landings 172	Takeoffs 192	Go-arounds 21	Overflights 48
--------------------------	------------------------	------------------------	-------------------------	--------------------------

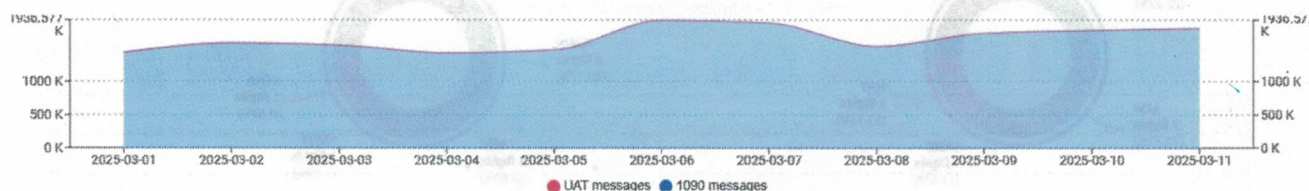
Operations by Day



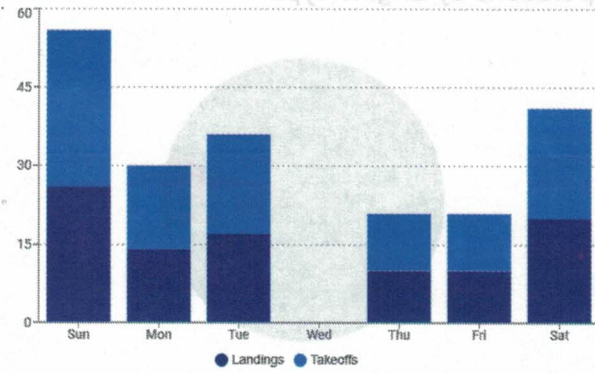
Weather Conditions



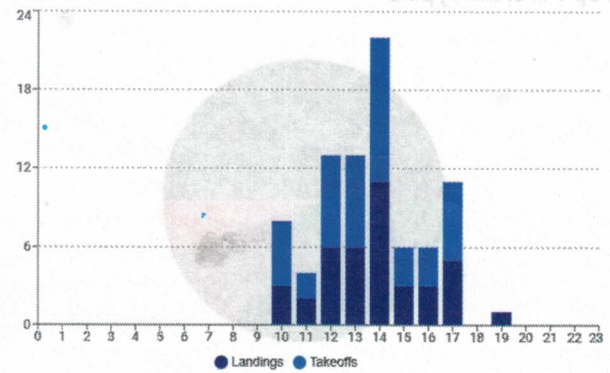
Receiver health



Operations by Day of Week

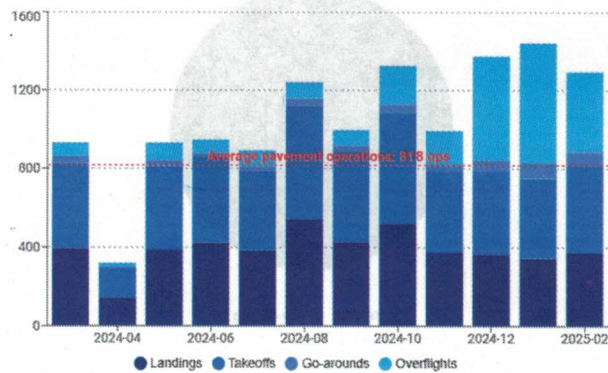


Operations by Hour



Historical Data

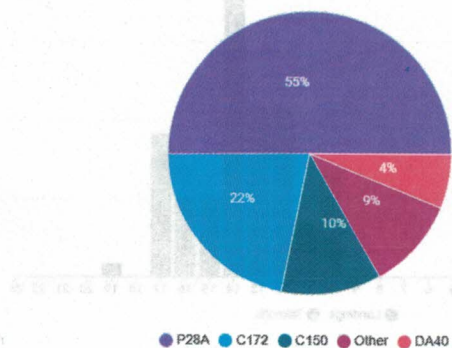
Landings and Takeoffs by Month



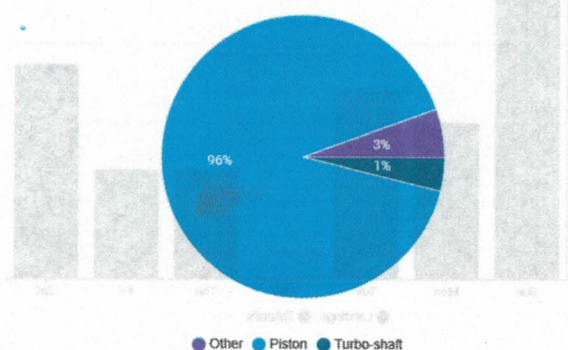
Busiest Days on Record

Rank	Date	Pavement ops	Aircraft
1	2024-11-16 (Sat)	123	18
2	2023-04-11 (Tue)	105	13
3	2023-09-13 (Wed)	103	15
4	2024-09-11 (Wed)	101	18
5	2024-10-10 (Thu)	98	16
6	2024-08-28 (Wed)	92	16
7	2023-03-29 (Wed)	89	15
7	2023-10-22 (Sun)	89	9
7	2024-10-19 (Sat)	89	14
7	2024-07-16 (Tue)	89	8

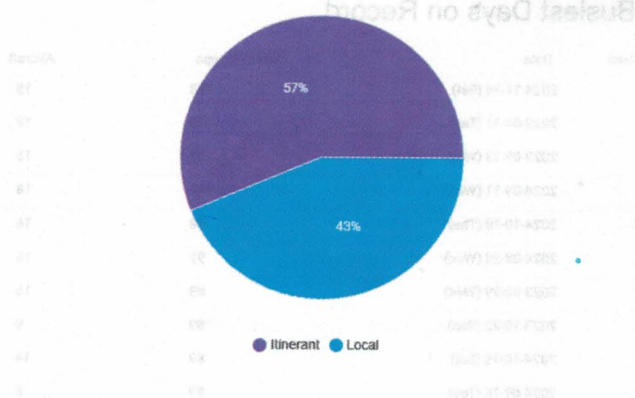
Top Aircraft Types



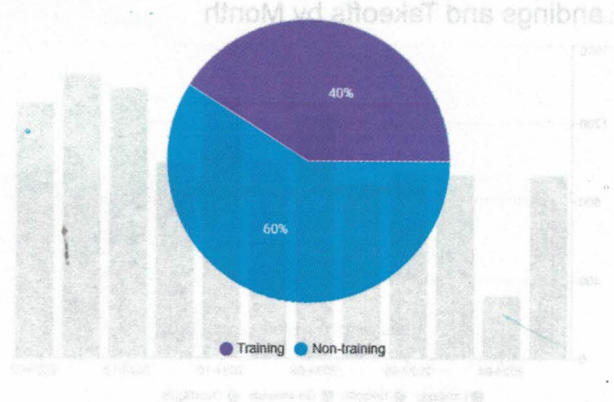
Operations by Engine Type



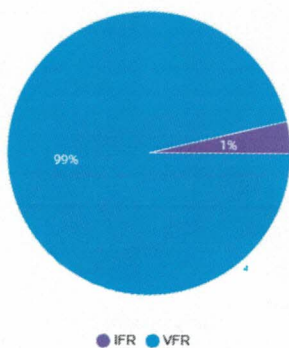
Local vs. Itinerant Flights



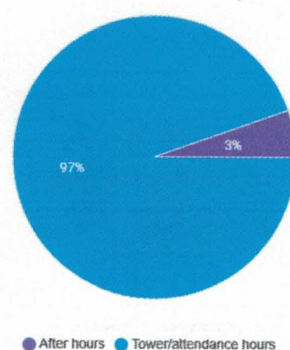
Training Operations



IFR vs. VFR flights



After Hours Operations



Fuel Sales for FEBRUARY

100 LL - \$8,764.88

Jet-A - \$4,955.40



Monthly Report / February 2025
Jamie White, Parks Director
Tammy Groves, Assistant Parks Director
Trent Stephens, Park Maintenance Crew Leader
Marty Bullington, Golf Course Manager

Civic Clubs

Portland Youth Football League	Off Season
Portland Soccer Club	Opening Day Saturday March 22
Portland Baseball and Softball	Opening Day Saturday March 29

Parks and Recreation Programs and Events

Irrigation: Construction has started.

Richland Gym: The gym floor has been completed. Starting in March morning walking will be Monday through Friday 7 am to 10 am. Pickleball will be Monday and Thursday 10 am to 2 pm.

Splashpad: Bid opening is set for Friday March 28th.

Maintenance Building: Construction is ongoing.

Daddy Daughter Dance was held on Saturday February 8th. It was a sell out and a huge success.

Easter Egg Hunt is set for Sunday April 13th on the soccer fields starting at 2:00 pm.

Preserving Portland Public Meeting will be held at Richland Gym on Thursday March 27, 2025.

Annual Memberships are on sale at Dogwood Hills Golf Course.



February 2025 Sales Report

<u>Category</u>	<u>Items Sold</u>	<u>Total Sales</u>
Annual Memberships	21	\$22,085.50
Daily Rounds	310	\$8,455.00
Cart Rentals	32	\$190.00
Concessions	185	\$341.00
Pro Shop	25	\$2,873.70
Total:		\$33,945.20

February 2024 Sales Report

<u>Category</u>	<u>Items Sold</u>	<u>Total Sales</u>
Annual Memberships	21	\$25,050.00
Daily Rounds	446	\$11,335.00
Cart Rental	68	\$340.00
Concessions	255	\$451.00
Pro Shop	75	\$3,995.28
Shed Rental	1	\$300.00
Total:		\$41,471.28



Planning Department February Monthly Report

Item	February	Year To Date
Calls To/From Planning Department	218	431
Number of Developer Meetings	7	23
Number of Complaints / Violations	0	0
Number of Walk-ins	3	14
Number of IDT Submissions	17	35
Number of Other Meetings	1	2
Number of Projects Invoiced	5	11
BZA Board Members Present	0	0
BZA Agenda - Cancellation	1	2
BZA Minutes	0	0
Number of Items on Agenda BZA	0	0
Planning Commission Agenda	5	17
Planning Commission Minutes	1	2
Planning Commission Board Members Present	8	-
Number of Items on Agenda Planning Commission	5	6
Open Records for Planning Department	1	2
Active Letters of Credit	31	31
Emails	507	1007
File Archiving/Scanning	2	5
Plat Certifications Intake & Pickup	3	4
Planning Commission Packets	9	18
Trip to Court House for Annexations	1	1

PORTLAND POLICE DEPARTMENT MONTHLY REPORT

2-1-2025 TO 2-28-2025

CID ACTIVITY					
Cases Assigned	24	Interviews Conducted	102	Asset Forfeitures	0
Cases Inactive	4	Monitored Interviews	3	DCS/AOA	15
Cases Cleared	27	Search Warrants	5	Knock and Talk	14
Call outs	3	Judicial Subpoenas	3	Assist Patrol Units	23
Grand Jury Cases	2	General Sessions Cases	3	Forensic Interviews	3
Grand Jury Hours	4	General Sessions Hours	9	Fire Investigations	0
Juv Court Cases	1	Criminal Court Cases	0	CVSA Performed	0
Juv Court Hours	2	Criminal Court Hours	0	Sex offenders reg	1

Records Activity			
Copies Distributed		Background Checks	
Walk-ins	8	Government	4
E-mails	41	Public Housing	0
Grand Jury & DA Copies	2	Local	0
Arrest Reports	50	Incident Reports	92
Written Warnings	147	City Citations	47

ANIMAL CONTROL ACTIVITY					
CALLS ANSWERED	56	WILDLIFE	0	DECLARED VICIOUS	0
ANIMALS PICKED UP	2	RETURNED TO OWNER OR RESCUE	3	BARKING COMPLAINT	0
SENT TO S.C.S.C.	0	TRAPPED ANIMALS	0	CRUELTY & WELFARE COMPLAINTS	0
DOGS	5	ANIMAL BITE ON ANIMAL	1	WILDLIFE/LIVESTOCK COMPLAINTS	2
CATS	0	ANIMAL BITE ON HUMANS	0	TICKETS/WARRANTS/ARRESTS	3
LIVESTOCK	0	EUTHANASIA	0	WARNINGS	2
		ADOPTIONS	0	REPORTS	4
SPECIAL ASSIGNMENTS	0	INTAKE	5		

PROPERTY MAINTENANCE / CODES			
CASE NUMBERS	2	RESOLVED BY CONTACT/PHONE	2
NON-COMPLIANCE LETTERS	2	CITY COURTS DATES	2
NEW GRASS/RUBISH COMP	2	CITY HALL BANK ESCORTS	15
RE-INSPECTIONS	0	MAIL DELIVERY	15
PARKING COMPLAINTS	0	ASSIST ANIMAL CONTROL	15
FOLLOW-UP PARKING COMP	0	ARRESTS	0
VEHICLES (NON-COMP)	Final Notice sent	REPORTS	0
WORK ORDERS	0	CITATIONS	0
PROPERTY LIENS	0	WRITTEN WARNINGS	0
RELEASE OF LIENS	0	Civil Warrants	6

CALLS FOR SERVICE					
TOTAL MONTHLY CALLS= 1758					
911 HANG UP	20	DRUG INVESTIGATION	0	RIOT	0
911 MISDIAL	24	ESCORT	8	ROBBERY	0
911 MISDIRECT	2	EVADING	2	RUNAWAY	1
911 OPEN LINE	16	EXPARTE SERVICE	0	SCAM	2
ABANDONED VEHICLE	1	EXTRA PATROL	76	SCHOOL CHECK	7
ABUSE INVESTIGATION	0	FIELD INTERVIEW	0	SCHOOL ZONE	61
ACCIDENT INJURY	7	FIGHT	1	SEX OFFENDER REGISTRATION/VIOLATION	0
ACCIDENT INJURY HIT/RUN	0	FIREARM DENIAL	0	SEXUAL ASSAULT	0
ACCIDENT PROPERTY	30	FIREWORKS	1	SHOOTING	2
ACCIDENT PROPERTY HIT/RUN	5	FOLLOW-UP	32	SHOPLIFTING	1
ACCIDENT SERIOUS INCIDENT	0	FORGERY	0	SHOTS FIRED OR HEARD	1
ACTIVE SHOOTER	0	FRAUD	4	SOLICITOR	0
ADMIN INVESTIGATION	0	HANGING	0	SPECIAL ASSIGNMENT	0
AIRCRAFT EMERGENCY	0	HARASSEMENT	4	SPECIAL ASSIGNMENT COMMUNITY	0
ALARM	34	HOSTAGE SITUATION	0	STABBING	0
ALARM HOLD UP/PANIC	1	HOTEL CHECK	0	STALKING	1
ALARM SCHOOL LOCKDOWN	0	ILLEGAL DUMPING	1	STOLEN VEHICILE	2
ALARM TEST	0	INDENCENT EXPOSURE	0	SUBDIVISION CHECK	2
ANIMAL CALL	44	INVESTIGATION	5	SUBJECT CHECK	19
APARTMENT CHECK	5	JUVENILE	5	SUICIDAL SUBJECT	3
ARMED SUBJECT	0	JUVENILE TRANSPORT	0	SUSPICIOUS INCIDENT	25
ARSON	0	KIDNAPPING	0	SUSPICIOUS PERSON	7
ASSAULT	3	KNOCK AND TALK	0	SUSPICIOUS VEHICLE	7
ASSIST CITIZEN	31	LAKE CHECK	1	TALK TO OFFICER	178
ASSIST EMS	15	LOCKOUT	1	TEST CALL	1
ASSIST FIRE	10	LOCKOUT URGENT	1	TEST CALL ALL AGENCIES	0
ASSIST OTHER AGENCY	19	LOST/FOUND PROPERTY	8	THEFT	2
ATTEMPT TO LOCATE	9	LPR HIT	1	THREATS	5
BARRICADED SUBJECT	0	MENTAL TRANSPORT	2	TRAFFIC COMPLAINT	0
BLUE TEAM REPORT	0	MISC. MATTER OF RECORD	12	TRAFFIC ENFORCEMENT	7
BOLO	7	MISSING ADULT	2	TRAFFIC HAZARD	9
BOMB THREAT	0	MISSING JUVENILE	0	TRAFFIC STOP	661
BURGLARY	2	NOISE COMPLAINT	3	TRAIN DERAILMENT	0
BUSINESS CHECK	83	OPEN DOOR	0	TRESPASS	3
CAR SEAT CHECK	0	OVERDOSE	3	TROUBLE @ PD	0
CHECKPOINT	0	PARK CHECK	38	UNAUTHORIZED USE OF VEHICLE	0
CITY CALL OUT	0	PARKING COMPLAINT	4	UNKNOWN SITUATION	0
CIVIL MATTER	6	PHONE MESSAGE	0	VANDALISM	1
CODE 99-OFFICER IN TROUBLE	0	PRISONER ESCAPE	0	VEHICLE BURGLARY	1
CODES	2	PRISONER TRANSPORT	0	VEHICLE CHECK	36
DAMAGE TO PROPERTY	5	PRIVATE PROPERTY TOW	0	VIOLATION CORRECTION VERIFY	16
DEATH INVESTIGATION	1	PROSTITUTION	0	VIO OF ORDER OF PROTECTION	2
DELIVER MESSAGE	5	PROWLER	0	WARRANT CIVIL	3
DISORDERLY CONDUCT	0	P.I.	4	WARRANT CRIMINAL	3
DISTURBANCE	8	RADIO COMMUNICATION	0	WEATHER RELATED ISSUE	3
DOMESTIC	13	RECKLESS DRIVER	26	WELFARE CHECK	23
DRILL	0	REFERRAL	2	GANG ACTIVITY	0
DUI	4	REPO	4	GAS DRIVE OFF	0

YTD Total Calls for Service	3,638
YTD Total Written Warnings	392
YTD Total Speeding Citations	250
YTD Total all other city citations	174
YTD Commercial vehicle enforcements	49
YTD Total Arrest	105
Total Fuel per Gallons	2945.683



CITY OF PORTLAND
STORMWATER MANAGEMENT PROGRAM
100 SOUTH RUSSELL STREET
PORTLAND, TENNESSEE 37148
Telephone 615/325-6776

Date: 3/24/2025

Stormwater Management Monthly Report- February 2025

Public Education and Outreach

Many meetings were held throughout the month to discuss stormwater issues with homeowners. The main topics of conversation were drainage issues and flooding concerns.

Public Outreach and Involvement

There was a meeting for the upcoming Sumner County Cleanup Day on February 6th. This meeting discussed the times and details for the March event. This is a great way for the public to get involved in cleaning up the community and keeping our waterways free of trash.

Illicit Discharge Detection and Elimination

There were a few construction sites that received follow up inspections due to trash blowing off their sites during high wind events. Loose trash is a water quality concern when not addressed in a timely manner.

Construction Site Runoff Control

Pre-Con/Pre-App Meetings: 3

LDPs issued: 0

CGP Inspections: 20

CGP inspections are required once monthly per TDEC. Most sites are inspected more than once a month through pre-con inspections, re-inspections, and illicit discharge complaints. Residential sites that are not under TDEC coverage are inspected on a weekly basis.

Permanent Stormwater Management

Long Term Maintenance Agreement letters were typed up and will be delivered in March to the property owners of facilities that have stormwater controls in place that need to be inspected every year. Those inspections are to be sent to the Stormwater Department.

New LTMAAs received: 0

LTMA Inspections Received: 0



CITY OF PORTLAND

Public Works

Stormwater Field Crew

Council Report Submitted by
David Harris

Submitted for the April 2025 meeting
For March 2025

Maintenance (Citywide Various Locations)

- ☒ Maintenance: Storm grate, driveway tiles, canals, ditches and cut swells in yards to prevent flooding etc.
- ☒ Installation or replacement of driveway and road tiles.
- ☒ Place signage such as detour, work ahead - as needed
- ☒ Check and clean storm drains prior to storm event
- ☒ Yard repair: clean up, seed and straw job site
- ☒ Meet with homeowners about drainage issues or upcoming jobs.
- ☒ Tree removal
- ☐ Setup and Checked beaver traps.
- ☒ Purchase supplies: Drainage pipe, gravel, fittings, tools etc...

Other Tasks

- ☒ Attend meetings:
- ☒ Called in Tn One Call tickets
- ☒ Office: Timesheets, work orders, project sheets, reports etc...
- ☐ Inventory counts

Vehicle and Equipment

- ☒ Took truck and equipment to get repairs - Local mechanic shop and outside source.
- ☒ Perform daily maintenance check on vehicle and equipment
- ☒ Pick up various parts and supplies for vehicles and equipment.
- ☒ Clean up equipment and trucks

Assistance Work (Convenience Center, Other Dept. & Other City)

- ☒ Convenience Center: clear site of debris and maintain the burn box
- ☒ Range: Maintain road, and drainage
- ☒ Assist other depts as needed.
- ☐ Strawberry Festival
- ☐ Help: Chamber of Commerce, Little League park

Projects:

- ☒ Poplar St. Replacing all Driveway tiles and Ditch Clean out for the entire Street.
Had to cut 2 Peagravel Driveways and 1 Concrete Driveway to do this.
☐ This is to move the water away from the homes faster.
- ☐
- ☒ 115 Hillwood Ct. Had to replace Driveway tile and do a Ditch clean out. Old tile not draining.



CITY OF PORTLAND

Public Works

Stormwater Field Crew

Council Report Submitted by
David Harris

- | | | |
|-------------------------------------|---|---|
| ☒ | 309 N.Harris | Driveway washed away during last flood event. Added new rock and repaired driveway. |
| ☒ | 104 Auther Ct. | Cleaned out a clogged that goes through the front of his property. |
| ☒ | 104April Circle | Did a Ditch Clean out on 104-108 to keep water in the ditch to help move water. |
| ☒ | Little League Park | Removed Beaver Dams and Debris atleast 4 times this month. |
| ☐ | | |
| ☒ | Have met with several home owners about new up coming projects. | |
| ☐ | | |
| ☐ | | |
| ☐ | | |
| ☐ | | |
| ☐ | | |
| ☐ | | |



CITY OF PORTLAND

Public Works

Street Dept.

Council Report Submitted by
Martin Weekley

Submitted for April 2025 Meeting.
February March 2025 Report.

Maintenance and Management

- ☒ Downtown area - Pick up trash, empty cans, water flowers and water systems, etc....
- ☒ Cross train employee's on the mowing tractors and other equipment
- ☒ Trim and remove low hanging branches
- ☒ Clean up at shop (put away tools, organize signage and other materials)
- ☒ Straighten up shop lot: all tractors, trailers, backhoe, and other equipment
- ☒ Office paperwork - Time sheets, po request, work orders, route sheets, daily task and monthly report
- ☒ Organize inventory and tools as needed.
- ☒ Maintain traffic signals, school zone lighting and decorative street lighting.
- ☒ Report street light issues to CEMC.
- ☐ Assist paving crew - (prep and plan) riser and roadplates
- ☐ Inventory counts -
- ☐ Collect bagged leaves - brush route

Maintenance of Roadway and Signage

- ☒ Potholes: Check, fill with gravel, repair with cold or hot mix.
- ☒ Roadcut: Prep equipment, compact gravel, then asphalt area.
- ☒ Edge of road: Repair with gravel or asphalt
- ☒ Graveled around mailboxes (USPS request)
- ☒ Remove debris from roadway: branches, dead animals, car parts, glass etc....
- ☒ Signage: Repair, replace or install
- ☒ Remove, haul, dispose of scrap material
- ☐ Mowing: Right of ways, canals, shooting range, intersections, city property lots and shops.
- ☐ Mow lots for our Codes Enforcement Dept
- ☐ Weed eat and spray: downtown area, overpass, guard rails, various intersections ,around signage etc.....
- ☐ Mow with tractors, bushhog, zero turns, batwing mowers etc...
- ☒ Banners and signage - Installation or change out.

Assist in other Departments

- ☒ Sanitation: Assist by helping drive claw truck or sanitation truck Bulk and Brush pick up
- ☒ Stormwater: Check storm drains
- ☒ Convenience Center - Attendant on site, smash down dumpsters, schedule hauls, and maintain the burn box.
- ☐ Golf Course: Remove trees, maint repairs etc....
- ☐ Richland and Meadow Brook Park
- ☒ City Property: Various task such as: trees, gravel, drainage
- ☐



CITY OF PORTLAND

Public Works

Street Dept.

Council Report Submitted by
Martin Weekley

Vehicle & Equipment Maintenance

- ☒ Perform daily maintenance check on vehicle and equipment
- ☒ Took truck and equipment to get repairs - Local mechanic shop and outside source.
- ☒ Pick up various parts and supplies for vehicles and equipment.
- ☒ Repair equipment and tools (Tires, batteries, hoses, decks, fluids, fittings, blades, etc.)
- ☒ Repairs made on tractors, chipper, trailers, hot box, backhoe etc.....
- ☒ Switch out and replacing attachments on equipment (Mowers and tractors)
- ☒ Clean up spills in the roadway

Special Events:

Traffic Control , setup barricades, cones/ Removed after event
Setup and remove signage and message boards (road closure etc.)
Set up tables, chairs, stage for the band and other displays.
Pick up and drop off supplies.
Clean up and remove all trash before and after any event.
Set up signage and digital message boards

- ☐ Decorate for Holiday: Such as Christmas, spring and fall events.
- ☐ Christmas Parade
- ☐ Strawberry Festival
- ☐ Fall Festival
- ☐ Homecoming Parade
- ☐ Music on Main
- ☐ Car Shows

Assist other businesses

- ☒ Chamber of Commerce
- ☐ Hands of Hope
- ☒ Portland Cares
- ☒ Portland Schools
- ☐ Little League Park

Misc. other task

- ☒ Paint stop bars, crosswalks and install flashing lights at the newest stop signs
- ☒ Tree's: cut and haul away debris (Various locations)
- ☐ Flower and landscape: Removed dead flowers, fertilize, water and clean up
- ☒ Gazebo: Painted, fixed flag and repaired water lines
- ☒ Prep all winter equipment (Snow plow, trucks, salt spreaders etc...)



CITY OF PORTLAND

Public Works

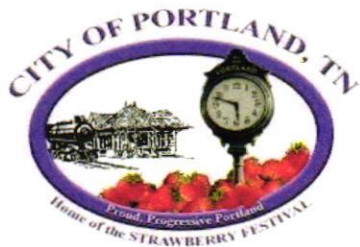
Street Dept.

Council Report Submitted by
Martin Weekley

- ☐ Assisted the paving crew: Removed gravel and cleared area at Strawberry station parking lot.
- ☐ Street Shop - Salt Shed: Cleaned up, installed new lights, helped electrician, prep site to get paved.

Christmas tree, lights and decorations were installed: City Hall, Gazebo, Mini Park, Moye-Green house,

- ☐ downtown, North and S Fire Hall, Police Dept, intersection of Hwy 109/52 and on poles along Hwy 109.
- ☐ William Mack Ln - Spread gravel on access road
- ☒ Inspect New side walk Construction at Portland PD.
- ☒ Tree's: Removed several trees from city property. Used stump grinder to level the areas.
- ☒ Salt and brine Roadways/Parking lots Police and Fire stations in preparation for storms.
- ☐ Plow/Salt, Brine Roadways/Parking lots Police & Fire stations.
- ☒ Clear sidewalks of snow and ice
- ☒ Shut roadways down for high water/ water over the road during flood event.
- ☒ Move all remaining office supplies /furniture from air port hanger to air port house storage.
- ☒ Hot Mixed road cut on E McGlothlin St. 8 tons used.
- ☒ Remove dead animals from the roadways.
- ☒ Train with Pri on Infrareding road cuts.
- ☒ Move all files from Pd to storage.
- ☒ Back fill and repair side of roads and side walks after flood events
- ☒ Cleaned tree line on North street removed all trash around Drain hole filled in small sink holes.



CITY OF PORTLAND

Public Works

Sanitation Dept

Council Report Submitted by
Martin Weekley

Submitted for April 7, 2025 meeting

Sanitation Dept is responsible for picking up, disposing of household trash and bulk items.

Pick up bulk items - Furniture, appliances, etc.....

Pick up brush (Claw truck, and chipper)

Pick up trash carts at curb repair or replace damaged carts

Keep trucks and equipment in working condition.

Travel to Sumner Co. Resource Authority to empty

Two claw trucks picking up bulk items and brush at curbside

Feb. 2025				
	Sumner Co. Resource Authority (Dump)		Volunteer Recycling Center (Haul)	
	City of Portland	Volunteer Recycling	City of Portland	Other(Cares)
# of Loads	44	16	15	1
Tonnage	420.65	51.11		
Per cost	\$55.00	\$55.00	\$275.00	\$137.50
Amount	\$23,135.75	\$2,811.05	\$4,125.00	\$137.50
Total	\$25,946.80		\$4,262.50	
Grand Total	\$30,209.30			

Monthly Fuel Report

The City of Portland has two (2) fuel card providers; Rapid Fueling Co. and Wex fuel.

Please see the breakdown below for each department (Feb. 2025 usage) April 2025 Meeting

Rapid Fueling Company	Regular Fuel	Diesel Off Road	Diesel On Road	
Airport				
City Hall	108.98			
Gas	857.73			
Meter Readers	136.43			
Parks	450.52			
Planning	56.86			
Sanitation	1,572.53			
Sewer Colleciton	457.54			
Stormwater	696.56			
Street	609.77			
Water Dist	748.35			
WTP	145.13			
WWTP	94.84			
Total Gallons	5,935.25	0.00	0.00	5,935.25
Total cost				\$12,620.52

Due to software glitch, unable to give breakdown of diesel vs regular fuel.

Wex Fuel Company	Regular Fuel	Off Road Diesel	On Road Diesel	
Police Dept	2,945.68			6,649.09
Fire Dept	104.44		392.01	1,308.21
Total Gallons	3,050.12		392.01	7,957.30
Total Cost				

Rapid Fueling Co. Cost	\$12,620.52
Wex Fuel Cost	\$7,957.30
Total Combined Fuel Cost	\$20,577.82

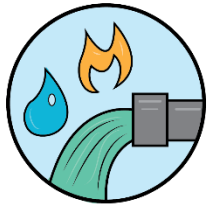
City of Portland
Office of Recorder
100 South Russell Street, Portland, Tennessee 37148
Phone 615/325-6776 Ext. 245

February 2025 Monthly Report

1 Council Meetings	February 3 rd	6 - Council Members present 1 - Council Members absent 0 - Alcohol Beverage Board 0 - Public Hearings 3 - Resolutions 3 - Ordinances
Work Study Meetings	0	
Ad-Hoc Meetings – Utility	1	
Liability Claims	0	
Property Claims	2	
Records Requested	8 (see attached)	

Open Records Request

Name	Information Requested	Time spent	Value	Billed	Denied
25-020601/ Alison Turner	Documents from Jackson Place Subdivision, including plan comments	>1 hour	10	0	
25-021201/ Jennifer Golan	All Police Reports for ---Briley Ln	>1 hour	10	0	
25-021801/ T Martin	Documented Conversation	>1 hour	10	0	No Records
25-021802/ T Martin	Ride-A-Long Policy	>1 hour	10	0	No Records
25-021803/ T Martin -	Personnel file	>1 hour	10	0	
25-021804/ T Martin	Documented Conversation JA/DG	>1 hour	10	0	No Records
25-021805/ S O'Neal	PD Report	>1 hour	10	0	
25-022401/ Shantelle Chanda	Police cam footage and report	>1 hour	10	0	Not Open
25-022101/ Jeremy Finley	Police Officer Schedule	>1 hour	10	0	



PORTLAND

Department of Utilities

Call 811 Before You Dig!
Portland, Tennessee

CITY OF PORTLAND

DEPARTMENT OF UTILITIES
100 SOUTH RUSSELL STREET
PORTLAND, TENNESSEE 37148
Telephone (615) 323-1437

PDU Admin. Work Report February 2025

Service Taps Issued

The WTP has a capacity of approximately 3.0 MGD. Existing peak demand plus all proposed development results in a projected peak demand of 3.736 MGD.

Single Taps

- Water: 17 taps
- Sewer: 9 taps
- Gas: 8 taps

Development Taps (No Capacity Letters were sent in the month of February)

Utility	Original Letter	First Renewal	Second Renewal
Water	0	0	0
Sewer	0	0	0
Gas	0	0	0

City Projects

- Non-Competitive ARPA Grant Projects:
 - a. Masons 12" Connector Line – Water is 94% complete. Waiting on Oak Hill Tank to be completed.
 - b. Oak Hill Water Line – Water is 97% complete. Waiting on Oak Hill Tank to be completed.
 - c. Oak Hill Tank – Tank is 62% complete. Phoenix Contractors started erecting the base of the tank.
- Competitive ARPA Grant Projects
 - a. Regionalization Project – Partnership with Gallatin, Westmoreland, & CSBWUD – All entities have had Bid Openings: GPU was December 12th (\$11,831,800), Westmoreland was December 19th (\$572,790), CSBWUD was January 14th (\$4,110,942.50), and PDU was January 15th (\$8,337,300.00). Portland City Council voted for the intent to pursue 3 MGD capacity with the project, Award Scenario A.
 - b. Water Resource Protection Grant – WTP and City Lake Improvements – Design is 50%
- WWTP Phase II Improvements – Construction is 99% complete. The contractor is finishing up the punch list to finish the project.
- 2" Service Line Replacement – 9 out of 17 service lines have been replaced.
- Sandye Avenue Sewer – 99% complete. PDU to review as-builts and CCTV footage.
- 2024 Sewer Point Repairs – 23 out of 53 items have been repaired.

Private Development

- Sandye Ave Water – 10% complete.
- Twin Lakes – Sewer installation has begun – 65% complete
- Bracken Estates - Sewer installation has begun – 90% complete awaiting testing
- Sumner Pointe Apartments Magnolia Springs Blvd – PDU is waiting for the maintenance surety to accept the unities.
- Parkside Pointe:
 - Onsite Sewer – Lift Station is being installed and is 95% complete. Power needs to be swapped out to complete the startup. Phase 2 to 7 sewer has been installed but not tested.
 - Onsite Water – Phase 2 to 4 water main has started being installed but not tested.
- Red River and Highland – 6" Waterline – 75% complete. Waiting on creek directional drill and testing.
- Fire Meters Installed – Precision Industries (204 E Longview Dr and 222 Riggs Ave), Volunteer (State) Bank (101 Hwy 52W)



PORTLAND

Department of Utilities

Call 811 Before You Dig!

Portland, Tennessee

CITY OF PORTLAND

TIM SUDDARTH – WTP CHIEF OPERATOR

298 PORTLAND LAKE RD.

PORTLAND, TENNESSEE 37148

Telephone 615-325-6776 ext.192

Telephone 615-566-7074

Email TSuddarth@cityofportlandtn.gov

Portland WTP Report for Month of February 2025

- Submitted January 2025 DMR via the EPA CDX online portal.
- Submitted January MOR's via certified mail.
- Picked up trash at City Lake.
- Adjusted open/close limits on gate #2.
- Performed clearwell drop test.
- Placed Hach TU5200 benchtop turbidimeter into service.
- WHUD engineering team onsite for WTP tour.
- Coagulant bulk tank cleaned out by TPM Industries.
- Replaced the sump pump at the Unipres tank site.
- Submitted Tyco/BASF PFAS claim for class action lawsuit.
- Performed clearwell drawdown test.
- The City Mechanic installed brakes on T-120.
- Greased Oak Grove booster pumps and motors.
- Processed bac-t samples for CSBUD and the City of Westmoreland water system.
- Verified genset weekly exercises WTP and both booster sites.
- Checked monitoring wells at City Lake.
- Collected and processed 25 bac-t compliance samples.
- Routine maintenance was performed on schedule.
- Produced 62,329,000 gallons of potable water for distribution to customers.



PORTLAND

Department of Utilities

Call 811 Before You Dig!
Portland, Tennessee

CITY OF PORTLAND

THOMAS O'LOUGHLIN – HEAD UTILITIES INSPECTOR

100 SOUTH RUSSELL STREET

PORTLAND, TENNESSEE 37148

Telephone 615-670-3977

Email Address: toloughlin@cityofportlandtn.gov

February 2025 MONTHLY REPORT

WATER DISTRIBUTION DEPARTMENT

(5) Service Leaks

(7) Main Break Repairs

(13) New services installed

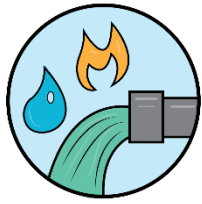
(4) ¾" Service Renewals

(62) Flushing

(337) Traffic

Cut off Lists

(253) Locates



PORTLAND

Department of Utilities

Call 811 Before You Dig!
Portland, Tennessee

CITY OF PORTLAND

PORTLAND NATURAL GAS

LUCAS BAKER – GAS SUPERVISOR

100 S RUSSELL ST

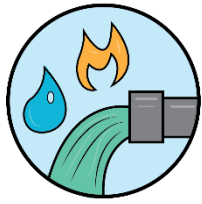
PORTLAND, TENNESSEE 37148

Office: (615) 325-6776, ext. 187

Email Address: lbaker@cityofportlandtn.gov

Gas Dept Monthly Report – February 2025

- February Gas Usage at each Gate Station:
 - Leath: 31,376.87 MCF
 - TGT: 97,472 MCF
 - Robertson Co Station: 10,118.19 MCF
- 6 Gas Services installed consisting of 2,391 of ¾" service line pipe
- 226 LF of 2" gas main installed
- 1 abandoned gas service
- 1 gas riser replaced
- 1 service line relocated
- 1 Gas Meters Upsized to accommodate additional load
- 2 Meter sets replaced due to gas leaks (regulators)
- Meeting with Gresham Smith to discuss upgrades needed for potential industrial load
- Annual Critical Valve Maintenance -TPUC Requirement
- Gathered GIS data on services installed in 2023 and 2024 to assist in updating the Natural Gas System
- Gas Leak Investigations/Odor Complaints (indoor and outdoor)
- Various gas pressure checks -increased number this month due to colder temperatures/increased usage
- Air Test Inspections
- Daily monitoring of Gate Stations and odorant injection
- Daily work orders and Tennessee One Calls
- Monthly Odorant Sniff Test – TPUC requirement



PORTLAND

Department of Utilities

Call 811 Before You Dig!
Portland, Tennessee

CITY OF PORTLAND

PORTLAND SEWER COLLECTION

JONATHAN HARRISON – SEWER COLLECTION SUPERVISOR

100 SOUTH RUSSELL STREET

PORTLAND, TENNESSEE 37148

OFFICE: (615) 323-1437

Sewer Collections Monthly Report – (February. 2025)

- 2436 – CS Check Stations consisting of 87 pump stations daily.
- 185 - 811 Locates
- 20 – SC Service Calls received
- 0 - Telemetry alarms repair required
- 96 HRS - LSM Lift Station Maintenance
- 12 – LSR Lift Station Repairs
- 0 – FMR Force Main Repair
- 55 – YR Yard Repairs & overflows cleaned up 64hrs.
- 0– CP Cap off Service line
- 0- HOD Helping other Departments w/ CCTV & Vac Truck.
- 4 - Monthly CCTV searching for I&I Locations and inspections.
- 2– SLR Service Line Repairs
- 3- Jetted sewer mains due to blockages.
- 0- SLIN Service line inspection
- 161 Hrs. - Monthly OSHA Safety Training & OTJ Training.
- 19 HRS- Shop Work
- 17 HRS- Equipment Maintenance.
- 54 HRS Office Work & Orientation for new employees.
- 61 Overflows for the month of February 2025.

Jonathan Harrison
Collections System Supervisor.



PORTLAND

Department of Utilities

Call 811 Before You Dig!

Portland, Tennessee

CITY OF PORTLAND

JENNIFER YOUNG – WW CHIEF PLANT OPERATOR

100 SOUTH RUSSELL STREET

PORTLAND, TENNESSEE 37148

Telephone 615-323-1437

Email Jyoung@cityofportlandtn.gov

WWTP February 2025 Monthly Report

- Construction is finishing up and working on their punch list items.
- We are currently running all 3 SBR's with good results.
- Since we have all the tanks in service our lab results have been good.
- During the change over time, we received a few failed lab results as we had to drain tanks and then reseed tanks which come with upsets to the process.
- Overall, considering all that we still performed better than I expected and I'm proud of our team that worked hard to keep those issues to a minimum.
- We have been getting good test results. We had 0 violations in the Month of February. We will continue working diligently for the same results.
- Our Fog Program and Pretreatment Program are doing well with new help to get us updated and consistent.

RESOLUTION

City of Portland, Tennessee

No. 25 – 28

A RESOLUTION TO PURCHASE A NEW FIRE ENGINE AND NECESSARY EQUIPMENT BEGINNING IN FISCAL BUDGET YEAR 2027/2028 NOT TO EXCEED \$1,300,000.

WHEREAS, the City of Portland strives to maintain a safe and efficient fleet of firefighting apparatus to effectively serve the community, and;

WHEREAS, NFPA 1901 recommends that fire apparatus that are 15 years old and older be placed in reserve status and those apparatus that are 25 years old or older be removed from the fleet, and;

WHEREAS, the City of Portland Fire Department has apparatus that will meet both of the respective age standards for fire apparatus with one (1) being a 2002 manufactured year and one (1) being a 2013 manufactured year by the anticipated delivery time stated below, and;

WHEREAS, the City of Portland Fire Department will be placing one (1) apparatus from front line status to reserve status and one (1) apparatus will be removed from reserve status and thus removed from the fleet upon the new apparatus being placed into service, and;

WHEREAS, the estimated build and delivery time due to back log for this fire apparatus is now between 34-38 months, and;

NOW THEREFORE BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Portland to make provisions to incorporate into the fiscal year 2027/2028 budget a payment and/or financing, as recommended by the finance director, for a new fire engine and necessary related equipment not to exceed \$1,300,000; and

BE IT FURTHER RESOLVED that this Resolution shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Approved this day of

ORDINANCE

City of Portland, Tennessee

No. 25-08

Second Reading

AN ORDINANCE TO REPEAL AND REPLACE ORDINANCE NO. 20-07 PERSONNEL POLICY FOR THE CITY OF PORTLAND, TN.

WHEREAS, the City of Portland approved Ordinance 20-07 adopting a Comprehensive Personnel Policy; And

WHEREAS, the following updates have been recommended to the existing Personnel Policy:

- Section 2 Job Classification and Pay Plan – 2.3 Classification and Compensation Policy
- Section 3 Compensation – 3.2 Removed language for Volunteer Firefighter, EMT pay per Ord. No. 23-58
- Section 3 Compensation – 3.6 Training Bonuses added per Res. No. 19-124
- Section 3 Compensation – 3.7 Changed ‘Longevity Bonus’ to ‘Christmas Bonus’.
- Section 3. 3.8 KY State Tax added for KY residents
- Section 3 Inclement Weather moved from Section 8 to Section 3 -3.10. Language added to clarify.
- Section 5 Employee Benefits - 5.3 Retirement/TCRS - Retiree Health Insurance portion stricken and replaced per Ord. No. 21-53
- Section 5, 5.5 City Observed Holidays, Employee Personal Holiday defined as eight (8) hours.
- Section 5 Employee Benefits – 5.9 Funeral/Bereavement – Added ‘Nieces and ‘Nephews’ to eight (8) Hours of Funeral Leave.
- Section 5, 5.20 & 5.21 Pregnant Workers Fairness Act – Pumping for Nursing Mothers (P.U.M.P. Act.
- Section 5, 5.7 Vacation Employees may roll over 2 weeks to the following year in December annually.
- Section 5, 5.7 Vacation Schedule changed per Resolution 24-80
- Section 5, 5.15. Military Reservist Leave. Language added to clarify what a day is. 20 working days x regularly scheduled hours.
- Section 6, 6.1, Rule 1, ‘verbal department’ added. Rule 5, ‘This includes scheduled or unscheduled overtime whether emergency response or otherwise’ Added.
Rule 6, ‘including use of personal cell phones.’ Added.
Rule 10, It is the employee’s responsibility to obtain and maintain all applicable knowledge and scope of assigned job duties. Added
- Section 6, 6.6 D. It is the employee’s responsibility to obtain and maintain all applicable knowledge and scope of assigned job duties.

- Section 6 Attendance, 6.8 Note: **Note:** An unauthorized absence from work for a period of one (1) consecutive working day as a **no show/no call** will be considered a voluntary resignation.

WHEREAS, the attachments will alter only the construct of the above-referenced Sections; and

WHEREAS, for clarity purposes with the constructs being changed, it is appropriate to adopt a new City of Portland, TN Personnel Policy in its entirety; and

WHEREAS, prior sections of the Personnel Manual that are in conflict with this ordinance shall be and are hereby repealed and replaced, with updated policies promulgated upon adoption;

NOW, THEREFORE BE IT ORDAINED, the Mayor and Board of Alderman of the City of Portland, Tennessee that The City of Portland Personnel Manual adopted by Ordinance 20-07 is hereby repealed in its entirety, and that the amendments attached as documents related to the City of Portland, TN Personnel Manual – 2020, be adopted to create the City of Portland, TN Personnel Manual - 2024 and entered into permanent record with passage of this Ordinance; and

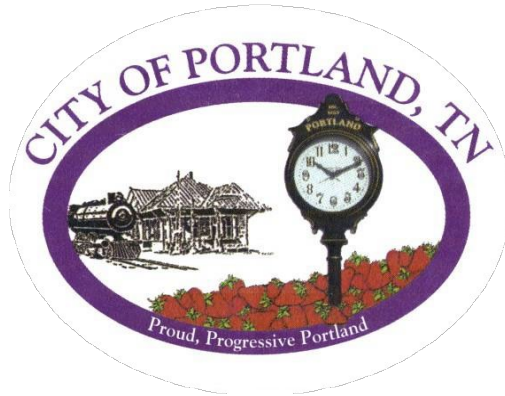
BE IT FURTHER ORDAINED, that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading: March 3, 2025

Passed Second Reading:



PERSONNEL MANUAL 2025

Adopted by Ordinance # _____
Date: _____

Developed with the assistance of:  |  Municipal Technical Advisory Service
INSTITUTE for PUBLIC SERVICE

Contents

SECTION 1 - INTRODUCTION TO HUMAN RESOURCES REGULATIONS	5
1.1. PURPOSE AND OBJECTIVES	5
1.3. COVERAGE	7
1.4. ADMINISTRATION OF POLICY	8
1.5. CONTACTING ELECTED OFFICIALS	8
1.6. POLITICAL ACTIVITY	8
1.7. AMENDMENTS TO PERSONNEL MANUAL	8
1.8. SEVERABILITY	9
SECTION 2 – JOB CLASSIFICATION AND PAY PLAN	10
2.1. PURPOSE AND USE OF JOB CLASSIFICATION	10
2.2. ALLOCATION OF POSITIONS	10
2.3. PURPOSE AND USE OF THE PAY PLAN	11
SECTION 3 – COMPENSATION	17
3.1. FAIR LABOR STANDARDS ACT (FLSA)	17
3.2. PREMIUM PAY FOR FESTIVALS	19
3.3. PAY FOR PART TIME WORK	19
3.4. ON CALL PAY	19
3.5. CALL OUT PAY	19
3.6. TRAINING BONUSES	20
3.7. CHRISTMAS BONUS	21
3.8. DEDUCTIONS FROM PAY	21
3.9. PAYCHECKS AND DIRECT DEPOSIT	23
SECTION 4 – EMPLOYMENT	24
4.1. RECRUITMENT AND SELECTION	24
4.2. SELECTION EXAMINATIONS	27
4.3. APPOINTMENT TO POSITIONS	28
4.4. PROMOTIONS	29
4.5. TRANSFERS	30
4.6. DEMOTIONS	31
4.8. TYPES OF EMPLOYEES	32
4.9. PERFORMANCE EVALUATION	33
4.10. OUTSIDE EMPLOYMENT	34
4.11. GRIEVANCES	34

SECTION 5 – EMPLOYEE BENEFITS	36
5.1. HEALTH, DENTAL AND VISION BENEFITS	36
5.2. SECTION 125 PLAN	37
5.3. RETIREMENT / TCRS	37
5.5. CITY OBSERVED HOLIDAYS	39
5.6. HOLIDAY PAY	39
5.7. VACATION	40
5.8. SICK LEAVE	42
5.9. FUNERAL / BEREAVEMENT	43
5.10. FAMILY AND MEDICAL LEAVE	44
5.11. TN MATERNITY/PATERNITY LEAVE	48
5.12. WORKERS' COMPENSATION LEAVE	49
5.13. AMERICANS WITH DISABILITIES ACT (ADA)	50
5.14. MILITARY LEAVE	52
5.15. MILITARY RESERVIST LEAVE	53
5.16. LEAVE WITHOUT PAY	54
5.17. EMPLOYEE TRAINING	54
5.18. EMPLOYEE ASSISTANCE PROGRAM	55
5.19. EDUCATIONAL / TUITION ASSISTANCE	55
5.20. PREGNANT WORKERS' FAIRNESS ACT(S)	59
5.21. PUMPING FOR NURSING MOTHERS (P.U.M.P.) ACT	60
SECTION 6 – EMPLOYEE CONDUCT	62
6.1. GENERAL RULES OF CONDUCT	62
6.2. DRESS CODE	66
6.3. DRUG FREE WORKPLACE	67
6.4. TRAVEL POLICY	69
6.5. WORKPLACE VIOLENCE AND HARASSMENT POLICY	69
6.6. COMPUTER AND ELECTRONIC DEVICE USE	75
6.7. SOCIAL MEDIA	77
6.8. ATTENDANCE	79
SECTION 7 – SEPARATIONS AND DISCIPLINARY ACTION	82
7.1. SEPARATIONS	82
7.2. RESIGNATION	82
7.2. REDUCTION IN FORCE (LAYOFF)	82
7.3. DISABILITY	83

7.4. RETIREMENT	83
7.5. DEATH	83
7.6. DISMISSAL	83
7.7. DISCIPLINARY ACTION	83
SECTION 8 – MISCELLANEOUS POLICIES	86
8.1. NONSMOKER PROTECTION ACT	86
8.2. VOTING POLICY	86
8.3. IDENTITY THEFT POLICY	86
8.4. JURY AND CIVIL DUTY LEAVE	87
8.5. DRIVERS LICENSES	88
8.6. USE OF CITY VEHICLES	88
8.7. BREAKS AND MEALS	89
8.8. INCLEMENT WEATHER	24
8.9. PERSONNEL RECORDS	90
ACKNOWLEDGEMENT OF RECEIPT	94

SECTION 1 - INTRODUCTION TO HUMAN RESOURCES REGULATIONS

1.1. PURPOSE AND OBJECTIVES

The purpose of the following policies is to establish a high degree of understanding and cooperation among the City of Portland employees, which comes from the application of good procedures in personnel administration, and to provide uniform policies for all employees. **Each individual employee's primary purpose, regardless of occupational specialty, is to provide efficient and effective service for the citizens of Portland. The primary objective in providing efficient and effective service is good stewardship of the citizen investment whether through taxes or through fees paid to the City to provide those services.**

It is the policy of City of Portland to provide equal employment opportunity to all employees and applicants for employment. No person will be discriminated against in employment because of race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, exercise of free speech made as a citizen as a matter of public concern*, refusal to participate in or remain silent about illegal activities, exercise of a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law. The City will provide reasonable accommodation to qualified individuals with a disability unless the accommodation would pose an undue hardship on the City.

Per Article V, Sections 4, 2(A), 2(B) of the City of Portland Charter, the Mayor shall:

(A) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures adopted by the City Council; and

(B) Nothing in [the] charter shall be construed as granting a property interest to employees or department heads in their continued employment.

The Mayor may perform the actions listed in Article V, Section 4, 2(A) or may authorize the execution of the action(s) by a department head under his/her direction.

It is the intent of the City for this personnel policy to comport itself with the City Charter and offer reasonable processes for making non-discriminatory, job-related employment decisions. It is not the intent of the personnel policy to grant property interest to employees. Tennessee is an Employment-At-Will state unless property interest is otherwise granted.

The City will not discriminate on the basis of a person's national origin or citizenship status with regard to employment actions. However, the City will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will be subject to separation.

This policy applies to all terms, conditions, and privileges of employment and all policies of the City, including hiring, placement, training, employee development, promotion, transfer, compensation, benefits, grievances, educational assistance, layoffs, termination and retirement.

The City complies with Title VI of the Civil Rights Act of 1964. Title VI requires that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial

assistance. The City further complies with all federal and state laws protecting employees from discrimination.

The fundamental objectives to be achieved by these policies are to:

1. promote and increase effectiveness, efficiency and cooperation among employees of the City of Portland; and
2. provide fair and equal employment opportunity to all qualified individuals on the basis of demonstrated merit and fitness, as ascertained through fair and practical employment practices.

** Whether an employee's speech addresses a matter of public concern is determined by the assessment of the content, form, and context of a given statement. If the employee speaks pursuant to his/her official duties (performing a task he/she was paid to perform); and/or the speech was not a matter of public concern; and/or his/her free speech interests are not sufficient to outweigh the City's interest(s) in promoting efficiency in delivery of public services an employee may not expect free speech protection(s).*

1.2. PERSONNEL POLICY STATEMENT

This manual and all other City manuals do not bestow any property rights or interests to employees regarding employment or employment benefits. This manual is not part of a contract and no employee has any contractual right to the matters set forth herein. The City reserves the right to change any and all such policies, practices, and procedures in whole or in part at any time, with or without prior notice to employees.

It is the policy of the City of Portland to apply and foster a sound program of personnel management. The policies of the City are established to assist in fulfillment of the objectives below:

A. People

1. Deliver talent acquisition processes that maintain a workforce that meets the needs of the City by filling positions in accordance with job qualifications and requirements without discrimination as to membership in any protected class;
2. Establish sourcing, recruitment, selection assessment, onboarding and job offer contingency (drug screens, background checks, etc.) guidelines for the appointment, promotion, transfer, demotion, dismissal, and reassignment of personnel;
3. Establish, periodically review, and maintain job descriptions for every position; periodically conduct appropriate wage and salary surveys; and as applicable, propose wage and salary classification groups for board approval as the budget allows; and
4. Design, recommend, and implement compensation systems and benefit packages including pay practices; medical and ancillary insurance options; leave plans; and retirement strategies designed to attract and retain qualified employees.

B. Organization

1. Structure the Human Resources function to encompass the people, processes, systems and activities involved in the delivery of services that meet the personnel needs of the City;
2. Oversee any dealings between the City and its employees regarding the terms and conditions of employment including grievance and complaint resolution; disciplinary

- processes; employment rights; compliance programs and approaches to retaliation prevention; and
3. Management of technologies including social media and the policies and procedures governing their use in the workplace.

B. Workplace

1. Follow appropriate best practices for development of a diverse workforce;
2. Minimize the probability and impact of risks to the City through best practices ensuring employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to City employees; and
3. Ensure the knowledgeable application of relevant Federal, state and local laws and regulations relating to employment as well as the City Charter and Municipal Code, as applicable.

D. Records

1. Establish and maintain uniform personnel records;
2. Maintain confidentiality and privacy of employees to the extent allowed by the law subject to the Tennessee Public Records Act (T.C.A. 10-7-501 – 515).

1.3. COVERAGE

Unless otherwise stated, the content of this Personnel Manual applies to all employees of the City. All employees will receive a copy of, or electronic access to, the manual upon employment and a copy will be held by each department head for convenience.

The following personnel are not covered by this personnel policy manual, unless otherwise provided and as statutorily required, and are classified in the exempted class:

1. All elected officials;
2. Members of appointed boards and commissions;
3. Consultants, advisors, and legal counsel rendering temporary professional service;
4. The City Attorney;
5. Independent contractors;
6. Volunteer personnel;
7. Seasonal and temporary employees;
8. The City Judge;
9. The City Recorder*.

Some policies apply to all employees and officers of the City including those placed in the exempted class above, such as policies related to discrimination and/or harassment, and policies required by state or federal law.

**The City Recorder is subject to all terms and conditions of the Personnel Policy, except as provided in the City of Portland Charter (The City Recorder is appointed by election of the City Council by majority vote.)*

1.4. ADMINISTRATION OF POLICY

The Mayor is responsible for the proper operations of all City functions, enforcement and application of all laws, provisions of the City Charter, Municipal Code, and acts of the governing body including but not limited to personnel policies and procedures and pay classification plan.

The Mayor is also responsible for implementation of additional rules, policies and procedures, which may be necessary for the proper operation of the City or its various departments, provided that such rules and procedures are consistent with the personnel policies adopted by the City Council.

Department heads, managers and supervisors are responsible for the administration and enforcement of the personnel policies and procedures for employees in their respective departments.

1.5. CONTACTING ELECTED OFFICIALS

No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be disciplined for making untrue allegations concerning any job-related matter (T.C.A. 8-50-601--604).

1.6. POLITICAL ACTIVITY

City employees, whether on or off duty, whether in or out of uniform, and whether on or off City property, shall not, at any time or any place, act as a candidate for an elected City office. The City will not compensate employees for time when the employee is not performing work for the City. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the City.

In all other elections for public office, employees may enjoy the rights of any other citizen of the state of Tennessee to be a candidate for any local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by other time off duty arrangements worked out between the employee and the City. Nothing in this section is intended to prohibit any City employee from privately expressing his/her political views or from casting his/her vote in all elections.

1.7. AMENDMENTS TO PERSONNEL MANUAL

Amendments or revisions to the personnel manual may be recommended by the Mayor or designee for adoption of the City Council by ordinance. Such amendments or revisions of the personnel manual shall become effective upon adoption by the City Council. Departments may adopt their own internal operating policies (*i.e.* SOP/SOG) specific to their operations; however, none of these policies shall be in conflict with these personnel regulations. Copies of departmental policies shall be provided to the Mayor's office as well as to the HR office and are subject to review prior to adoption.

1.8. SEVERABILITY

If any chapter, article or section of this personnel manual is found to be in conflict with Federal, State or City laws and regulations, or court decision, that section will continue in effect only to the extent permitted by such law or regulation or court decision. If any chapter, article or section of this personnel manual is or becomes invalid or unenforceable, such invalidity or unenforceable nature will not affect or impair any other chapter, article or section of this personnel manual.

Draft 08.07.2024

SECTION 2 – JOB CLASSIFICATION AND PAY PLAN

2.1. PURPOSE AND USE OF JOB CLASSIFICATION

Job classification provides an inventory of positions in the City's service. The plan standardizes titles, each of which is indicative of a range of duties and responsibilities and has the same meaning throughout the City.

Job classification may consist of:

- a. groupings of classes of positions that are approximately equal in difficulty and responsibility, that call for the same general level of qualifications and that can be equitably compensated within the same range of pay under similar working conditions according to the market and budget availability;
- b. class (job) titles reasonably descriptive of the work of the class;
- c. written job descriptions for each position; and
- d. physical and mental standards for performance of the duties of the position.

Job classification may be used:

- a. as a guide in recruiting and examining candidates for employment;
- b. in determining potential lines of promotion and developing employee training programs;
- c. in determining salaries and wages to be paid for various types of work;
- d. in determining placement within pay ranges/step plans;
- e. in providing uniform job terminology understandable by all City officers and employees and by the general public.

2.2. ALLOCATION OF POSITIONS

Before a new position is established by a department, the department head shall submit in writing 1) a job description describing in detail the duties of such a position, and 2) justification of the need for an additional position.

The Mayor may then approve or deny such recommendation. If the Mayor agrees that the new position is necessary, then the recommendation is put before the City Council for approval or denial.

The Mayor may recommend to the City Council the establishment of a new position independently of a department. Any new position shall be subject to budgetary review and evaluation as to the appropriate salary range prior to submission to the City Council. This review and evaluation shall take into account the relative qualifications and responsibilities of the

position such that there is no wage disparity on the basis of sex for comparable skill, effort and responsibility and which are performed under similar working conditions. (TCA 50-2-202).

Positions may be reclassified by the Mayor within the classification and compensation plan based on City business needs.

Draft 08.07.2024

2.3. CLASSIFICATION AND COMPENSATION POLICY

Classification and Compensation Policy

1. Purpose

This policy provides guidelines for the administration of employee wages and salaries, including starting pay rates, pay increases, promotional increases and other salary adjustments.

2. Policy Objectives

This policy is intended to promote the following:

- Ensure competitive pay practices to allow the City of Portland to effectively compete in the labor market for the talent needed to serve the needs of citizens.
- Ensure fair, consistent and unbiased treatment of employees relative to pay administration.
- Ensure City pay practices support career paths and employee development.
- Ensure City payroll expense complies with City budgetary constraints.

3. Compensation Strategy

To ensure the City of Portland is able to attract and retain employees with the desired knowledge, skills and abilities needed to serve the citizens and customers of the City of Portland, the City pay plan is designed to over time position employee compensation at the average of the labor market.

4. Responsibility for Policy Administration

The Human Resources Director, the Finance Director and all other Department Heads are responsible for consistent application of the policy.

5. Job Descriptions

A written job description will be maintained for each position recognized by the City. Job descriptions will follow the prescribed format. Job descriptions will be updated annually (or as needed) when performance evaluations are conducted. Supervisors are responsible for accurate job documentation and are to be certain that up-to-date job descriptions are submitted to the Human Resources Department.

6. Pay Structure: Pay Grades and Pay Ranges

- A. Job Market Rates:** The City's pay plan reflects a market driven approach to establishing pay rates for City employees. Accordingly, a Market Rate is defined for each job. The Market Rate is a guideline for the administration of compensation for each job.

The Market Rate is determined from labor market data from local government and general business and industry. For most jobs, the Market Rate is the average of two numbers:

- The pay rate representing the median of the local government labor market data for the job, and
- The pay rate representing the median of the labor market data from general business and industry for the job.

For jobs found only in other municipalities (such as Police and Fire), the “Market Rate” that the City uses in the Pay Plan is the median of the local government data.

- B. Pay Structure:** The City of Portland Pay Structure is comprised of 30 Pay Grades, each with a corresponding set of 19 pay steps. (See Grade and Step Plan attached). The pay steps are designed to be annual pay adjustments based on satisfactory performance of job duties.

7. Assignment of Jobs to Pay Grades

Each job is to be assigned to the Pay Grade for which the pay range midpoint best matches the Market Rate for the job. Exceptions may be made if strategic business considerations dictate that certain jobs (not employees) should be valued differently than their market value. Such exceptions must be approved by the Human Resources Director, Finance Director and other Department Heads.

8. Adjustment of Pay Structure

The Pay Structure is subject to review on a periodic basis by the Human Resources Director, Finance Director and the Mayor. The pay structure may be adjusted periodically as necessary to ensure that the City’s pay practices remain competitive with changes in labor market conditions. If a review is proposed and deemed to be appropriate by the Board of Mayor and Aldermen, it will consist of:

- 1) Gathering comparative salary data for approximately 20 to 30 selected benchmark jobs from, when possible, the same sources representing the same benchmark employers used for the pay study conducted to develop the pay plan.
- 2) Comparing market salary data obtained for each benchmark job with the corresponding City of Portland Pay Grade and Pay Steps.
- 3) Determining the required adjustment to the City Pay Steps to ensure that each Pay Grade will more accurately approximate the Market Rates of jobs in each Pay Grade. Normally, if an adjustment is needed, this is accomplished by increasing all Pay Steps by some common percentage.
- 4) Evaluating the City’s ability to pay and, if necessary, adjusting the percentage determined in step 3 above as appropriate.
- 5) Alternatively, or in combination with 3 and 4 above, if the Pay Structure needs to be adjusted it can be adjusted by eliminating step 1 and adding a new step above the old top step.

In lieu of steps 1 and 2, the Human Resources Director and Finance Director may review available published data related to employers’ actual and projected pay structure adjustments and make a recommendation that maintains competitiveness of the City’s pay structure.

Based on the above analysis, the Human Resources Director will recommend the type and magnitude of the adjustment of the Pay Structure, if needed, for approval by the City Finance Director and City Council.

Note: Normally changes in the cost-of-living are not the basis for the structure adjustment. To be competitive in the labor market, the City must track the cost of labor (i.e., prevailing wage and salary levels). To the extent other employers’ actual pay rates reflect their response, if any, to changing cost-of-living, then the structure adjustment process described in Section 8 above will include consideration of changes in the cost-of-living.

9. New Hire Rates of Pay

Pay Step 1 for a job classification is the normal hiring rate, except when the new hire has significantly more training or experience than specified in the position job description, or when unusual circumstances (such as inability to fill the position at the hiring rate or regulatory requirements) warrant employment of an individual at a higher Step for that classification. Such an exception must be approved by the Human Resource Director, Finance Director and the Mayor.

A department head desiring to employ an applicant to start at a pay rate above the currently budgeted payroll amount for that position must submit a written justification to the Human Resources Director for consideration. The Human Resources Director will then submit a recommendation to the Finance Director for approval.

The current pay rates, qualifications, and skill levels of existing job incumbents should be carefully considered before a new employee is hired above Step 1.

10. Pay Adjustments

- A. **Annual Increases:** Annual increases reward employees for continued service and reflect employees' increasing job knowledge and skills.
- B. **Eligibility:** All regular full-time and regular part-time non introductory period employees employed before May 1st of the current calendar year, provided their performance evaluation is in the "acceptable" range or higher, are eligible for a possible pay increase effective with the first payroll period beginning after July 1st each year if approved by the City Council for the fiscal year budget. Employees in their 90 day introductory period will not be eligible for an increase until the end of their introductory period.
- C. **Annual Increase Budget:** Each year, the City of Portland's City Council will consider authorizing the funding of step increases for all eligible employees. The cost of funding step increases will be included in the various fund budget proposals. Approval of the funding of step increases will depend on availability of funds to do so.
- D. **Exempt Salaried Employees:** Exempt salaried employees will be assigned a new pay range based on the classification and compensation study but will not follow the step plan as hourly employees. Salaried employees will initially be placed on the nearest step in their respective range above their current pay; and will be eligible for at least a 2% increase each July 1st depending on the results of their review and available funding. Since salaried employees may have negotiated hiring conditions, their pay and future increases may reflect those conditions.

11. Structure Adjustment

If deemed appropriate by the City Council as described in Section 8.0 above, the annual budget may also include an amount needed to fund a structure adjustment.

12. Performance Evaluations

All employees eligible for an increase at the beginning of each fiscal year (around July 1) must have received a written performance evaluation. Performance evaluations are to be completed by May 1st and are to be submitted to the Human Resources Department. This annual evaluation is to be completed by the supervisor using prescribed forms and is to be discussed with the employee after approval of the Department Head. (Note: New hires are to receive a performance evaluation after completion of their introductory period. For recent new hires, if less than three months have elapsed since a introductory period review was completed; completion of a new annual performance evaluation at the end of the calendar year is optional.)

Employees receiving an overall "Does Not Meet Standards" rating are not eligible to receive an increase July 1st. Such employees will be re-evaluated after 60 days but will not be eligible for an increase until the fiscal year (the next July 1st) provided their performance has improved to "Meets Standards".

13. Pay Increases

- A. Recommendation:** All eligible employees who receive a "Meets Standards" rating or better will be eligible to receive the Pay Increase effective around July 1 each year, subject to available funds.
- B. Pay Increases - Employees on Leave of Absence:** Employees on approved medical, FMLA, or disability leave of absence on July 1 will be eligible to receive the approved pay increase, provided their recent performance evaluation was in the "Meets Standards" range or higher. For employees on approved medical, FMLA, or disability leave of absence for whom a performance evaluation was not completed, completion of the performance evaluation and eligibility for an approved pay increase will be postponed until their return to active employment (pay increases, if any, will be made retroactive to the effective date of the increase). For approved non-FMLA personal leave, appraisals and eligibility for pay increases will be postponed until return to active employment.
- C. Topped Out Employees:** Each year at July 1st, each employee whose pay rate equals the top pay step for the employee's job will be eligible for a lump sum payment equal to 2% of pay, provided job performance standards are met.
- D: Promotional Increases:** Placement of an individual in a job which is in a Pay Grade that is higher than the individual's current Pay Grade will be considered a promotion. (Temporary job reassignments of less than six months will not normally be considered a promotion.) All promotions must be approved by the Mayor.
- At the time of the promotion, the individual's salary is to be adjusted to reflect the increased demands and responsibility of the new position per the pay plan.
 - Salaries of other incumbents (if any) already in the new position and the promoted individual's credentials will be considered in determining the amount of the promotional adjustment.
 - Promotional increases may take into account several factors such as market rates for hiring outside candidates, equitable pay for internal candidates with equivalent experience, or other relevant factors.
 - Promotional increases shall not be less than the Pay Step representing at least a 5% pay adjustment; and should follow a consistent pattern to avoid wage compression. Example: An employee currently in Grade 8 on Step 6 being promoting to Grade 9 should be placed on Step 5.

- E. **Temporary Promotions:** An employee assigned to perform work of a position in a higher Pay Grade is eligible for out of class pay. The following conditions must be met for the employee to receive out-of-class pay:
1. The employee must perform substantially all of the essential duties of the higher-level position, and
 2. The employee must have the skills and abilities to perform the job duties of the higher-level position as specified above, whether obtained through training or prior experience or both, and
 3. The higher-level work is required due to an unanticipated significant temporary increase in workload or illness/injury incurred by an incumbent in the higher-level job.
- The pay rate at which the employee will be compensated will be determined as in Section 13(D) "Promotional Increases" above.

14. Reassignments, Reclassifications and Equity Adjustments

An employee assigned to perform work of a position in a higher Pay Grade for a minimum of 30 consecutive working days but less than 180 days is eligible for out of class pay. The following conditions must be met for the employee to receive out-of-class pay:

- 1) The employee must perform substantially all of the essential duties of the higher level position, and
- 2) The employee must have the skills and abilities to perform the job duties of the higher level position as specified in 1) above, whether obtained through training or prior experience or both, and
- 3) The higher level work is required due to an unanticipated significant temporary increase in workload or illness/injury incurred by an incumbent in the higher level job.

The pay rate at which the employee will be compensated will be determined as in section 8(c) "Promotional Increases" above.

In situations in which an employee is serving in an "acting as..." capacity due to an anticipated long term absence of an incumbent such as a military deployment, an intentional delay in filling a position following a retirement, or similar circumstances, a pay adjustment may be made at the discretion of management.

A: Lateral Job Reassignments: Reassignment from one job to another in the same Pay Grade will be considered a lateral move. No immediate adjustment to pay will be made. Lateral moves that serve to broaden employees' skills and knowledge and improve City efficiency and results may be encouraged.

B: Reassignment to a Lower Pay Grade: There may be instances in which an employee is reassigned to a position in a lower Pay Grade. Light duty job assignments during periods of recuperation from injury or illness often involve work in lower level jobs. Additionally, employees may voluntarily ask to move to a job in a lower Pay Grade, perhaps through the job posting/bidding process. Whether or not a reduction in pay should occur in these situations depends on consideration of all of the following:

1. How will the employee's pay rate compare with pay rates of other incumbents in the lower graded job or similar jobs?
2. How long has the employee been in the former job?
3. Where will the employee's pay rate fall in the new (lower) Pay Range?
4. Was the reassignment related to the employee's performance or to a reduction in force or organizational change?

Normally, the employee's pay rate will be reduced to be consistent with rates of pay of other incumbents in the new job who possess similar skills and tenure. Pay adjustments must be approved by the Human Resources Director, Finance Director and the Mayor.

C. Re-Classification of Position: A job may be re-classified if warranted by significant changes in job responsibilities. To request a re-classification, department heads must submit a revised job description and completed request for re-classification to the Human Resources Director. The Market Rate of the job will be determined based on comparison of the job to available salary survey data. The job will be reassigned to a different Pay Grade if indicated by the new Market Rate for the job. Reclassification of a job to a higher Pay Grade normally would be treated as a promotion which must be approved by the Human Resources Director, Finance Director and the Mayor. Section "f" above would apply to re-classification of a job to a lower Pay Grade.

D. Equity Adjustments: Adjustments to correct pay inconsistencies or inequitable situations related to pay may occasionally be necessary. Department Heads may recommend equity adjustments of up to 5% of salary and must submit a written justification for the pay adjustment. All such adjustments must be approved by the Human Resources Director, Finance Director and the Mayor. If budgeted funds are not available, the recommended equity adjustment may need to be submitted with the annual budget for approval by the City Council.

15. Budgetary Constraints

Nothing in this policy shall be construed as any guarantee of future pay increases. City management and the City Council will make every effort to ensure administration of wages and salaries in a manner consistent with the intent of this policy, but any employee pay adjustments will be subject to availability of funds as determined in the budgeting process.

SECTION 3 – COMPENSATION

3.1. FAIR LABOR STANDARDS ACT (FLSA)

Minimum Wage

In accordance with the Fair Labor Standards Act (FLSA), no employee shall be paid less than the Federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked.

Overtime

The FLSA shall govern the overtime compensation of hourly, non-exempt, City employees. The FLSA defines overtime pay as one-and-one-half times the employee's regular rate of pay for all hours worked over the applicable overtime threshold. Generally, overtime work must be authorized by the department head.

Overtime pay calculations are based on actual hours worked during the workweek / work period.

Overtime will be paid when the employee's actual hours worked exceed the hours that constitute a full workweek / work period for that employee.

Sworn Fire Service non-exempt personnel working a 24-hour shift may be allowed to accrue up to a maximum of 480 hours of compensatory time, only for actual hours worked at 1.5 hours of compensatory time for each hour of overtime worked according to the Fair Labor Standards Act (FLSA).

Workweek

A workweek is a regular recurring period of 168 hours consisting of seven, consecutive 24-hour periods. The number of days that shall constitute a workweek for regular employment is typically five in total. Schedules may vary in departments as necessary for the operation of the City.

A standard workweek is scheduled between 12:00 AM on Monday through 11:59 PM on the following Sunday.

Minimum Age

The FLSA requires that employees of state and cities be at least 16 years of age for most jobs and at least 18 years of age to work jobs declared hazardous by the Secretary of Labor. All Firefighters and Police Officers must be a minimum of 18 years of age.

3.2. PREMIUM PAY FOR FESTIVALS

Employees assigned to work either the Middle Tennessee Strawberry Festival or the Fall Festival shall receive an additional \$2.00 per hour for any hours not normally scheduled. All applicable overtime and incentives shall be calculated as allowed.

A pay premium of \$2.00 per hour will be added to the employee's regular hourly rate of pay when working either of these two designated festivals unless already receiving other premium or on-call pay.

3.3. PAY FOR PART TIME WORK

Employees who are employed in part-time positions are not eligible for benefits and will only be paid for their actual hours worked. In the event that hours worked by a part-time employee exceed the FLSA defined workweek/work period threshold, overtime rates will apply. Part-time employees performing the same function as full-time employees will begin employment at the minimum rate of pay for the position as described in the classification and pay ranges established by the City but will be eligible for across-the-board increases. Ongoing part-time workers are limited to an average of **29** hours or fewer per workweek.

A shift differential pay for those employees who work certain overnight hours has been added. This premium shift differential pay would only apply to those who are assigned to work their entire shift between the designated hours of 3pm and 8am and would not apply to any 24 hour shift schedule, on-call work, or any shift that partially overlaps during those identified times; and WHEREAS, a fifty cent (\$0.50) per hour premium will be added to the normal hourly rate of those employees who are assigned to work their entire shift between the hours of 3pm and 8am.

3.4. ON CALL PAY

The designated on-call employee will be compensated at an hourly differential rate for every hour they are assigned to "on-call" status as adopted by Resolution of the City Council. This differential will be included in their regular rate of pay for overtime rate calculation.

3.5. CALL OUT PAY

Employees assigned to on call services during nights, holidays and weekends are required to restrict themselves from any activity that would impair their ability to drive or work safely while being subject to on-call and/or responding to after-hour service calls. When on call, employees are required to comply with the City's drug and alcohol policy. The employee is required to respond within thirty (30) minutes after being called. An employee who is on-call and fails to respond to verbal or electronic communication during or in addition to an emergency call within 30 minutes will be subject to disciplinary action up to and including discharge.

Non-exempt employees who are or called out after scheduled work hours will receive call out pay for a minimum of two (2.0) hours of regular pay for the first call-out. This pay will be paid at the straight time rate of pay when allowed by FLSA, and will be considered hours worked for the purpose of calculating overtime. All subsequent call-outs that occur prior to the beginning of the next scheduled work shift will be paid at actual hours worked.

Salaried/exempt employees and salaried/exempt supervisors are exempt from the overtime pay and from on-call services. Salaried/exempt employees and salaried/exempt supervisors may not be listed on the rotation for on call but are considered “on call as necessary”, as assumed with acceptance of the departmental supervisory responsibilities.

EMERGENCY CALL IN TO WORK FROM VACATION/HOLIDAY - If an employee is called in to work due to a City emergency on their pre-scheduled, pre-approved vacation day or holiday, then, the City will pay the employee at time and one-half their regular hourly rate for the hours actually worked on that day in addition to straight time pay for the regularly scheduled vacation day. All hours actually worked on the scheduled vacation day shall be used in the total hours calculated before overtime is paid.

3.6. TRAINING BONUSES

The Board of Mayor and Aldermen may, by resolution, from time-to-time implement certain bonuses for completion of appropriate and approved types of qualification and/or certification for needed skills within critical functions and/or departments. Such resolutions will be retained in the City Recorder’s office and reflected within appropriate operational guidelines (SOP/SOG) for the affected department(s).

3.7. CHRISTMAS BONUS

Employees classified as full-time with less than one (1) year of employment will receive a \$100.00 Christmas bonus.

Employees classified as ongoing part-time employees will receive a \$75.00 Christmas bonus.

Full-time employees with at least one (1) year of service (December hires from previous year are considered in this category) will receive the bonus according to the table below.

Any full-time City employee that has at least 10 consecutive years of employment with the City, will be eligible for their last Christmas Bonus when they retire. The bonus will be pro-rated based on the month the employee retires in.

Years of Service	Bonus Amount		Years of Service	Bonus Amount
1	\$150.00		13	\$650.00
2	\$225.00		14	\$700.00
3	\$250.00		15	\$775.00
4	\$275.00		16	\$850.00
5	\$300.00		17	\$925.00
6	\$325.00		18	\$1000.00
7	\$350.00		19	\$1100.00
8	\$400.00		20	\$1200.00
9	\$450.00		21-25	\$1,400.00
10	\$500.00		26-30	\$1,600.00
11	\$550.00		31-35	\$1,800.00
12	\$600.00		36+	\$2000.00

The City's continuation of Christmas Bonuses is subject to budgetary considerations within each fiscal year and will be paid in compliance with the Fair Labor Standards Act.

3.8. DEDUCTIONS FROM PAY

By law, the City is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee's pay. The following deductions will be made:

1. **Federal Income Tax** – Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to file with the City a copy of the W-4 form. In the event of changes in the employee's exemption status, a revised W-4 form must be filed before payroll deduction adjustments will be made.
2. **Social Security** – Social Security payments and deductions will be made according to the Social Security Act. The payroll department shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

3. Kentucky State Tax – Kentucky State taxes are withheld from those employees who reside in the state of Kentucky. Kentucky residents are required to complete a Kentucky Withholding Certificate.
4. Others – Other City authorized deductions will be made from an employee's pay with either the employee's signed consent or pursuant to a valid court order.
 - a. health/hospitalization insurance (medical service premiums),
 - b. life insurance,
 - c. dental insurance,
 - d. vision insurance,
 - e. deferred compensation payments,
 - f. credit union payments,
 - g. pension plan,
 - h. supplemental insurance approved by the city,
 - i. child support or other garnishments*
 - j. charity contributions approved by the city, and
 - k. cost of uniforms, safety footwear, and other applicable equipment during employment or upon failure to return such upon separation as allowed by state law and the FLSA**

*An employee who is garnished for more than one indebtedness within a 12- month period may be subject to disciplinary action in accordance with the Consumer Credit Protection Act (15 USC, Ch. 41); except for assignment(s) of wages for spousal or child support (T.C.A. 36-5-501 (c)(2)(i)).

** The City may deduct from an employee's final paycheck any amount due (on a depreciated/prorated basis) for failure to return City property as long as the deduction(s) do not reduce final pay to below minimum wage.

3.9. PAYCHECKS AND DIRECT DEPOSIT

All employees of the City of Portland will be paid on a basis determined to best suit the needs of the City. Examples are: weekly, bi-weekly, etc. as allowed by law.

If an employee is absent on payday and wishes to have someone, such as a relative, obtain his/her live check, the employee may send his/her identification and a signed note authorizing the City to give the check to the note bearer.

Final Paycheck The final paycheck will be made available no later than the employee's next regularly scheduled pay date, or within twenty-one (21) days, whichever is later.

Lost Paychecks- Employees are responsible for their paychecks after they have been issued. Checks lost or otherwise missing should be reported immediately to the payroll department so that a stop-payment order will be initiated. The employee will be responsible for reimbursement to the City for any stop payment fees incurred due to employee loss of paycheck.

Unclaimed Paychecks- Paychecks not claimed by employees must be returned by the supervisor to the payroll office.

Direct Deposit - All ongoing employees hired after 7/1/17 are required to have their payroll checks deposited via direct deposit into the financial institution of their choice. Seasonal and temporary employees are not required to have direct deposit. Employee pay stubs/checks will be distributed no later than Friday each week.

3.10. INCLEMENT WEATHER

It is the City's intent to remain open through various weather situations unless it is determined that the essential functions of the City cannot be safely administered. This decision will be made by the Mayor and will be communicated via appropriate communication methods.

However, when the weather conditions appear to be so severe that an employee fears for his/her safety in traveling to or from the work site, he/she may be absent with leave if the following conditions are met:

1. The employee informs his/her immediate supervisor of his/her absence and the reason for it as soon as possible; and
2. The employee reports to work immediately if a change in weather conditions allows safe transportation to the work site.

If the above conditions are not met, the employer will deduct the missed workday (or portion thereof) from accumulated vacation leave, and if no leave is available, the missed portion of the work day will be unpaid. Reporting this leave shall follow the same requirements as other leave.

In situations where advanced notice of closure is known, the Mayor will communicate such closure via appropriate means. If City government operations are closed due to inclement weather, all non-essential personnel will be provided administrative leave with pay according to the number of hours that City Hall offices are closed. Those employees deemed essential personnel will be provided with the choice between time off to be used at a later date (to be used within 90 days) equivalent to time awarded off with pay to non-essential employees, or payment incurred for the time served during closure of government operations.

The policy is meant for those who are in danger due to weather conditions only. Should any employee abuse this policy, he/she will be subject to disciplinary action.

SECTION 4 – EMPLOYMENT

4.1. RECRUITMENT AND SELECTION

The City carefully selects employees through written applications, personal interviews, and applicable background and reference checks. After all available information is considered and evaluated, a decision may be made by the hiring manager. This selection process helps the City find and employ people who are concerned with their own personal success and the success of the City; people who want to do a job well; people who can carry on their work with skill and ability; and people who can work well with others to create an efficient team.

Applications

The City of Portland will make a reasonable effort to attract qualified applicants for all positions. Applications are only accepted for current position vacancies.

In the instance where positions within the same pay range and comparable skills requirements (for example maintenance or clerical), an eligibility list may be created in which future hires may be made from this list instead of requiring a separate recruitment.

All applications for employment are received at City Hall in the Human Resources Department and reviewed by the Human Resources Department or designee to ensure that minimum employment qualifications are met.

Vacancies for positions may be simultaneously posted internally and externally. The City exercises a policy of fairness for every individual who applies for work, and strives for the proper placement of individuals in various departments based on their experience, qualifications, and the needs of the City.

Potential applicants may request an application from the Human Resources Department or the receptionist at City Hall either in person, via email, or via the telephone, whereby an application will be sent to the applicant. Applicants may file their application with the receptionist, with the Human Resources Department, or electronically through application portals provided by the City.

Applications will remain active for a period of six (6) months from the date of original submission, and only for the position(s) applied for. Applications are only accepted when vacancies exist. The City does not consider applications and resumes after a position closes except in limited circumstances, or as announced on a case-by-case basis.

Internal applicants for open positions are required to submit a transfer application for each open position applied for.

Applicants may be removed from consideration if:

1. Applicant declines an appointment when offered;
2. Applicant cannot be located by the postal authorities – it will be deemed impossible to so locate an applicant when a communication mailed to the last known address is returned unclaimed;
3. Applicant cannot be located via appropriate alternative means of communication;

4. Applicant moves out of a required geographic area if residency within is required for the position;
5. Applicant is currently using illegal drugs or narcotics as determined by a post-offer, pre-employment drug test;
6. Applicant is found to have been convicted of a felony or misdemeanor dependent upon the nature and gravity of the offense, the time passed since the offense, and the nature of the job sought;
7. Applicant has made a false statement on the application;
8. Applicant does not file the application within the period specified in the application/examination announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation;
9. Applicant fails to satisfactorily pass background check/investigation that is job-related and necessary; and/or
10. Applicant does not possess the minimum qualifications for the position.

Job Announcements - Department Heads who need to fill a job opening should contact the Human Resources Department in order to begin the recruitment process. The Human Resources Department shall work with the hiring department to establish a plan of action for the recruitment and testing process before the position is advertised. Once the selection process is established and approved by the Mayor and Human Resource Department, there shall be no deviations unless the position is advertised again with notification to all affected applicants. The Human Resource Department will cause the announcement to be prepared and publicized in order to bring notice of vacancies to as many qualified persons as possible.

In-House Posting - Notice of vacant, regular ongoing positions will be distributed to all departments for posting on designated bulletin boards or for circulation among employees within each department. The vacancy will be posted until a specified closing date or until the position is filled.

Public Advertisement - Applicants shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that qualified applicants are obtained for City employment. The Human Resource Department in collaboration with the hiring department, will determine what forms of media to use for advertisement.

Advertisements may also include the City's website along with the City cable channel. The notice shall contain brief descriptions of the qualifications for the particular position and will specify the locations where applications can be obtained and the deadline for accepting applications. The vacancy will be posted until a specified closing date or until the position is filled.

Recruitment by Examination - All appointments in the City shall be made according to merit and fitness and may be subject to competitive valid examination. All such examinations shall fairly and impartially test those matters relevant to the capacity and fitness of the applicant's ability to be able to perform the essential functions, as well as the requisite knowledge, skills and abilities for the position.

4.2. SELECTION EXAMINATIONS

The examinations held to establish eligibility and fitness for any position may consist of one or more of the following elements as determined by the Mayor and/or department head in conjunction with Human Resources.

1. **Written Test** – This validated test, when necessary, will include a written demonstration designed to show the applicant's familiarity with the knowledge involved in the class of positions to which he/she is seeking employment.
2. **Oral Test** – This test, when necessary, will include a personal interview where the ability to deal with others, to interact with the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.
3. **Performance Test** – This test, when necessary, will involve performance tests as would aid in determining the ability and manual skills of applicants to perform the work involved. The performance test may be given weight in the examination process or may be used to exclude from further consideration applicants who:
 - a. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated;
 - b. pose a direct threat to themselves or others.
4. **Physical Agility Test** – When necessary, this consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required physical job-related standards.
5. **Psychological Test** – When required and related to ongoing business necessity, this will include any test to determine mental alertness, psychological state/stability, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes that are job-related and consistent with business necessity.
6. **Pre-employment, Post-offer Drug Test** – Pre-employment drug testing will be conducted for all safety-sensitive positions after the offer of employment is made. Positive results on the drug test will result in an applicant being denied employment.

The City will make reasonable accommodations in the examination process to disabled applicants requesting such accommodations.

Notification and Inspection of Examination Results: Each person who takes an examination shall be notified in writing of his/her standing on the eligibility list (if one is maintained) or of his/her passing or failing and may see any applicable testing results during regular City business hours.

4.3. APPOINTMENT TO POSITIONS

The Mayor shall appoint for budgeted, vacant positions existing within the Schedule of Authorized positions adopted by ordinance and may promote or transfer all officers and employees of the City or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs. New employees are appointed to existing salary schedules as established and approved by City Council.

Contingent Job Offers are made to the candidate approved for hiring. The City will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the City will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after Nov. 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will not be hired. All offers of employment are contingent on verification of the individual's right to work in the United States. The City uses E-Verify to confirm employment eligibility.

The job offer is also contingent on the results of a job-related background check as applicable and job-related to the position. The check may consist of prior employment verification, professional reference checks, and education confirmation. As appropriate, a criminal conviction history, health examination, driving record history and credit check may also be obtained if related to the position and consistent with business necessity.

Following the requirements imposed by the Federal Truth-In-Lending and the Fair Credit Reporting Acts the City may conduct a post-offer, pre-employment credit check for positions who are responsible for payments, cash, payroll and other financial related duties, including some law enforcement positions. Employment may be conditional upon the information in the credit check.

Post-offer, Pre-employment physical examinations may be required of prospective employees for certain positions based on the essential functions of the position as contained in the job description after a conditional offer of employment is made. The physical examination shall be given by a licensed medical practitioner, occupational or physical therapist, or appropriate licensed examiner designated by the City to determine if the employee meets required standards in order to perform the essential functions of the job with or without reasonable accommodation.

A copy of the specific job description will be provided to the examiner. The cost of this physical examination shall be borne by the City. Prospective employees who are unable to successfully perform the essential functions tested for in the examination shall have their offer of employment by the City withdrawn only if they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

Post-hire Medical Examinations / Physical Agility Tests -- All employees of the City may, during the period of their employment, be required by their department head, with the approval

of the Mayor and coordination with the Human Resources Department, to undergo periodic medical (which may also include mental fitness) examinations, as allowed by law, to determine their fitness to perform the essential functions of the position they currently hold.

Any such medical examination shall be at no expense to the employee. Determination of fitness for duty will be by a licensed medical practitioner, occupational or physical therapist, or appropriate licensed examiner designated by the City or its insuring agency.

Annual job-related physical agility testing for incumbent positions may be required based on business necessity. These will be limited to physical agility tests, which measure an employee's ability to perform actual or simulated job tasks, and physical fitness tests, which measure an employee's performance of physical tasks, as long as these tests do not include examinations that could be considered medical.

Employees determined to be physically or mentally unfit to continue in their positions may be demoted, or they may be separated from the City service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

Barry Brady Law Fire Service Health Screenings -- To be eligible for presumption benefits, firefighters must be diagnosed after July 1, 2019, have served five or more consecutive years with an eligible fire department, and may only utilize the presumption for up to five years after their most recent date of exposure. A firefighter must have been exposed to heat, smoke, and fumes, or carcinogenic, poisonous, toxic, or chemical substances while performing the duties of a firefighter in the firefighter's capacity as an employee.

Eligible firefighters must also pass a pre-employment physical medical exam, with a cancer screening, and complete an annual physical medical examination that includes a cancer screening for the types of cancer covered under this law. Any firefighter employed by an eligible department before July 2019 who would like to be eligible for benefits must obtain a physical medical examination with the appropriate cancer screenings by July 1, 2020.

Elimination Periods - Newly appointed regular, ongoing, full-time employees are eligible for health, dental, and vision benefits the first of the month following appointment. The elimination period for all other benefits (voluntary life, AD&D, etc.) is completion of ninety (90) days of employment. Leave benefit elimination periods for leave benefits are described within leave policies.

4.4. PROMOTIONS

The Mayor may promote officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A promotion is the assignment of a qualified employee from one job class to another that has a higher pay rate. A qualified employee possesses the knowledge, skills and abilities, has the required experience level and is able to physically perform the duties and essential functions as outlined in the job description.

Temporary Promotion - The Mayor may authorize department heads to make promotions of employees, including temporary promotions to fill vacancies on an interim basis. The duration of absence in the position must create a business necessity for proper operation of the City. Employees will begin to earn the pay differential for a temporary promotion immediately upon assuming the related duties and will cease to do so upon completion of the interim assignment.

In every case, promotions must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When a promotion occurs and the employee's current pay rate is less than the minimum rate for the new position, the employee's salary/wage shall be raised to at least the minimum rate. When the employee's current pay rate falls above the new position's minimum rate, an appropriate increase in alignment with the compensation plan will be awarded as determined by the department head, Human Resources and the Mayor.

When a position is advertised for certified personnel (positions that require agency or subject matter certification) and no applications are received that meet the qualifications, then present employees may be given the opportunity to move into the position and receive training, unless it is necessary to fill the vacancy quickly, or on an emergency basis.

4.5. TRANSFERS

The Mayor may transfer officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A transfer is a lateral move assigning an employee from one position to another position of equal responsibility and class. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of the same class, or between positions of different classes of equal responsibility levels and pay. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

Should a City employee wish to transfer to another position, in the same department or in another department, when there is a vacancy, the transfer may be allowed if the level of pay is the same and the position is considered as the same level position, and the employee wishing to transfer is qualified, can perform the essential functions and duties as outlined in the job description and it is in the best interest of the City.

An employee who transfers from one department to another will retain and carry forward all benefits earned, accrued, or both as of the date of transfer. In the event an employee of the fire department working 24-hour shifts transfers to another department, Sick Leave will be reduced at a ratio of fire department accrual divided by standard accrual. As a general rule, lateral transfers require no increase in compensation. If an employee has less than one (1) year of full-time employment with the City or less than six (6) months service in his/her current position, the transfer must be approved by the Mayor.

Under no circumstances will a department head (as defined in the City Charter), an employee of supervisory status, a certified operator, or any employee with a higher-level position be allowed to transfer to a position of lesser responsibility without accepting a lower rate of pay. Should

this type of transfer be allowed, the employee's existing length of overall service to the City will be acknowledged, but the employee's pay will be adjusted to the appropriate amount from the wage range for the position.

4.6. DEMOTIONS

The Mayor may demote officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A demotion is the assignment of an employee from one position to another that has a lower maximum pay rate and responsibility. An employee may be demoted for any of the following reasons:

1. because his/her position is being abolished and s/he would otherwise be laid off;
2. because his/her position is being reclassified to a higher grade, and the employee lacks the necessary skills to successfully perform the job;
3. because there is a lack of work;
4. because there is a lack of funds;
5. because another employee, returning from authorized leave granted in accordance with the rules of the leave, will occupy the position to which the employee is currently assigned;
6. because the employee does not possess the necessary qualifications to render satisfactory service to the position s/he holds;
7. because the employee voluntarily requests such a demotion, and an open position is available;
8. as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job, and job transfer, reassignment, or job redesign are not reasonable; and/or
9. as a form of disciplinary action.

4.7. NEPOTISM / PERSONAL RELATIONSHIPS

Members of the immediate family of a City employee or elected official who meet the hiring standards may be employed to fill City positions as detailed below. For purposes of this policy, members of the immediate family include spouse, child, brother, sister, son- or daughter-in-law, sister- or brother-in-law, parents, parents-in-law, nephews, nieces, stepsisters, stepbrothers, stepchildren, and stepparents.

- No member of an immediate family may supervise members of his/her immediate family. This does not preclude employment of immediate family members under other lines of supervision. If the city cannot reasonably transfer one of the family members to another line of supervision, and the family members can't decide which one will leave voluntarily, the employee in the more junior position will be subject to discharge.
- No special preference will be given to family members in the selection of work location, days off, vacation schedules, etc.
- The work and conduct of the family members will be governed by the same requirements and procedures as all other employees.
- Seasonal and part-time employees are exempt from this provision/policy.

If a personal, romantic, or intimate relationship is established between two or more employees post-hire, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the City. When a conflict or potential conflict arises due to the relationship affecting employment, the City reserves the right to make any and all employment decisions in the best interest of the City.

4.8. TYPES OF EMPLOYEES

- **Full-Time, Ongoing Employees.** A full-time, ongoing employee is an employee who is typically scheduled a minimum of 40 hours per week, is paid an hourly or salaried rate, is subject to all conditions of employment, and receives all benefits offered unless specifically excluded by the City Charter, code, or ordinance.
- **Part-Time Ongoing Employees.** A part-time ongoing employee is an employee who works fewer hours per workweek than a full-time employee on a regular basis and whose hours cannot exceed an average of **29 hours per week** during the standard measurement period. Week-to-week increases of hours beyond the 29-hour limit must be approved by the Mayor or department head. Human Resources will assist department heads with ongoing analysis of hours worked regarding the budgetary impact of benefits costs and compliance with the Affordable Care Act (ACA). Ongoing part-time employees are not eligible for benefits other than those statutorily mandated. Standard measurement periods can be defined separately for hourly and salaried employees.
- **Temporary Employees.** Temporary employees are individuals who perform work for the City for no more than six months during a 12-month period and whose ongoing employment with the City is not expected at time of hire. Temporary employees are not eligible for benefits except those coverage under workers' compensation. Hours of work shall be determined by the department head.
- **Seasonal Employees.** Seasonal employees are hired for a pre-established period, usually during peak workloads, either directly or through an employment service. They may work a full-time or part-time schedule. They are ineligible for City benefits except coverage under workers' compensation.
- **Non-Exempt Employees,** according to the Overtime Requirements of the FLSA are eligible for overtime pay and may be required to work more than the threshold hours for overtime in their workweek / work period. They are not exempt from overtime pay and are entitled to receive overtime pay for hours actually worked in excess of the employee's defined work period. Holiday pay and leave time will not be considered as "hours worked" for purposes of calculating overtime pay.
- **Exempt Employees.** Employees whose positions meet specific tests established by applicable state and federal laws and whose duties and responsibilities allow them to be "exempt" from overtime pay provisions as provided by the FLSA. They are not paid overtime regardless of the number of hours they work in a particular week. All exempt employees are expected to observe a normal forty-hour workweek and to work any additional hours necessary to accomplish the responsibilities of the position. *Exempt employees are required to complete time records which are maintained by the Finance Department and must be submitted during the payroll process. Exempt employees must*

utilize available paid leave if they work fewer than forty (40) hours in a work week. If no paid leave is available during the week in which fewer than forty (40) hours are worked, the employee will have his/her pay reduced by the number of hours not worked.

- **Salaried Employees.** Employees who are paid a specified weekly rate. All personnel defined as “department heads” in the City Charter, and any employee determined to be, and designated as exempt from the Fair Labor Standards Act, shall be paid on a salary basis and are not eligible for overtime pay.
- **Hourly Employees.** Employees who are paid an hourly rate and are paid overtime for worked hours over their overtime threshold for that work period. *Holiday pay and leave time for hours not worked will **not** be considered as “hours worked” for purposes of calculating overtime pay.*

4.9. PERFORMANCE EVALUATION

The annual rating period (period of performance measurement) evaluates performance occurring during the prior fiscal year, i.e. from June 30th of the completed fiscal year back through July 1st of the previous calendar year.

Employees will receive a performance evaluation at least annually at a time based on City needs. Additional evaluations shall be conducted prior to moving to another job in the organization, when performance outcomes fall below minimum expectations or whenever a department head/supervisor/manager determines a need.

The performance evaluation is intended to help the employee achieve a professional level of conduct and performance;

Employees must clearly understand what is expected and be committed to achieving quality results;

At a minimum, evaluations will be conducted annually, but may occur more frequently if the department head/supervisor/manager determines a need.

1. The Human Resources Department will maintain evaluation schedules and will notify department heads/supervisors/managers thirty (30) days in advance of evaluation due dates; and
2. Department heads/supervisors/managers will use the appropriate evaluation form to candidly and accurately document feedback on the critical success factors and previously agreed upon performance objectives established for the measurement period.

Reviews should be structured as follows:

1. Be sure that there is an accurate and complete job description for the position.
2. Incorporate input from the employee’s self-evaluation as appropriate.
3. Discuss the written performance ratings/summaries in the evaluation areas.
4. Goals, objectives, development plans, performance improvement plans, etc. should be established during this time for the upcoming rating period. Discuss what is expected and by when (develop a timeline for completion).

5. Determine how the expectations will be measured (i.e. complete a seminar or course of study, work quality or quantity improvements, cross training, etc.).
6. Secure all required authorization signatures and dates BEFORE DISCUSSING WITH THE EMPLOYEE.
7. Review the results of the overall evaluation with the employee.
8. Provide opportunity for the employee to ask questions and to document their remarks regarding the review.
9. Employee and reviewer should sign and date the evaluation form.
10. The appraisal is not final until it has been reviewed and acted upon by Human Resources and the Mayor.
11. The completed and signed evaluation form should be returned to Human Resources for filing in the employee's personnel file.
12. The City reserves the right to alter the terms and the manner in which performance is or is not appraised.

As important as written performance appraisals are, they are not meant as substitutes for ongoing discussions between employees and their supervisors about their performance.

4.10. OUTSIDE EMPLOYMENT

With the approval of the department head and Mayor (on an annual basis if ongoing), outside employment is permissible, provided that there is no conflict of interest or impairment of work performance for the City of Portland. Before outside employment begins, employees must present a written request to their department head describing the work to be performed.

Required overtime of any employee of the City takes priority over an employee's outside employment. Anyone who knowingly misses work or refuses mandatory overtime at his/her primary job to work a second job may be subject to disciplinary action up to, and including, termination of employment. Employees missing work because of sickness or injury that can be attributed to outside employment will not receive pay or other benefits for time lost from their City job. Approval of outside employment may be withdrawn for any business-related reason.

4.11. GRIEVANCES

A grievance is defined only as an expression of dissatisfaction, disagreement or dispute arising between a current employee and his/her supervisor and/or the City regarding an aspect of the application or interpretation of regulations and policies; reasonable accommodation under the ADA*; or an operational management decision affecting him/her. Disciplinary actions, promotions, demotions, and transfers are not grievable.

**If the grievance is for reasonable accommodation under the ADA, Human Resources must be involved in each grievance process step.*

It is the City's desire to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional situations that will be resolved only after a formal meeting and review.

Employee(s) who have a grievance should first discuss it with their immediate supervisor, within five business days following the incident or immediately upon returning to work from a

suspension. Every employee may present a grievance under the provisions of the grievance procedure free from fear of retaliation of any kind concerning employment.

STEPS OF THE GRIEVANCE PROCEDURE ARE AS FOLLOWS:

Step 1. The employee files a written grievance with the immediate supervisor within five (5) business days of the incident. An employee should give the supervisor copies of any witness statements or other supporting documents. The immediate supervisor will promptly investigate the circumstances surrounding the grievance, discuss the matter with the appropriate department head, and take action if within the scope of the immediate supervisor's authority. The supervisor shall inform the employee of his/her decision in writing within three (3) business days. The supervisor shall provide a copy of his/her decision to the department head. No supervisor may hold a grievance longer than three (3) business days without forwarding it to the next supervisory level.

Step 2. If the issue cannot be resolved between the employee and his/her supervisor, the employee may proceed to the second step by reducing the request to writing and requesting that the department head review the written grievance and supervisor's response. If an employee wishes a meeting with the department head, one will be arranged. Upon hearing the grievance, the department head must provide a written response to the employee and the immediate supervisor within three (3) business days of the meeting.

Step 3. If the issue still cannot be resolved by the department head, the employee may request in writing a meeting with the Mayor. The Mayor shall have ten (10) business days to schedule the meeting after which, the Mayor shall provide a written response to the employee with copies to the department head and immediate supervisor. Every attempt will be made to resolve the employee's grievance. The Mayor's decision shall be final and binding on all parties involved.

SECTION 5 – EMPLOYEE BENEFITS

The City provides a competitive benefits program for all eligible employees. In addition to receiving an equitable salary and having an equal opportunity for professional development and advancement, employees may be eligible to enjoy other benefits which will enhance job and employment satisfaction. The benefit programs described in this personnel manual represent a significant investment in each employee by the City.

This section contains only a summary of insurance benefits, and the terms and conditions of any Plan Document and Summary Plan Description control any benefit if the summary contained in the Personnel Manual conflicts or may be interpreted to conflict. Employees should review their Summary Plan Description(s) in addition to the information provided in the Personnel Manual.

Other benefits previously approved by the Portland City Council, and not in conflict with this policy, shall remain in effect. The Portland City Council may, from time to time, approve additional benefits.

5.1. HEALTH, DENTAL AND VISION BENEFITS

Eligibility for benefits

Ongoing, full time employees will be eligible for the benefits described in this personnel manual as soon as the eligibility requirements for each particular benefit are met. Coverage is available defined in the benefits' Summary Plan Descriptions.

- Part-time, temporary and seasonal employees are not eligible for benefits.
- No benefits are available to employees prior to the plan's stated eligibility date, except as otherwise provided by law.

Health benefits: Employees and those City officials specified in the Municipal Code are covered under plan providers selected by the City. For details regarding current benefit plans and availability, refer to the annually approved Schedule of Benefits available in Human Resources.

Medical, dental and vision insurance: Eligibility for the medical, dental and vision insurance is per each plan document.

COBRA: COBRA provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health insurance coverage at group rates. This coverage, however, is only available when coverage is lost due to certain specific events. Group health coverage for COBRA participants is usually more expensive than health coverage for active employees, since usually the employer pays a part of the premium for active employees while COBRA participants generally pay the entire premium themselves. For details regarding your COBRA coverage options following a covered event, please contact the Human Resource Department.

5.2. SECTION 125 PLAN

A Section 125 plan is a benefit plan that allows employees to make contributions toward medical and dental insurance on a pre-tax rather than an after-tax basis. This means qualified expenses are deducted from gross pay before income taxes and social security are calculated.

By doing so, employees elect to have their gross pay reduced by an amount equal to contributions for medical and dental insurance. Once this election is made, no changes may be made to the pre-tax contributions until the next open enrollment period, unless the change being requested is the result of a change in family status (such as marriage, divorce, death of a spouse or child, birth or adoption of a child or termination of employment of a spouse). A change in election due to a change in family status will be effective in the pay period following receipt of the election.

5.3. RETIREMENT / TCRS

The retired employee's insurance premium, single coverage only, will be paid by the City with the retired employee's dependent's coverage offered at the retiree's expense. If the employee is enrolled in the State of TN/Portland's health insurance (the Plan) and meets the service requirements, they may continue coverage at retirement until they become eligible for Medicare. Covered dependents can also continue coverage until they become eligible for Medicare or no longer qualify as eligible dependents. To qualify for continued health insurance coverage, one of the following conditions must be met:

- Ten years of creditable service: must be age 55 or older and at least three years of continuous insurance coverage in the plan immediately prior to final termination of employment. The date retirement pension benefits start (effective date of retirement with TCRS) must be on or before the date your active coverage ends.
- Twenty years of creditable service: must be age 55 or older and at least one year of continuous insurance coverage in the plan immediately prior to final termination of employment. The date retirement pension benefits start (effective date of retirement with TCRS) must be on or before the date your active coverage ends.
- Thirty years of creditable service and at least one year of continuous insurance coverage in the plan immediately prior to final termination of employment. The date retirement pension benefits start (effective date of retirement with TCRS) must be on or before the date your active coverage ends.

All retirees must elect to continue coverage in the Plan within 30 days of termination of coverage. If the employee who has met the qualification for retirement is terminated, the employee can continue insurance through COBRA coverage at the employee's expense. If the employee voluntarily leaves the City, the employee can continue insurance through COBRA coverage at the employee's expense.

Should the City of Portland withdraw from the State of Tennessee's Health Insurance Plan, the retiree is no longer eligible for this coverage.

The Local Government Plan Document shall be maintained on file in the Human Resources Office.

Re-employment after Retirement

Any retired member may return to service in a position covered by the TCRS and continue to draw such person's retirement allowance in a temporary capacity limited to the equivalent of 120 days per 12-month period, and may earn no more than 60% of their final compensation at time of retirement.

Retiree Health Insurance

Should the City of Portland withdraw from the state's health insurance plan, the retiree would no longer be eligible to continue the coverage [through the state's plan].

All retirees must elect to continue coverage in the Plan within 30 days of termination of coverage.

The retired employee's insurance premium, single coverage only, will be paid by the City with the retired employee's dependent's coverage offered at the retiree's expense.

Retirees or covered dependents who are not members of TCRS will be eligible for a BC/BS Medicare Supplement when they reach the age of 65 or become Medicare eligible.

Draft 08.07.2024

5.4. 401(k) / 457(b) PLAN

The City participates in the State of Tennessee voluntary defined contribution 401(k) and 457(b) tax-deferred retirement savings programs. For details on enrollment in the program, please refer to the plan documents available in the Human Resource Department.

5.5. CITY OBSERVED HOLIDAYS

All offices of the City of Portland, except emergency and necessary operations, will be closed and employees excused from work on the holidays listed below. There is no elimination period for this benefit, with the exception of Employee Personal Holiday*.

- | | |
|-------------------------------|-------------------------------|
| 1 New Year's Day | 8 Thanksgiving Day |
| 2 Martin Luther King Jr. Day | 9 Day after Thanksgiving Day |
| 3 Presidents' Day | 10 Veterans' Day |
| 4 Good Friday | 11 Christmas Eve |
| 5 Memorial Day | 12 Christmas Day |
| 6 Independence Day - July 4th | 13 Employee Personal Holiday* |
| 7 Labor Day | 14 Juneteenth |

**One eight hour day granted per calendar year beginning January 1, 2020 to a regular employee to be taken in a minimum of four-hour increments and with 24-hour advance notice to the supervisor. Any unused portion of a personal day will be forfeited at the end of the year and will not be eligible for cashing out nor paid upon separation from employment.*

5.6. HOLIDAY PAY

The City's observance of the holidays listed above (with the exception of the Employee Personal Holiday) will be scheduled on either Monday, Tuesday, Wednesday, Thursday or Friday. A holiday calendar designating the weekday to be observed may be issued annually. Eight (8) hours of holiday pay will be paid at the eligible employee's straight-time rate of pay for the City's observed holidays. Holiday Pay is not considered hours worked for the purpose of calculation of overtime pay.

To receive compensation for a holiday, employees eligible for holiday benefits must be in an active pay status (not away on leave without pay or on workers' compensation) on their last regular shift scheduled before a holiday and their first regularly scheduled shift after a holiday. Employees must seek appropriate approval for paid leave in conjunction with a Holiday with the exception of statutorily mandated leaves (i.e. FMLA).

Pay for hours worked for full-time, non-exempt employees who are required to work (excluding emergency call-in) on a holiday shall be calculated at their regular, hourly pay rate for the actual hours worked on the holiday and shall be paid in addition to the regular straight-time holiday pay for the day. All hours actually worked will be counted as straight- time hours for overtime calculation purposes.

5.7. VACATION

Vacation is an employee benefit that depends on how long the employee has worked for the employer for all regular full-time, exempt and non-exempt employees.

The City will try to honor all vacation requests; however, vacations cannot interfere with the City's operation. Therefore, your vacation must be approved by your department head/supervisor/manager in advance on a first come, first-served basis. If any conflicts arise in vacation requests, preference will be given to the employee with the longest length of continuous service.

All regular, ongoing full-time employees of the City will be granted vacation leave annually January 1 based on continuous years of service to the City. As the number of years of service increases, the amount of vacation leave granted increases and may accumulate to the maximum amount as shown in the table below:

New Hires Up To 1 Year			
- Vacation hours will be pre-credited to the employee at hire using a pro-rated amount based on the month that the employee is hired in. - Non-Public Safety and Exempt employees are calculated at 5 hours per month, Police are calculated at 5.375 hours per month, and Fire are calculated at 7 hours per month. These calculations are based on the standard work week hours for each category. - Regardless of the hiring date in the employee's first calendar year, a new employee is considered to have completed a year on December 31st for the purposes of calculating vacation. Vacation Hours Credit Examples: - January Hire – non-public safety & exempt 60hrs / police 64.5hrs / fire 84hrs - May Hire – non-public safety & exempt 40hrs / police 43hrs / fire 56hrs - October Hire – non-public safety & exempt 15hrs / police 16.125hrs / fire 21hrs - A "Non-Public Safety and Exempt" employee hired in January would be credited 60 hours of vacation and would be credited another 60 hours on January 1 of the following year. - A Police & Fire Non-Exempt hired in November would be credited 10.75 hours (Police) and 14 hours (Fire), then on January 1 of the following year they would be credited another 64.5 Hours (Police) and another 84 hours (Fire). - On completion of over a year of employment, employees will be credited with either 80hrs/86hrs/112hrs of vacation on the following January 1 using the schedule below based on their category as they begin their third calendar year (<i>2 year service credit time</i>).			
Credited Service Time	Non-Public Safety and Exempt	Police Non-Exempt	Fire Non-Exempt

1 Year	60 Hours	64.5 Hours	84 Hours
2 Years	2 Weeks = 80 Hours	2 Weeks = 86 Hours	2 Weeks = 112 Hours
4 Years	3 Weeks = 120 Hours	3 Weeks = 129 Hours	3 Weeks = 168 Hours
8 Years	4 Weeks = 160 Hours	4 Weeks = 172 Hours	4 Weeks = 224 Hours
16 Years	5 Weeks = 200 Hours	5 Weeks = 215 Hours	5 Weeks = 280 Hours
28 Years	6 Weeks = 240 Hours	6 Weeks = 258 Hours	6 Weeks = 336 Hours

The City's vacation year is based on the calendar year. This means that the vacation year begins on January 1 and ends on December 31 of each year. Since employees are hired throughout the calendar year, vacation time will be prorated for any partial year of service upon hire and be taken upon accrual. **There is no elimination period for this benefit.**

Scheduling. Vacations should be scheduled in advance for the mutual convenience of the employee and the City so that proper adjustments can be made in work schedules. Department heads preparing vacation schedules may give a choice of dates based on seniority of the personnel in their departments, and no employee may begin his/her vacation leave until his/her request has been approved by the department head.

Employees may at any time cash out up to two (2) weeks of accrued vacation once annually.

Employees may roll over up to two (2) weeks to the following year in December annually. Employees may convert unused vacation leave to sick leave without limit at any time.

At no time may an employee have more than his/her vacation accrual amount plus two week in his/her vacation bank.

An employee may not schedule more than two (2) weeks of vacation in any six (6) week period without approval from the Department Head.

Vacation Pay-out at Termination of Employment. If there is unused vacation time upon voluntary separation from employment with the City it will be paid out at the employee's regular, base rate. A break in service of 6 months or more will reset the vacation accrual calculation.

Legal Holidays. Legal holidays falling within a vacation period will not to be counted as vacation days.

Benefits for elected officials are addressed separately by City of Portland Ordinances.

5.8. SICK LEAVE

All full-time employees shall accumulate (9.33) hours of sick leave with pay for each month of work completed for the City (total of 14 days per calendar year), except sworn Police department employees working 12-hour shifts who shall accrue 12 hours of sick leave per month, and fire department employees working 24-hour shifts who shall accumulate 24 hours of sick leave per month. Sick leave may be used as it accrues. **There is no elimination period for this benefit.**

Sick leave may be granted for any of the following reasons, and must run concurrently with FMLA when applicable:

1. Personal illness or physical incapacity resulting from causes beyond the employee's control;
2. Medical, dental, optical or other professional treatments or examinations for the employee;
3. Medical, dental, optical or other professional treatments or examinations for family members;
4. Acute illness of a member of the employee's immediate family. Immediate family includes children, spouse or parent(s);
5. To attend to personal illness or physical incapacity of family members, resulting from causes beyond the employee's control;
6. Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees;
7. To attend to a family member with exposure to contagious disease so that the family member might jeopardize the health of other people;

There is no maximum accumulation of sick leave. Any unused sick leave upon retirement is to be a service credit toward the employee's retirement (T.C.A. 8-34-604). Accumulated sick leave is not otherwise payable to the employee upon termination, resignation or retirement; nor can it be used as a form of 'early retirement' in practice.

A doctor's statement shall be delivered to the supervisor after three (3) consecutive days of absence for sickness. To prevent abuse of the sick leave privilege, the City supervisory staff may satisfy themselves that the employee is genuinely ill before approving sick leave, and may require a doctor's certificate for any absence for which the employee requests sick leave.

Sick leave hours deducted from an employee's sick leave accumulation shall be for the number of regular work hours absent and shall not include holidays and scheduled days off. Employees claiming sick leave while on vacation leave must support their claim by a doctor's statement if requested by a department head or the Mayor. When an employee is on "leave without pay" for greater than half of their assigned shifts during any calendar month no sick leave accumulates.

Sick Leave Notice. The employee is required to notify his/her supervisor as soon as practical, but no later than the start of the workday. The employee should make every effort to reach the supervisor directly to explain the reason for absence.

Health Care Statement. To prevent abuse of the sick leave privilege, any absence may require a doctor's certificate. Absences in excess of three (3) days shall require a doctor's return to work certification in order to return to work.

Fire Personnel Sick Leave. Members of the fire department working a 24-hour shift will be charged 24 hours of sick leave for each missed shift due to illness. Fire department employees who work a regular eight or ten-hour shift shall be charged sick leave for the number of hours absent each day up to a maximum of eight or ten hours.

Workers' Compensation. Employees on Workers' Compensation will continue to accrue sick leave during the period of absence. Workers' Compensation leave runs concurrently with FMLA leave for employees who are eligible for FMLA job-protected leave.

Exhaustion of Leave. Once an employee exhausts sick leave, vacation leave will be substituted for the remaining absences or until the vacation leave is exhausted. If the illness is FMLA qualifying, once all accrued leave is exhausted, further absences shall be designated as leave without pay.

Department Head or Supervisor Requirements. Department heads and/or supervisors are required to report to Human Resources any employee sick leave absences of more than three (3) calendar days to ensure that the City complies with federal regulations regarding the Family and Medical Leave Act. Notification to Human Resources must occur on the fourth day after three consecutive days of absence.

5.9. FUNERAL / BEREAVEMENT

Full-time, ongoing employees may take eight hours of funeral leave per relative for the following family members: grandparents-in-law, aunts, uncles, nieces and nephews. Full-time employees may take twenty-four (24) hours of funeral leave per relative for the following family members:

Children	Spouse	Parents	Mother-in-law
Father-in-law	Step parent	Step children	Grandfather
Grandmother	Brother	Brother-in-law	Sister
Sister-in-law	Grandchildren	Daughter-in-law	Son-in-law
Legal Guardian/Foster Child or Parent			

Should more than twenty-four (24) hours of bereavement leave be necessary; employees may seek approval from their supervisor to use available compensatory, vacation, or sick time in addition to the funeral leave. Notice must be given to the supervisor and the amount of vacation or sick time to be used must be approved by the supervisor prior to the additional time being taken. The twenty-four (24) hours of funeral leave is available per relative for each of these listed relatives. Bereavement Leave may be used non-consecutively as approved. **There is no elimination period for this benefit.**

5.10. FAMILY AND MEDICAL LEAVE

Overview: The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks (in some situations up to 26 weeks) of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave.

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interests of employers and promote equal employment opportunity for men and women.

Eligibility: The Family & Medical Leave policy is applicable employees who have worked at least 12 months for the City and who have worked at least 1,250 hours during the preceding 12-month period. Such employees are eligible for a maximum of 12 to 26* weeks of leave under the act. Special rules apply for husbands and wives employed by the same employer and for exempted key employees (top 10 percent of all wage earners, and who are paid on a salary basis). People who are not covered include elected officials, volunteers, independent contractors, and legal advisors.

Leave entitlement: Eligible employees may take up to 12 workweeks (480 work hours for 40-hour work week employees; 516 hours for 86-hour work period employee and 636 hours for 53-hour work period employees) of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

*Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 workweeks leave under FMLA to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a “serious injury or illness”.

Paid / Unpaid Leave. FMLA runs concurrently with paid time off (compensatory, sick, vacation leave) and concurrently with workers’ compensation leave. Sick time will be paid out first and vacation time will be paid afterwards. In the event that an hourly paid, non-exempt employee has accrued compensatory time, that use will precede the use of sick or vacation leave. Approved leave will be unpaid if the employee does not have paid leave available at the time FMLA starts or when all available paid leave is exhausted while out on leave.

Effects on Sick Leave Accrual. When an employee’s unpaid leave time is greater than half of their assigned shifts or more during any calendar month while on FMLA, no sick leave accrues. The combination of compensatory time, sick leave, vacation leave, and unpaid leave may not exceed the total allowable leave under the FMLA, except as required by statute.

Guidelines. An eligible employee may take up to 12 weeks of family and medical leave in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for one’s self, a child, spouse, or parent who has a serious health condition. Eligible employees may take up to 12 weeks of unpaid leave to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

Serious health condition. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment;
- A period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider;
- Any period of incapacity due to pregnancy or for prenatal care;
- A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity;
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider;
- Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

Serious Injury or Illness for an Injured Service Member is defined as a covered service member’s injury or illness incurred in the line of duty on active duty in the Armed Forces that

may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

Spouse / Same Employer. If spouses are employed by the same employer and eligible to take leave for the birth or adoption of a child, their aggregate leave under FMLA is limited to 12 weeks. For example, if the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouse experiences her own serious health condition as a result of the pregnancy, both employees are entitled to the full 12 weeks.

Right to Return to Work. On return from family and medical leave, an employee is entitled to be returned to the same position that s/he held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The City, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation.

Notification and Scheduling. An eligible employee must provide the City at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require altering scheduled medical treatment.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

It is the City's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was for FMLA. Failure to provide notification will result in the leave not being designated as FMLA. The City will, if necessary, provide the FMLA leave notice in alternate formats.

Certification. The City reserves the right to verify an employee's request for family and medical leave. Failure to provide certification from a health care provider in a timely manner may result in delay or denial of FMLA. Medical certifications will be treated as confidential and privileged information under HIPAA and the State's Open Records laws as appropriate.

If the City has a reason to question the original certification, the City may, at the City's expense, require a second opinion from a different health care provider chosen by the employer. The health care provider may not be employed by the City on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding. The City will pay for second and third opinion visits.

An employee may be required to report periodically to the City the status and the intention of the employee to return to work. Before return is granted, employees are required to furnish the City with a medical certification from the employee's health care provider stating that the employee is able to resume work.

Reduced and Intermittent Leave. Family and medical leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the City's approval. The schedule must be mutually agreed upon by the employee and the employer. Employees on intermittent or reduced leave schedules may be temporarily transferred by the City to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule. Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 12 workweeks total leave in a 12-month period.

Restoration. Employees who are granted leave under the FMLA policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.

Certain highly compensated key employees, who are salaried and among the 10% highest paid workers, may be denied restoration if:

- the employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations;
- the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur; and
- if leave has commenced, the notice must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

If an employee fails to provide a requested fitness-for-duty certification to return to work, the City may delay restoration until the employee submits the certification.

The 12-Month FMLA Period. The City follows a **12-months measured forward method**. This means that the leave is measured from the first date an employee's FMLA leave begins.

Denial of FMLA Leave. If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the City may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave, the City may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave

may not be designated as FMLA. In instances of workers' compensation leave, pregnancy, or events where the City has sufficient knowledge of an event certification may not be required.

Employee Benefits While on FMLA. During periods of FMLA, the City will continue to provide health insurance benefits at the employee rate. If premiums are current, the City will maintain health insurance benefits during periods of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may be terminated. Arrangements may be made between the employee and the City for a payment plan for the employee's portion of insurance premiums. If interrupted, the City is obligated to reinstate benefits upon an employee's return to work.

The City has the right to recover from the employee all health insurance premiums paid by the City on behalf of the employee during the FMLA leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

FMLA leave under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit; however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

Workers' Compensation While on FMLA. Workers' Compensation injury/illness meets the criteria for a serious health condition, therefore, the workers' compensation absence and the FMLA leave entitlement will run concurrently.

5.11. TN MATERNITY/PATERNITY LEAVE

Under the Tennessee Maternity Leave Act, any employee who has been employed full-time for at least one year with the City of Portland and who gives at least three months advance notice of their anticipated date of departure, length of maternity/paternity leave, and intentions to return to full-time employment, may be granted maternity/paternity leave for a period not to exceed four (4) calendar months for pregnancy, childbirth, adoption, and nursing an infant. Use of paid leave (compensatory, sick, and vacation – in that order) shall be used until exhausted for maternity/paternity purposes; if no paid leave exists, leave will be without pay.

An employee desiring maternity/paternity leave shall notify her/his department head so a temporary replacement may be secured. Maternity/paternity leave will run concurrently with FMLA leave if FMLA has not exhausted otherwise and shall be approved depending upon the medical needs and doctor's instructions. Return to duty must be accompanied by a release statement from the employee's attending physician under maternity leave.

5.12. WORKERS' COMPENSATION LEAVE

An employee of the City of Portland who suffers injury or illness as a result of a work-related accident or condition shall receive compensation during the period of illness or injury in accordance with the Tennessee Worker's Compensation Act.

Work Related Injuries Notification: *If you experience any injury on the job as a City employee- regardless of whether it seems minor; regardless of whether it needs medical attention -- you must take the following steps:*

1. *Report the injury immediately to your department head or Human Resources, and the city safety officer;*
2. *If the department head, Human Resources representative, or safety officer is not available, report it to your immediate supervisor;*
3. *Should the injury occur after hours (weekdays) or on the weekends, report of the injury must be made as soon as you return to work and must be reported within 24 hours;*
4. *Failure to comply with this procedure may result in disciplinary action up to, and including, termination of employment.*

Please note that your health insurance will not cover the cost of a work-related injury. *Timely reporting is important for you, and is required by law.*

No compensation shall be paid by the City for the first seven (7) days of disability resulting from injury, excluding the day of injury. If sick leave is accumulated, the employee may use it for this seven (7) day period. If disability extends beyond the seven (7) day period, workers' compensation payment from the workers' compensation insurer will commence with the eighth (8) day after the injury. Beginning on the eighth day, and for as long as worker's compensation benefits continue, no accumulated sick leave shall be used by the employee. In the event the disability from injury exists for a period as long as fourteen (14) days, then the workers' compensation insurer will be retroactively paid beginning with the first day after injury through.

Employees injured in an on-the-job accident may be compensated according to the state worker's compensation board's schedule of compensation.

Employees on occupational disability leave due to an on-the-job injury will not be charged sick or vacation leave during the period of convalescence. Employees shall continue to accrue sick leave and vacation leave at their regular rate while on occupational disability or injury leave.

Leave coordination: *Workers' Compensation Leave and Family and Medical Leave (FMLA) will run concurrently for employees who are eligible for FMLA leave.*

The employee shall continue paying their portion of their insurance while on worker's compensation. After returning to work, any workers' compensation related doctor's visits will be covered by worker's compensation. If worker's compensation does not cover these visits then the employee may use their sick days.

Time Off for Medical Appointments. Any City employee with a workers'-compensation-related illness or injury who is on the job but seeing a medical provider for said illness/injury will not be required to use his/her accumulated sick leave for medical appointments that are scheduled during the employee's regularly scheduled work hours.

Medical providers and medical appointments shall include, but not necessarily be limited to: specializing physicians, medical practitioners, chiropractors, occupational therapists, and providers from other medical fields, as prescribed by provisions of the TN Code, Title 50, Chapter 6.

Workers' compensation related medical appointments shall be noted as such on the employee's time sheet/time card but shall not be deducted from the employee's accumulated sick leave. The employee shall be compensated at his/her regular rate of pay.

The employee shall, as soon as s/he has knowledge of scheduled appointments, advise the supervisor of the date and times that s/he will be away from the job. The Mayor (or designee), at his/her discretion, may question the employee's number of appointments and length of appointments through the employee's workers' compensation case worker should there appear to be a pattern of irregularities.

Mileage Paid to Employees For Medical Appointment. When a City employee, who has suffered a workers'-compensation-related illness/injury, drives more than 15 miles for a medical appointment calculated from either the employee's residence or worksite that employee is eligible for mileage reimbursement. The per mile reimbursement rate for the injured employee shall be not less than the mileage allowance authorized for state employees who have been authorized to use personally owned vehicles in the performance of their duties. Said employee is personally responsible for keeping accurate records of all mileage.

Employee May Use City-Owned Vehicles for Doctors Appointment for Workers' Compensation Related Illnesses/Injuries. City employees, who have suffered a workers' compensation related illness/injury that have a City-assigned vehicle for his /her job, shall be permitted to use that vehicle to travel to medical appointments for said illness/injury. The employee, however, may not use the City-assigned vehicle for appointments that are scheduled during off-duty time. During off-duty, the employee shall use his/her personal vehicle for appointments and shall keep mileage records to turn in to workers' compensation for reimbursement.

Those City employees who do not have access to City-owned vehicles shall drive their personal vehicles to medical appointments and will be paid mileage by the City for the first 15 miles, and then paid mileage by workers' compensation for 15 miles and above. Said employee is personally responsible for keeping accurate records of all mileage.

5.13. AMERICANS WITH DISABILITIES ACT (ADA)

The City of Portland is committed to the fair and equal employment of individuals with disabilities under the Americans with Disabilities Act (ADA). It is The City of Portland's policy to provide reasonable accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the City. The City prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

In accordance with the ADA as amended, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

Disability

“Disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. A “qualified person with a disability” means an individual with a disability who **has the requisite skills, experience, and education for the job in question and who can perform the essential functions of the job with or without reasonable accommodation.**

Reasonable Accommodation

The City will seek to provide reasonable accommodation for a known disability or at the request of an individual with a disability. Many individuals with disabilities can apply for jobs and perform the essential functions of their jobs without any reasonable accommodations. However, there are situations in which a workplace barrier may interfere. A “reasonable accommodation” is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job without placing an undue hardship on the City.

There are three types of reasonable accommodation that may be considered:

- Changes to the job application process so that a qualified applicant with a disability will receive equal consideration for the job opportunity;
- Modifications to the work environment so that the qualified individual with a disability can perform the essential functions of the job; *or*
- Adjustments that will allow a qualified individual with a disability to enjoy the same benefits and privileges of employment as other similarly situated employees without disabilities.

Essential Job Functions

For each position, the job description typically will identify essential job functions. Human Resources generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An employee’s questions about a job’s requirements should be directed to the employee’s supervisor or Human Resources.

Requesting a Reasonable Accommodation

An employee with a disability is responsible for requesting an accommodation from the Human Resources Department, or his/her supervisor, and engaging in an informal process to clarify what the employee needs and to identify possible accommodations. The City will provide notice of the employee’s rights under the ADA and document the interactive process discussions. If requested, the employee is responsible for providing medical documentation regarding the disability.

The employee should describe the problem created by a workplace barrier so that an appropriate accommodation may be considered. The Human Resources Department will work with the employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the employee to perform the essential functions of the job.

Based on this interactive process, a reasonable accommodation will be selected that is appropriate for both the City and the individual employee. While an individual’s preference will be considered, The City is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the City. The City will provide notification in writing of denial based on undue hardship.

Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization's overall financial resources, the financial resources of the particular facility at which the accommodation is to be made, the number of employees at the facility, the total number of employees of the organization, and the type of operation.

Grievances

In the event that an employee would like to grieve the outcome of the reasonable accommodation and interactive process, he/she should follow the City of Portland Grievance Procedure.

Safety

All employees are expected to comply with all safety procedures. The City will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A "direct threat" means a significant risk to the health or safety of one's self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the Human Resources Department and will be based on factual, objective evidence. A written copy of the determination will be given to the employee so that s/he may submit additional information and/or challenge the determination that s/he poses a direct threat.

Confidentiality

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

It is the policy of the City to prohibit any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation. If an employee feels s/he has been subject to such treatment or has witnessed such treatment, the situation should be reported using the harassment complaint procedure. The City of Portland's policy prohibits retaliation against an employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an employee feels he or she has been retaliated against, the situation should be reported using the harassment complaint procedure.

5.14. MILITARY LEAVE

Any employee who is or becomes a member of the armed forces of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) and leaves work for initial training for the Guard or Reserves, leaves work to join active duty military, or is called to active duty, will be placed on military leave. Such employee must present his/her supervisor or department head with advance notice of the active duty orders. The employee's seniority, status and pay rate will remain unchanged during his/her time of military leave. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. For the first 31 days of military leave, the City will maintain contribution at the same level as was done prior to leave. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be

sent. When an employee's unpaid leave time is greater than half of their assigned shifts or more during any calendar month, no sick leave accrues for that month.

The process for reinstatement of employees returning from military leave begins when the employee submits an "application for re-employment." Said application must be submitted within ninety (90) days of the end of service, or from the end of hospitalization continuing after discharge for a period of not more than one (1) year for an injury/illness related to deployment.

The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

5.15. MILITARY RESERVIST LEAVE

Any employee who is member or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) scheduled work days in any one (1) calendar year.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees serving in the National Guard or Military Reserve will receive full compensation for a period of twenty (20) days of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged to any form of accrued paid leave. An employee requesting military leave shall provide the City the dates for training and travel time in advance. After the twenty (20) working days (hours based on employees regular scheduled hours) of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, may use up to five (5) days of sick leave in lieu of vacation leave for the purposes of not having to take leave without pay.

Active State Duty: Army/Air National Guard and TN State Guard. Civil Air Patrol

In addition to the leave of absence provided above, employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Pursuant to T.C.A. § 42-7-102, members of the United States air force auxiliary civil air patrol who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

5.16. LEAVE WITHOUT PAY

Leave without pay is defined as time off from regular work which may be granted without pay at the recommendation of the employee's department head. Leave without pay may only be authorized by the Mayor unless provided for statutorily (i.e. FMLA, Mat/Pat, ADA).

Leave without pay may only be granted after an employee exhausts all applicable paid leave, and for a period not to exceed three (3) months for good and sufficient reasons which are considered uncontrollable. When an employee is on Leave Without Pay for greater than half of their assigned shifts during any calendar month no sick or vacation leave accumulates until the employee returns to work for greater than half of their assigned shifts for the calendar month in which they return.

There is no job protection entitlement associated with a leave without pay except where statutorily mandated. Such leaves of absence may be granted to regular, ongoing full-time employees in instances where unusual or unavoidable circumstances require a prolonged absence and all applicable unpaid and paid-time-off options have been exhausted, e.g. sick leave, vacation time, etc.

Additionally:

- Health insurance premiums must be paid on a monthly basis; if leave is not covered under FMLA, the entire amount of COBRA premium will be paid by the employee to the appropriate COBRA administrator.
- The City reserves the right to limit the number of leaves granted an employee unless statutorily mandated.
- The employee on leave without pay will not receive holiday pay.

An employee who utilizes leave time to actively pursue other employment or who accepts any employment or goes into business while on leave of absence shall be considered to have resigned from their employment and will be terminated as of the day the other employment began.

5.17. EMPLOYEE TRAINING

The Mayor or his/her designee may require employees to attend conferences, seminars, workshops or other functions that are intended to improve or upgrade the employee's job skills.

Employees are also encouraged to take advantage of education and training benefits to improve their job skills and ability to qualify for advancement opportunity. These benefits are limited to training and education relevant to the employee's current position or "reasonable" transfer and/or advancement opportunities. "Reasonable" is defined as attaining the minimum qualifications for advancement or transfer with no more than two years of additional training or education.

Education and training benefits will be available to employees on a first-come, first-served basis, subject to the availability of budgeted funds and departmental operational needs. Requests for training may be initiated by either the employee or the City. Certificates of completion should be forwarded to Human Resources for inclusion in the employee's personnel file. Final decisions on requests for education and training will be made by the Mayor and the department head. Requests to attend training sessions should be made at least 15 days prior to the deadline for registration (if available). The department head, based on the supervisor's recommendation, will determine who will attend conferences and/or training opportunities based on the availability of budgeted funds.

When a request for training is approved, the employee's cost for registration, tuition, training materials transportation, lodging, and other reasonable expenses will be covered by the City. All professional training should be documented in Human Resources training files.

5.18. EMPLOYEE ASSISTANCE PROGRAM

As a benefit to employees, the City of Portland provides an employee assistance program which allows for up for three sessions per issue per year with a mental health counselor for employees and their family members. In addition, there is access to limited legal and financial advice as well as online information on general issues.

Unless as part of a disciplinary referral, utilization of this program is confidential and encouraged as undue stress, either job or family related can interfere with your health or success at work or in your daily activities.

There are instances in which supervisors may feel it necessary to make a mandatory referral to the EAP when either your behavior or attitude at work is having a detrimental effect on the organization.

Prior to making a mandatory referral, supervisors should consult with HR. Should this referral be approved, the employee will be required to sign a release of information regarding attendance and level of cooperation during the sessions. No other information will be requested. Failure to attend the mandatory counseling or an uncooperative attitude (in the opinion of the counselor) will result in immediate disciplinary action, up to and/or termination.

5.19. EDUCATIONAL / TUITION ASSISTANCE

PROGRAM SUMMARY: The City of Portland offers educational assistance to eligible employees. Any approval of educational assistance must be applicable to the employee's current job or professional development deemed beneficial to the operation of the City. Assistance must be approved and employees must agree to the stipulations of the programs outlined below for participation.

The City reserves the right to limit Educational/Tuition Assistance opportunities on a first-come, first-served basis; to limit opportunities to comply with fiscal constraints and budgetary responsibility; and to limit opportunities to those circumstances deemed to be work or job-related in the best interest of the City.

EDUCATIONAL ASSISTANCE (Scope of the benefit):

- A. The *Educational Assistance Reimbursement Program*** includes tuition expenses, books and registration fees charged by colleges, universities and vocational/technical institutions for course work applied to the completion of a two- or four-year degree or technical diploma. Master's and doctorate level course work will be evaluated for the reimbursement program on a case-by-case basis. The City reimburses eligible employees after successful completion of the course and submission of the required paperwork. Participants will be required to sign a *City of Portland Tuition Reimbursement and Repayment Agreement* form.
- B. *Academy Training for Police Officer Certification*** Includes tuition, books and registration fees for course work applied to the completion of training through the state's police academy for police officer certification. Costs for police officer certification training will be paid in advance of the training to the state's academy. Participants will be required to sign a Police Department *Tuition Reimbursement and Repayment Agreement* prior to enrollment to recapture costs on a prorated basis if the employee leaves employment within two years of attending the academy.
- C. *Professional Development*** includes enrollment fees for training costs at approved seminars, workshops, conferences etc. related to an employee's job performance and skill development in their position. Approved Professional Development training costs paid on behalf of the employee do not require a reimbursement agreement.

EMPLOYEE ELIGIBILITY REQUIREMENTS for participation:

Eligible employees must:

- be a full-time employee at the time for application for participation in the program;
- have been employed full-time for at least one (1) year or required to obtain police officer certification;
- be performing at their job's "Acceptable" performance level;
- have completed, signed, secured the required approvals and returned all documentation on time.

Any failure to meet the eligibility and documentation requirements of the program(s) may jeopardize any reimbursement or pre-payment from the City of Portland, exclude an employee from future participation in the program(s) or, be cause for the repayment of funds to the City.

Participating employees are required to complete, sign and provide the following documentation:

- the Application for Educational Assistance (Reimbursement Program) form;
- the Tuition Reimbursement Agreement form;
- the applicable Repayment Agreement form;
- and provide the City of Portland with official evidence of satisfactory completion of any and all courses (with grades received) and documentation of any additional financial assistance from another agency or source within sixty (60) calendar days of completion of any pre-approved course.

PROCEDURE:

Educational Assistance Reimbursement Program -- Employees must submit a completed application with a proposed study curriculum from the learning institution to their department head at least 30 days prior to the registration deadline for such classes. Requests will be considered for attendance at accredited colleges, universities, business, technical/vocational schools and state run academies for single courses or programs leading to a degree, certificate, or a HiSET (High school equivalency test formerly a General Equivalency Diploma (GED)). The City reserves the right to review the adequacy of any programs, and/ or course work as to relevance to the position and the integrity of the educational process.

- A. . The City reserves the right to limit its assistance to the published average of the state's cost for post-secondary education tuition costs. Participants will be required to sign a *City of Portland Tuition Reimbursement and Repayment Agreement* form with the understanding that any monies owed will be deducted from their final paycheck as long as the final pay is not reduced to below minimum wage.
- B. **Academy Training for Police Officer Certification** -- Employees must submit a completed application form to their department head at the time of registration. Costs for Police Officer Certification training will be paid at registration (in advance) of the training to the state's academy by the City. Participants will be required to sign *Police Department Tuition Reimbursement and Repayment Agreements* prior to enrollment.
- C. **Professional Development** -- Employees must submit an approved (by the department head) purchase order for registration in the seminar, workshop, conference, etc. and provide a certificate or notification of completion to Human Resources for their training files, if provided. Repayment agreement is not applicable to this circumstance.
- D. **Grade Requirements for the tuition reimbursement program** -- If a written request is approved, the employee shall receive reimbursement for the cost of tuition (maintenance) fees upon proof of successfully completing the course(s) based upon the following schedule:
- 100% reimbursement for a grade of A, B or C
 - 0% reimbursement for a grade of D or F.
 - Pass/Fail class: Pass 100%, Fail 0%
 - Minuses and pluses (A-, B+, etc.) will not change the percentages

The city will reimburse up to a maximum of \$375/per credit hour (up to 12 hours per semester/quarter) to a maximum of \$5250 per fiscal year according to the above reimbursement schedule.

- E. **Additional financial assistance programs** -- The City's financial assistance for continuing education will be reduced by the funding amounts received from other agencies/sources such as scholarships, the Department of Veterans Affairs, etc. Employees will be required to provide documentation of the funding received from any other agency or source.

F. Required documentation at completion of course/training (for the employee file) --

1. at the end of all **educational assistance** course work (semester or quarter) -- the employee will provide an official transcript or grade report and an itemized statement of reimbursable expenses (with receipts) and documentation of all additional tuition assistance they receive from other sources to Human Resources for processing of the reimbursement.
2. At the end of the program for **Police Officer Certification Training** -- the employee will provide a copy of their certificate of completion to Human Resources for inclusion in his/her employee file.
3. **Professional Development Training** -- the employee will provide a copy of the certificate of completion (if applicable) from the training provider to Human Resources for inclusion in his/her employee file.

REPAYMENT REQUIREMENTS: Employees participating in the Educational Assistance Reimbursement Program, certain job-specific Certifications, and the Police Officer Certification Training program will be required to sign documentation agreeing that they are required to repay the City of Portland all or a portion of the funds paid on their behalf under the program for any affected course(s) or certification if they leave employment voluntarily, or involuntarily within two years from the cost being incurred by the City.

- A. ***Educational Assistance Reimbursement Program:*** If an employee is voluntarily, or involuntarily, separated from the City within two years (24 months) of receiving educational assistance through this program, the employee will be required to repay a portion of the funding paid on their behalf. The repayment plan will be calculated as an amount prorated over a 24-month period. Specifically, for each month of employment, after completion of the final course, the repayment amount owed to the City will be reduced by 1/24 of the total amount incurred and paid on behalf of the employee. The ***TUITION REIMBURSEMENT AGREEMENT & REPAYMENT AGREEMENT FOR TUITION REIMBURSEMENT FUNDS*** forms must be completed and signed.

Educational Assistance funds must be repaid if a participant:

1. does not successfully complete any course with a grade of "C" or better, as evidenced by an official grade report, transcript, or equivalent form;
2. drops, withdraws, or takes an incomplete grade in the course(s);
3. does not continue full time employment with the City of Portland at the start and completion of any course;
4. voluntarily resigns from the City of Portland's employment within two years after completion of the final course.

- B. ***Police Officer Certification Training:*** If a police officer is voluntarily, or involuntarily, separated from the City during the two years (24 months) after completion of the basic recruit training required to become a certified police officer, the employee will be required to repay the costs and expenses incurred by the City on a prorated basis. Specifically, for each month of employment, for two years after completion of the training program, the repayment amount owed to the City will be reduced by 1/24 of the total amount incurred and paid on behalf of the employee.

- C. ***Professional Development Training:*** An employee is not required to repay the costs of professional development training at separation.

WORK SCHEDULE ACCOMMODATIONS: In cases where employees have special scheduling problems while attending approved education or training programs, especially courses in preparation for a GED, reasonable effort will be made to allow the employee release time from his/her work schedule to attend classes, subject to departmental scheduling and workloads. In situations of this type, the employee may be required to make up the release time on a weekly basis. Written approval from the employee's department head must be obtained prior to using release time. Employees who obtain their GED or HiSet shall receive a one-time bonus of \$250.

NON-WORK-RELATED TYPES OF EDUCATION/TRAINING: Employees are encouraged to improve themselves through education or training, even if it is not related to their City work; however, the City will be unable to provide financial assistance for non-work-related types of education/training. Employees may be granted, upon written request, permission to take time away from their jobs for training when such time is taken without pay, as paid leave that is available and approved (excluding sick leave). This applies only so long as their absences are pre-approved and will not cause hardships for their departments.

TAX IMPLICATIONS: There may be tax implications for employees receiving Educational Assistance and/or Professional Development Training. Please contact your accountant or tax professional for complete details.

5.20. PREGNANT WORKERS' FAIRNESS ACT(S)

The City will not fail or refuse to provide reasonable accommodations for an applicant or employee for medical needs arising from pregnancy, childbirth, or related medical conditions. Additionally, the City will not require an employee to take leave under a leave law or policy if another reasonable accommodation can be provided to the employee for medical needs related to pregnancy or childbirth. The City will not take an adverse action against an employee for requesting an accommodation related to pregnancy.

The City requires an employee requesting accommodations for medical needs arising from pregnancy or childbirth to provide medical certification from a healthcare professional. Medical certification is appropriate if the employee requests an accommodation related to the temporary transfer to a vacant position, job restructuring, light-duty, or an accommodation that requires time away from work. If the employee is making a good faith effort to obtain medical documentation, the City will begin engaging in a good faith interactive process with the employee to determine if an accommodation can be provided that will not result in an undue hardship to the employer.

The City will:

1. In good faith attempt to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless the City can demonstrate that the accommodation would impose an undue hardship on its operation

Accommodations may include:

- Making existing facilities used by employees readily accessible and usable.
- Providing more frequent, longer, or flexible breaks.
- Providing a private place, other than a bathroom stall, for expressing milk.

- Modifying food or drink policies.
- Providing modified seating or allowing the employee to sit more frequently if the job requires standing.
- Providing assistance with manual labor and lifting limits.
- Providing job restructuring for light-duty if available.
- Authorizing a temporary transfer to a vacant position.
- Providing or modifying equipment, devices, or an employee's workstation.
- Adjusting work schedules,
- Providing time away from work for medical situations related to pregnancy, and
- Providing time for parental visits.

Accommodations not required:

- Hiring new employees that the employer would not have otherwise hired.
 - Discharge an employee, transfer another employee with more seniority, or promote another employee who is not qualified to perform the new job.
 - Create a new position, including a light-duty position for the employee, unless a light- duty position would be provided for another equivalent employee.
 - Compensate an employee for more frequent or longer break periods, unless the employee uses a break period that would otherwise be compensated.
2. **NOT** require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process referred to in the PWFA or TN PWFA;
 3. **NOT** deny employment opportunities to a qualified employee because of the need of the City to make reasonable accommodations related to the pregnancy, childbirth, or related medical conditions of the qualified employee;
 4. **NOT** require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or
 5. **NOT** take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

5.21. PUMPING FOR NURSING MOTHERS (P.U.M.P.) ACT

Break Time to Pump Breast Milk

Covered city employees have the right to take reasonable break time to express breast milk for their nursing child. For one year after the child's birth, city employees may take reasonable break time "each time such employee has need to express the milk." The city will not deny a covered employee a needed break to pump. The frequency and duration of breaks needed to express milk may vary depending on factors related to the nursing employee and the child. Factors such as the location of the space and the steps reasonably necessary to express breast milk, such as pump setup, may also affect the duration of time an employee will need to express milk and will be

considered by the city. Employees who telework are eligible to take pump breaks under the FLSA on the same basis as other employees.

Private Space to Pump Breast Milk

The city will provide covered employees with “a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.” Under the FLSA, a bathroom, even if private, is not a permissible location for the employer to provide for pumping breast milk.

The location provided will be functional as a space for expressing breast milk. If the space is not dedicated to the nursing employee’s use, it will be made available when needed by the employee. A space temporarily created or converted into a space for expressing breast milk or made available when needed by the nursing employee is sufficient provided that the space is shielded from view and free from any intrusion from co-workers and the public.

Draft 08.07.2024

SECTION 6 – EMPLOYEE CONDUCT

It is the policy of the City of Portland that employees use appropriate conduct during the course of their official duties. These rules of conduct are established to give general guidelines to employees as to what is acceptable behavior and what is prohibited behavior. Violation of any of these or other appropriate rules shall be sufficient reasons for counseling, reprimand, suspensions, and/or dismissal of any City employee. Rules of Conduct are not intended to grant property interest in employment.

Employees may hold their positions during good behavior and acceptable performance, but may be removed for, but not limited to, the following reasons: acts of, or behaviors of, incompetence, inefficiency, ineffectiveness, dishonesty, insubordination, discourteous treatment of the public or other employees, unbecoming conduct, neglect of duty, undermining the efficiency and/or effectiveness of the City mission to deliver service to its citizens, unwarranted work slowdown or stoppage, and undermining employee morale.

6.1. GENERAL RULES OF CONDUCT

MISCONDUCT - The following list of unacceptable activities is a sample of the types of infractions to the Code of Conduct that may result in disciplinary action. It does not include all types of conduct that can result in disciplinary action, up to and including termination.

Rule 1 – VIOLATION OF RULES

Employees of the City of Portland shall not commit any act or omit any acts which constitute a violation of any of the rules, regulations, verbal department directives, or orders of this policy whether stated in this rule or elsewhere (i.e. departmental SOP/SOG). Examples: punching the timecard of another employee; leaving during workhours without the approval of the supervisor, etc.

Rule 2 – UNBECOMING CONDUCT

Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the City. Unbecoming conduct shall include that which brings the City disrepute or reflects discredit upon the individual as an employee of the City, or that which impairs the operation or efficiency of the City or individual. Examples: Using threatening, intimidating, abusive or vulgar language; fighting, horseplay, or other disorderly conduct; sabotage, etc.

Rule 3 – IMMORAL CONDUCT

Employees shall not participate in any incident involving moral turpitude, which impairs their ability to perform or causes the City to be brought into disrepute. Definition of Moral Turpitude: conduct that is believed to be contrary to community standards of honesty, justice or good morals, thought by a reasonable person to be shameful, corrupt or vile acts.

Rule 4 – CONFORMANCE TO LAWS

Employees shall in the course of their duties obey all laws of the United States and of any state and local jurisdictions in which the employees are present. A conviction of a violation of any law may be evidence of violation of this section.

Rule 5 – REPORTING FOR DUTY

Employees shall report for duty at the time and place required by assignment or orders and

shall be properly equipped and be cognizant of all information required for the proper performance of duty. This includes scheduled or unscheduled overtime whether emergency response or otherwise.

Rule 6 – NEGLECT OF DUTY

Employees shall not commit any acts expressly forbidden or omit any acts that are specifically required by the laws of this state, the ordinances of this City, the Personnel Policy, policies, procedures or directives of the City. Employees shall not engage in any activity or personal business, which could cause them to neglect or be inattentive to duty including the use of personal cell phones

Rule 7 – FICTITIOUS ILLNESS OR INJURY REPORTS

Employees shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the City as to the condition of their health.

Rule 8 – EMPLOYMENT: SICK – INJURED – LIMITED DUTY

No employee shall engage in off-duty employment of any kind while on sick leave, workers compensation leave, or leave of absence status, except by specific written permission from the Mayor.

Rule 9 – SLEEPING ON DUTY

Employees shall remain awake while on duty. If unable to do so, they shall so report to their supervisor, who shall determine the proper course of action.

Rule 10 – UNSATISFACTORY PERFORMANCE

Employees shall maintain sufficient competency to properly perform their duties and assume the responsibility of their positions. Employees shall perform their duties in a manner, which will maintain the highest standards of efficiency in carrying out the functions and objectives of the department. It is the employee's responsibility to obtain and maintain all applicable knowledge and scope of assigned job duties.

Unsatisfactory performance may be demonstrated by a lack of knowledge of the job duties; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the position; the failure to take appropriate action; or absence without approval.

Rule 11 – INSUBORDINATION

Employees shall promptly obey any lawful directives of a supervisor, manager, department head, or the Mayor.

Rule 12 – GRATUITIES.

Employees shall not accept, directly or indirectly, any money gift, gratuity, or other consideration or favor of any kind from anyone other than the City except as defined in the City of Portland Ethics Policy.

Rule 13 – ABUSE OF POSITION

Employees shall not use their official position, official identification card, or badges:

1. To secure any privilege or exemption for themselves or others that is not authorized by the charter, general law, or ordinance or policy of the City.
2. To avoid consequences of unlawful acts.

Employees shall not lend their identification cards or badges to another person or permit them

to be photographed or reproduced without the approval of the Mayor.

Draft 08.07.2024

Rule 14 – ENDORSEMENTS AND REFERRALS

Employees shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service.

Rule 15 – CITIZEN COMPLAINTS

Employees shall courteously and promptly direct complaints against employees to a supervisor for handling. Supervisors taking a complaint may attempt to resolve the complaint but shall never attempt to dissuade anyone from lodging a complaint against any employee.

Rule 16 – COURTESY

Employees shall be courteous to the public and co-workers. Employees shall be tactful in the performance of their duties; shall control their tempers and exercise the utmost patience and discretion; and shall not engage in argumentative discussions. In the performance of their duties, employees shall not use coarse, violent, profane, or insolent language or gestures, and shall not express any discriminatory intent toward members of protected classes.

Rule 17 – REPORTS

Employees shall submit all required reports on time and in accordance with established procedures. Reports submitted by employees shall be truthful and complete and no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, or alter, remove, or destroy any report once filed for the purpose of altering the natural order of information.

Rule 18– ISSUANCE / RETURN OF CITY OWNED EQUIPMENT

Each employee may be issued or provided with authorized equipment required for duty. Any employee separated from employment shall return all equipment issued.

Employees shall utilize City-owned property only for its intended purpose in accordance with established procedures and shall not abuse, damage, alter, tamper with, repair unless authorized, or allow unauthorized persons to use City-owned property. All City-owned property issued to employees shall be maintained in a proper order and returned upon separation from employment. Intentionally defacing or damaging City property is not permitted.

Rule 19 – TRUTHFULNESS

Upon the directive of the Mayor, department head, Human Resources, or a supervisor, employees shall fully and truthfully answer all questions specifically directed and narrowly relating to the performance of official duties or fitness for duty which may be asked of them.

Rule 20 – PRIVACY

Employees provided lockers in the work place are expected to provide their own lock and to keep the locker locked when away. Liability for loss or damage to content of lockers cannot be assumed by the City. Employees may be requested to open their assigned locker for periodic housekeeping, inspections or other occasions when it is appropriate and/or necessary. Those who use the locker rooms are expected to assist in keeping them clean and orderly. Any suspicious activity around lockers, as well as break-ins and theft, should be reported to a supervisor. All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.

Rule 21 – ETHICAL and LEGAL BEHAVIORS

Employees shall not conspire or knowingly engage in any activity which deprives any person of their civil rights, due process, equal opportunity for employment, advancement, job opportunities, or any constitutional or statutory guaranteed right. No employee shall disseminate confidential or protected information to any unauthorized person for any purpose.

Employees are responsible to follow the ethics code as defined in Portland Municipal Code, Title 4, Chapter 8, Code of Ethics

6.2. DRESS CODE

Employees' personal appearance and hygiene are important both to employees and the City. Employees are expected to maintain a good personal appearance and to give consideration to neatness and cleanliness. Employees should always dress in a manner befitting the job, with due consideration to the needs of the City, other employees, and safety. Employees are responsible for dressing appropriately for work and following the dress code.

Supervisors/managers and, when notified, the Human Resources Department will interpret the application of the dress code and the appropriateness of an employee's dress at work.

Dress and appearance should not be offensive, revealing, sloppy or distracting. Clothing that works well for the beach, yard work, dance clubs, exercise sessions, and sports contests is not appropriate for a professional, casual appearance at work.

The following dress code includes appropriate appearance and dress guidelines for employees in both office and field positions. Employees in the Police, Fire, Parks and Public Works Departments are furnished uniforms, which must be worn on the job at all times.

Office personnel are expected to dress appropriately for their work environment (i.e., dress slacks, dresses, skirts and appropriate blouses, shirts, sweaters, jackets, sandals, boots, loafers, pumps).

Clothing that is not allowed to be worn by employees while working includes, but is not limited to, the following:

- tattered/torn jeans or shorts
- shirts with language or graphics that are vulgar, sexually explicit, or may otherwise be offensive;
- attire that is too tight, revealing or provocative;
- clothing that exposes bare midriffs;
- mini-skirts, sun dresses, beach dresses, spaghetti-strap dresses;
- see-through blouses or shirts;
- sports bras, halter tops, or similar attire;
- tank tops, muscle shirts or mesh shirts;
- flip-flops;
- hats (in the office);
- sweat suits, sweat pants, ski or jogging pants/shorts.

Also, remember that some employees are allergic to the chemicals in perfumes and makeup, so wear these substances with restraint.

Employees arriving at work dressed inappropriately will be sent home to change, with no pay for the time so spent. Repeated violations of the dress code may result in disciplinary action up to and including termination.

On “Casual Fridays” office personnel may wear neat, clean blue jeans (must not have holes or tears) and t-shirts, sweat shirts, sneakers, and sandals. However, items of casual clothing bearing offensive slogans and/or prints and/or with designs that are inappropriate, vulgar, offensive, or advertise drug, alcohol or tobacco-related products are not permitted.

6.3. DRUG FREE WORKPLACE

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City has adopted by resolution a drug and alcohol testing policy. The policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. The types of tests that may be required under the DFW policy are: pre-employment (for safety-sensitive positions), transfer, reasonable suspicion, post-accident (post-incident), random (for safety-sensitive positions), return-to-duty, and follow-up.

It is the policy of the City that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol is prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to disciplinary action. Prohibited and/or illegal conduct includes but is not limited to:

1. being on duty or performing work for the City while under the influence of drugs and/or alcohol;
2. engaging in the manufacture, sale, distribution, use or unauthorized possession of drugs at any time and of alcohol while on duty or while in or on City property, or City vehicles;
3. refusing or failing a drug and/or alcohol test administered under this policy;
4. providing an adulterated, altered, or substituted specimen for testing;
5. use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures

Employees who are required to take prescribed or over-the-counter medication shall notify the immediate supervisor should the medication produce any effects which might limit the employee's ability to safely perform his/her job. *Per Public Chapter 373 – 2019 a valid prescription is defined only as a prescription issued within six (6) months prior to a positive drug test.*

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or disciplinary actions up to and including termination of employment. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or disciplinary actions up to and including termination of employment.

All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.

- a. Property includes, but is not limited to, vehicles, desks, containers, files and storage lockers.
- b. Employees assigned lockers (that are locked by the employee) are also subject to inspection.

Employees who have reason to believe another employee is using alcohol or illegal drugs while on duty must report the facts and circumstances immediately to their supervisor or Human Resources. Failure to do so may result in disciplinary action. Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head who shall immediately forward the information to Human Resources.

The City performs post-offer, pre-employment (for safety-sensitive positions); random selection (for safety-sensitive positions); post-accident; reasonable suspicion; fitness-for-duty; and follow-up drug testing.

All employees in safety-sensitive positions (such as gas department employees, equipment / vehicle operators that require a Commercial Driver's License, Police and Fire department employees, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, Title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199).

DOT regulated positions (i.e. CDL drivers) upon being engaged in a vehicle accident or have been removed from duty due to reasonable suspicion of being under the influence by a trained supervisor, cannot resume driving activities until results of drug/alcohol screen have been confirmed as negative.

As a condition of continued employment with the City, all employees must abide by the City's policy and notify the immediate supervisor of any criminal drug statute convictions within five (5) days after such conviction. The City, in turn, informs any granting or contracting agency within ten (10) days of such notification.

Failure to comply with the provision or intent of this rule may be used as grounds for disciplinary action up to and including termination, or for requiring the employee to participate satisfactorily in an approved drug abuse assistance or rehabilitation program.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection. Random selection applies only where required by law, and/or for safety-sensitive positions.

If an employee is unavailable (i.e., vacation, sick day, out of City, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City may omit that employee from that random testing or await the employee's return to work.

An employee or job applicant whose drug test yields a positive result, indicating the presence of drugs or alcohol, shall be given the opportunity to speak with the Medical Review Officer prior for a final determination. Test results are then forwarded to Human Resources for appropriate action.

A job applicant will be denied employment with the City if his/her post-offer, pre-employment test result has been confirmed positive.

Current employees will be subject to disciplinary action up to and including termination of employment if their test result has been confirmed positive, if they refuse to test, or for any other violations outlined in the Drug Free Workplace policy.

To the extent allowed under the Tennessee Open Records Law, all information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results.

6.4. TRAVEL POLICY

All employees and elected and appointed officials are required to comply with the City's travel policy, adopted separately by ordinance, and any applicable laws and charter provisions. All trips that involve reimbursement and/or City expense shall not be undertaken without prior approval of the City. Mileage, meals, incidentals and expenses will be reimbursed according to the provisions of the City of Portland Travel Policy. For details regarding travel, obtain a copy of the City's travel policy from the City Recorder or Finance Department. See Ordinance No. 19-71 Adopting the MTAS Model Travel Policy effective August 19, 2019.

6.5. WORKPLACE VIOLENCE AND HARASSMENT POLICY

The City is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of the City to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the City's activities. Employees and customers are to be treated with courtesy and respect at all times.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of bullying or harassment will be tolerated, including sexual harassment and harassment based on race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, exercise of free speech made as a citizen as a matter of public concern, refusal to participate in or remain silent about illegal activities, exercise

of a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law.

This policy applies to all City employees, elected officials, appointed officials, regular part time/temporary employees, members of the public, and contractors. The governing body may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials.

Per Public Chapter 331 – 2019 the City can seek an injunction against a person who commits harassment against a City employee. Harassment under this statute is defined as two (2) or more instances of contact serving no legitimate purpose directed at an employee, in connection with that persons status as an employee, that a reasonable person would consider alarming, threatening, intimidating, abusive, or emotionally distressing and that does or reasonably could interfere with the performance of the employee's duties.

The City will not tolerate bullying, or verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, abusive, offensive or hostile environment.

1. No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:
 - a. Verbal harassment – Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive flirtations or propositions; verbal intimidation; exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.
 - b. Physical Harassment – Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
 - c. Visual Harassment – Displaying derogatory or offensive posters, cartoons, publications or drawings.
 - d. Bullying – Workplace bullying refers to unwanted aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The imbalance of power involves the use of physical strength, access to embarrassing information, or popularity to control or harm others. This behavior may be performed by individuals (or a group) directed towards an individual (or a group of individuals).
 - e. Abusive Conduct - acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to:
 - i. repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
 - ii. verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or

- iii. the sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe; multiple acts may arise to the level of pervasive. To aid employees in identifying abusive conduct, the following examples are provided.

These examples are not exhaustive; they illustrate, however, the types of conduct that may violate this policy:

- Intimidating an employee by excessive yelling, repeated emotional outbursts, berating others, using an unreasonably harsh tone of voice;
- Undermining another's work by withholding pertinent work-related information or purposefully giving incorrect information, or by not giving enough information to do what is required, as compared to others;
- Persistent or constant criticism in front of others for the purpose of humiliating another employee;
- Isolating an employee from co-workers, or launching a campaign not based on facts to provoke an employee to leave or be removed;
- Making humiliating or degrading remarks about a person through or on social media; or
- Any malicious behavior a reasonable person would find unprofessional, disturbing, and/or harmful to his or her psychological health.

Under no circumstances are the following items permitted on City property, including City-owned parking areas, except when issued or sanctioned by the City for use in the performance of the employee's job:

- a. dangerous chemicals;
- b. explosives or blasting caps;
- c. other objects carried for the purposes of injury or intimidation.

Copies of the investigative report with recommendations for appropriate action will be turned over to the Mayor to determine the appropriate further action.

Anyone determined to be responsible for threats of, or actual violence, or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors, Human Resources, or the Mayor before the situation escalates into potential violence.

The City is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion if they believe a criminal act has occurred.

Employees are prohibited from interfering or attempting to interfere with any departmental investigation.

False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action, up to and including termination.

The City will not tolerate harassment of its employees. The City will take necessary steps to stop such harassment when it occurs from employees, or third parties.

This policy applies to all officers and employees of the City including, but not limited to: full and regular part time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the Human Resources rules or regulations, citizens, third parties, and employees working under contract for the City.

Sexual Harassment

The following actions constitute an unlawful employment practice and are absolutely prohibited by the City when they affect employment decisions, create a hostile work environment, cause distractions, or unreasonably interfere with work performance. They are:

1. Sexual harassment or unwelcome sexual advances;
2. Requests for sexual favors;
3. Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. Explicit or implied job threats or promises in return for submission to sexual favors;
5. Inappropriate sexually-oriented comments on appearance;
6. Sexually-oriented stories;
7. Displaying sexually explicit or pornographic material, no matter how the material is displayed or communicated; and/or
8. Sexual assault on the job by supervisors, fellow employees, or non-employees
9. Demeaning insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, video and audio, and internet materials).

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

Making harassment complaints

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Any number of individuals may be chosen. The object is to give several options to a harassment victim. Complaints may be made orally or in writing to:

1. The employee's immediate supervisor,
2. The department head,
3. Human Resources,
4. The Mayor, or
5. the City Attorney.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people allegedly committing the harassment, including their title(s), if known;
3. the specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

Employee Obligation

Employees are obligated to report instances of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are to refrain from making bad faith accusations of harassment.

Disciplinary action may be taken against an employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action up to and including termination of employment.

Reporting and investigating harassment complaints

The Human Resource representative, or designee as appropriate, is the office the City designates as the investigator of harassment complaints against employees. In the event the harassment complaint is against the Human Resource representative, the investigator may be independent outside counsel appointed by the Mayor, or provided through the City employment practices liability insurer.

When an allegation of harassment is made by any employee, the following shall occur:

1. the City may separate the complainant and accused party for the duration of the investigation upon the approval of the department head and Mayor;
2. the investigator will meet with the employees, any witnesses, the supervisor(s), any other members of management considered appropriate and other individuals that may have relevant information. The investigator may elect to conduct a hearing as part of the investigation process;
3. the investigator will prepare a report of the complaint and submit it to the Mayor;

4. the investigator will make and keep a written record of the investigation, including notes on:
 - a. verbal responses made to the investigator by the person complaining of harassment,
 - b. witnesses interviewed during the investigation,
 - c. the person against whom the complaint of harassment was made, and
 - d. any other person contacted by the investigator in connection with the investigation.
5. the investigator will prepare and present the findings to the Mayor in a report, which will include:
 - a. the statement of the person complaining of harassment;
 - b. the statements of witnesses;
 - c. the statement of the person against whom the complaint of harassment was made; and
 - d. all the investigator's notes connected to the investigation.
6. If the City suspects a criminal act has occurred, the investigation process may be turned over to the Portland Police department or an outside agency for review.

Actions on complaints of harassment

If the Human Resources representative or Mayor, or designated investigator, determines that the report is not complete in some respect, they may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person(s) who may have knowledge about the harassment.

Based upon the report and his/her own investigation, the Human Resources representative and/or Mayor, within a reasonable time, will determine whether the conduct in question constitutes harassment.

In making that determination, the Human Resources representative and/or Mayor may look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether harassment actually took place will be determined on a case-by-case basis.

If the Human Resources representative and/or the Mayor determines that the harassment complaint is founded, the City shall take immediate and appropriate disciplinary action against the offending employee, consistent with its authority under the City charter, ordinances, resolutions, or rules governing its authority to discipline employees.

The disciplinary action may include oral counseling, written reprimand, suspension, demotion, mandatory referral to the EAP program, or termination depending upon the severity of the matter and circumstances surrounding the incident(s).

A written record of disciplinary actions, including oral reprimands, shall be maintained in the employee's human resources file.

Determining the level of disciplinary action shall also be made on a case-by-case basis. The disciplinary action may be consistent with the nature and severity of the offense and any other

factors sincerely believed to relate to fair and efficient administration of the City. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. The City will notify the employee who filed a harassment complaint of the outcome of the investigation once determined.

In all events, an employee found guilty of violation of this policy shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation. All other City employees are also hereby warned not to retaliate in any way to the complaining or participating parties.

Any such retaliation or harassment may include disciplinary action, up to and including termination of employment.

If the employee complaining of harassment is not satisfied with the manner in which the City addressed the complaint, the employee shall be given an opportunity to present a request for review of the outcomes to the Mayor through the City Grievance Process.

The Office of the Mayor will render a determination in the matter within prescribed timelines, and in the manner outlined in applicable grievance or complaint processes.

The decision of the Mayor will be final in all such matters, unless otherwise provided for in these personnel policies.

The Mayor has the authority to appoint a neutral third party (arbitrator) to be the final decision-maker in lieu of the Mayor when he/she determines that a neutral third party is in the best interest of the City.

6.6. COMPUTER AND ELECTRONIC DEVICE USE

It is every employee's duty to use the City's computer resources and communication devices responsibly, professionally, ethically and lawfully. These policies are not intended to, and do not grant users any contractual rights. The term "computer resources" refers to the City's computers, electronic equipment, and its entire computer network.

The computer resources are the property of the City and should be used for legitimate business purposes. While personal use of City computer resources including Internet and electronic mail is not forbidden, it is limited to breaks and meal times. Personal use shall be minimal and shall not interfere with the performance of job duties and responsibilities. Users are permitted access to the computer resources to assist them in performing their jobs. Use of the computer resources is a privilege that may be restricted or revoked at any time. All information contained in the computer resources and all documents generated there from are for the exclusive use of the City in connection with the conduct of its business and are the sole property of the City. Periodically, the City may make a random check of any device in order to ascertain any abuse.

A. General Computer Policies

- Computer information, programs, software and hardware are owned by and licensed to the City.

- All systems and information are considered proprietary.
- Utilization of computing resources, the Internet or electronic mail may not be used in any way that may be disruptive to the City's operations or in violation of Federal or State laws or City policy.
- Only those persons currently employed (or given special permission) are permitted to use any computer resources owned, leased or in control of the City of Portland.
- **Employees have no right or expectation of privacy regarding computing resources, the Internet or electronic mail and voice mail systems.** The City has the right to monitor Internet and e-mail use for security, as well as detection of an employee's use of these services for personal use on company time.
- Use of the City of Portland's computer resources or Internet connections for gambling, obtaining or distributing pornographic materials and all other illegal activity is strictly forbidden. The City actively monitors incoming and outgoing internet traffic for this type of usage.
- Programs and/or downloads related to specialized icons, wallpaper, screensavers, instant messaging, chat rooms, and online gaming is strictly prohibited.
- Only information system personnel or agents contracted by them may install software or hardware on any City computer system. Information systems personnel may, at their discretion, authorize staff to perform specific software or hardware installations. All other software or hardware installations are strictly prohibited.
- The changing of, or introduction of, any original software or hardware on users' systems or other company computer or communications systems from the original issued form is forbidden, without prior IT Department approval.
- No software programs are to be installed on any computer equipment without IT management's approval.
- Unless departmental arrangements have been made, always obtain permission from a co-worker before using his/her computer. Please be considerate, if you must use someone else's computer, do not change their colors or other settings.
- Do not log into your colleague's account(s). However, staff may authorize other staff members to use shared files and/or directories in cooperative projects.
- Where copyright laws apply, the City forbids unlawful copying of any software or manuals.
- Anyone misusing or tampering with computer information or equipment will face disciplinary action up to and including termination, as well as, possible prosecution. Also, violations of the policy guidelines can lead to revocation of system privileges.
- The City of Portland is under no obligation to store or forward the contents of an individual's computer files, e-mail inbox/outbox or voice mails after the termination of the individual's employment.

B. Internet Usage

- Access to the Internet is for the exchange of information and research consistent with the vision, mission, goals and activities of the City of Portland.
- Employees are expected to use the Internet solely for job related or approved educational research and City business communications during work hours.
- Employees shall not use the Internet for inappropriate or unlawful purposes, including but not limited to, placing unauthorized information, computer viruses or harmful programs on or through the computer system in either public or private files or messages, using obscene or otherwise inappropriate language in communications and obtaining, viewing or downloading information that is unlawful, obscene, indecent, vulgar, pornographic or otherwise objectionable.

- Employees are prohibited from posting anything on the Internet that could be construed as an act of unlawful harassment, a threat, or other evidence of discrimination.
- An employee may not characterize him or herself as representing the City, directly or indirectly, in any online posting unless done pursuant to a written policy of the City.
- Internet access records and records of downloaded files are not private and may be occasionally monitored as the Mayor or department head deems necessary.
- Department heads shall be responsible to ensure proper employee use of the Internet.
- Inappropriate or unlawful use of the Internet may result in the loss of access for the user and, depending on the seriousness of the infraction, can result in disciplinary action as deemed necessary.

C. E-Mail Usage

- In general, electronic mail is treated no differently than any other business record or correspondence.
- Employees should be aware that all types of business records are subject to inspection, review, or disclosure without prior notice for any business purpose or as required by law.
- Electronic mail may constitute a public record under certain circumstances and may be accessible or obtainable by individuals, agencies and others outside the City and subject to state archivist rules for retention / destruction.
- All electronic mail originating from or received by City computer systems is City property, and is not considered private information.
- Electronic mail may be monitored by the department head and/or the Mayor as they deem necessary.

D. Cell Phone Usage

- Employees required to carry a city issued cell phone will ensure it is utilized professionally and in a timely manner.

6.7. SOCIAL MEDIA

This policy applies to every employee employed by the City in any capacity who post any material whether written, audio, video, or otherwise on any website, blog or any other medium accessible via the Internet.

City of Portland departments may utilize social media and social network sites in support of City goals and objectives. To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, City departments may consider participating in social media formats to reach a broader audience. The City of Portland encourages the use of social media to further the goals of the City and the missions of its departments where appropriate.

The Mayor and department heads will approve which social media outlets may be suitable for use by the City and its departments.

The City of Portland's website will remain the City's primary and predominant Internet presence.

All official City presences on social media sites or services are considered an extension of the City's information networks and are governed by the City of Portland's policy.

The Mayor and department heads will review department requests to use social media sites. In addition, the Mayor and department heads may assist in the selecting of appropriate social media outlets, as well as defining a strategy for engagement using social media.

Draft 08.07.2024

Departments that use social media are responsible for complying with applicable federal, state, and local laws, regulations, and policies, as well as all applicable City policies. This includes adherence to established laws and policies regarding copyright, records retention, the open records statutes, the First Amendment, and privacy laws.

Authorized employees representing the City government via social media outlets must conduct themselves at all times as representatives of the City. Employees that fail to conduct themselves in an appropriate manner shall be subject to the disciplinary action outlined in the *City of Portland Personnel Manual* and the City of Portland Information Systems Policy and Procedures. Violation may also result in the removal of department pages from social media outlets.

Departmental staff members are responsible for the content and upkeep of any social media pages or sites that a department might create. One contact will be designated by the department and approved by the Mayor.

The simultaneous use of a City email address, job title, official City name, or logo in conjunction with a posting may be evidence of an attempt to represent the City in an official capacity. Other communications leading a reasonable viewer to conclude that a posting was made in an official capacity may also be deemed evidence to represent the City in an official capacity.

Any postings on non-City social media sites and platforms made in an official capacity may be subject to the Tennessee Public Records Act. A City employee posting on a non-City social media site or platform shall take reasonable care not to disclose any confidential information in any posting. When posting in a personal capacity an employee should take reasonable care to distinguish that his content is a personal expression and not that of the City.

6.8. ATTENDANCE

Punctual and regular attendance is necessary for the City to operate efficiently. The City provides a variety of forms of leave to cover absences from work. Employees are expected to report for duty, and be ready to begin work by the start of the regular work day or their regular shift, unless on approved leave.

Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor within the time frame established by each department, unless unusual circumstances prevent the employee from making proper notification. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. When this is not possible due to sudden illness or emergency, the employee is to notify his/her supervisor as soon as possible, and in all cases, prior to the start of the work day in which the employee will be absent. Failure to notify one's supervisor of absences, or abuse of leave policies may result in disciplinary action.

ATTENDANCE: Punctual and regular attendance is necessary for the efficient operation of the City. Attendance expectations for all employees are that they are to be at work every day, on time and work their complete workday. Uncontrollable circumstances may cause an employee's inability to meet attendance expectations. In those instances:

- Employees who are unavoidably late or absent from work due to illness or other cause must notify their supervisor (or the supervisor's designee if unable to reach the

supervisor) within the time frame established by his/her department before their regularly scheduled starting time (with the exception of an emergency situation).

- Employees should provide the reason for their absence and, if possible, an anticipated return to work date. A note should be provided to the supervisor if the employee is treated by a medical professional.
- Supervisors should notify Human Resources when an employee is absent more than three (3) consecutive days for guidance on possible FMLA leave eligibility.
- Failure to timely notify one's supervisor of absences may result in disciplinary action or dismissal.
- Excessive absences, unless protected under existing law, may be subject to disciplinary action regardless of an existing bank of available paid leave time.

Every City employee has been assigned working hours. These scheduled hours are not the same for every employee or every department.

Note: An unauthorized absence from work for a period of one (1) consecutive working day as a **no show/no call** will be considered a voluntary resignation.

RECORDING TIME: Some City employees record their hours on time sheets rather than "punching" time clocks. Employees who completes electronic time sheets are subject to the same rules as those using a time clock.

- The 7-Minute Rule: Employees assigned a time clock must not clock in more than seven (7) minutes prior to the beginning of their work schedule, nor clock out more than seven (7) minutes after the end of their work schedule.
- Early or late clock-ins/outs in excess of seven (7) minutes deviation from the assigned work schedule must be justified and approved by the supervisor.
- Time accumulated on the time clock before or following the employee's scheduled work hours will not be allowed whether regular time or overtime – without written justification provided to the payroll office by the supervisor. The accumulation of extra time or overtime by virtue of early clock-in or late clock-out is prohibited as long as practices remain compliant with the FLSA regulations for time rounding 29 CFR § 785.48.
- An employee who does not have prior written permission and is found to have clocked in more than seven (7) minutes before his/her schedule, or clocked out more than seven (7) minutes after his/her schedule, will be in violation of the provisions of this policy and subject to discipline.

TIME CALCULATIONS: Tardiness exceeding the seven (7) minute grace period will be counted in 15-minute increments **for purposes of payroll calculation**. Fractions of time on the clock beyond the seven (7) minute grace period resulting in overtime will be paid in 15-minute increments but only when overtime has been authorized. **All issues of tardiness up to and including the 7-minute period are subject to disciplinary action.**

- Continual and/or repeated deviations from the assigned working hours will be grounds for disciplinary action. Such deviations include, but are not limited to: changes of schedule without prior approval, excessive tardiness, and clocking in/out too early or too late.
- Any time a City employee leaves the workplace during the workday, except for work-related business, the employee must clock out. Upon returning to work, the employee must clock-in.

PAID TIME OFF and TIME OFF DOCUMENTATION: If the time card /sheet calculations result in less than the assigned work hours for the pay period, the employee must claim paid-time-off leave e.g. vacation leave*, funeral leave*, sick time*, jury duty*, or other paid-time-off reason for the lost time. (**NOTE: All of these must be approved, and some in advance.*)

Prior arrangements, approved by the supervisor, for lost time for anything other than the approved, paid-time-off reasons noted above may supersede the prior approval requirement. In other words, the employee shall be docked for lost time during the workweek if no provision is made for the absence by using any of the paid-time-off reasons listed above.

For any time off including the *leave times mentioned above, a *Time Off Request Form* must be completed and approved by the supervisor in advance, except in the event of an emergency.

FALSIFICATION OF RECORDS: Time cards/sheets must be signed by the employee and forwarded to the supervisor for review and approval. The employee's signature attests to the accuracy and completeness of the time card/sheet.

No City employee is to punch the time clock in/out for another employee. This and any deliberate documentation errors to time cards/sheets will be considered falsification of records and documents and shall be a violation of City policy that will result in both employees receiving disciplinary action. **Per Public Chapter 495 – 2019 the penalty for knowingly making a false entry in, or a false alteration of a government record, may be punishable as a Class E Felony under Tennessee Law.**

SECTION 7 – SEPARATIONS AND DISCIPLINARY ACTION

7.1. SEPARATIONS

All separations of employees from positions with the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, death, or dismissal. At the time of separation and prior to final payment, all records, assets, and other City property in the employee's custody must be transferred to the City. Any amount due for failure to return City property may be withheld from the employee's final compensation on a depreciated/prorated basis. Deductions from pay cannot result in the employee being paid less than the federal minimum wage. These rules are not intended to grant property interest in employment.

7.2. RESIGNATION

In the event an employee decides to leave the City's employ, an appropriate (customarily, two weeks') notice shall be given so that arrangements for a replacement can be made. In such a case, employees will be expected to return any/or all City equipment assigned and/or in their possession. An unauthorized absence from work for a period of three (3) consecutive working days may be considered resignation from employment by means of job abandonment.

In the event an employee tenders a resignation with appropriate notice while in good employment standing, and not under investigation for an offense in violation of City policy, the City may, if in the best interest of City operation, remove the employee from service and compensate them for remaining scheduled work hours, and any unpaid vacation. In this event the employee will be placed on Administrative Leave with Pay until the last day of official employment not to exceed two (2) weeks.

If a former employee returns to City employment after resigning, his/her status of seniority, pay, leave, etc., will be the same as a new employee.

7.2. REDUCTION IN FORCE (LAYOFF)

To establish an effective and equitable process in the event that a reduction-in-force (RIF) is necessary, a RIF may be determined as necessary by the Mayor. The Mayor may promulgate additional policy, rules and procedures necessary for the implementation of a RIF.

This regulation applies to all regular full time, regular part time and temporary employees. Provisional employees, hired for a specific period covering the duration of an assigned project, are not subject to the provisions of this policy. State-funded positions, which the City supplements, may be subject to a reduction or elimination of the City supplement. A loss of the City supplement may not ultimately result in a position reduction.

In the event that a RIF becomes necessary, consideration shall be given to organizational needs, the quality of each employee's service, and length of service in determining retention. For the purpose of this regulation, it is understood that upon determination that a RIF becomes necessary, a RIF plan may be implemented based on the circumstances.

Discharge, demotion, or layoff because of lack of work, RIF, or job elimination is non-grievable under the City's Grievance Policy and Procedure. The City retains the right, at any time, to abolish positions for business necessity.

7.3. DISABILITY

An employee may be separated from employment with the City for a disability when he/she cannot perform the essential functions of the job because of a physical or mental impairment that cannot be accommodated without undue hardship, or when the disability poses a direct threat to the health and safety of the employee and/or others.

7.4. RETIREMENT

Retirement is defined as voluntary withdrawal from City employment by an employee eligible to receive retirement benefits under Social Security, the Tennessee Consolidated Retirement System (TCRS), or other adopted retirement system. Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate schedule.

7.5. DEATH

All compensation due in accordance with T.C.A., Section 30-2-103, designation of beneficiary, wages and debts owed deceased employee, shall be paid except for such sums as by law must be paid to the surviving spouse.

7.6. DISMISSAL

The Mayor may remove all officers and employees of the City subject to the City Charter, state law, and provisions of this personnel ordinance.

7.7. DISCIPLINARY ACTION

Whenever an employee's performance, attitude, work habits, or personal conduct fall below desirable level, supervisors should inform employees promptly and specifically of such lapses and should give them counsel and assistance. All records associated with disciplinary action shall become a permanent part of the employee's file. The employee may attach a rebuttal statement.

The types of disciplinary action are:

1. oral reprimand,
2. written reprimand,
3. suspension,

4. reduction in pay,
5. demotion, and
6. dismissal

Disciplinary action may be remedial and progressive, if possible, with the objective of directing and motivating employees to fully carry forth their work obligations to the City.

Employees should be informed of standards of conduct, performance, and applicable rules and regulations. Rules and regulations should be consistently applied considering the gravity of the infraction, mitigating circumstances, previous work record, and other relevant criteria.

As a public employee, the City may require you to provide information as part of an internal and/or administrative investigation to determine whether disciplinary or administrative action is necessary. You may be ordered to truthfully respond to questions or be subject to disciplinary action. You may be asked questions specifically, directly and narrowly related to performance of your official duties or fitness for your job. You are entitled to all the rights and privileges guaranteed by the law and the Constitution of the United States, including the right not to be compelled to incriminate yourself. If you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you could be subject to discharge. If you do answer, neither your statement, nor any information or evidence which is gained by reason of such statement, can be used against you in any subsequent criminal proceedings. However, these statements may be used against you in relation to subsequent internal discipline.

ORAL REPRIMAND

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor should inform the employee of such lapses and should give him/her counsel. If justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. The supervisor will place a memorandum in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response. The memorandum will be reviewed with the employee prior to placement in the employee's file.

WRITTEN REPRIMAND

When an employee receives a written reprimand, a copy will be placed in the employee's file. The supervisor administering the reprimand will advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite applicable previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail performance improvement plans and identify dates by which the correction actions shall be taken.

At the conclusion of a meeting with the employee, a signed copy of the written reprimand will be given to the employee and a copy placed in the employee's file. It is recommended that the affected employee sign the written reprimand to indicate that he/she has seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the supervisor will obtain a witness to sign and date the form and so indicate the employee's refusal to sign.

SUSPENSION

An employee may be suspended with or without pay by the Mayor or by his/her department head with the approval of the Mayor.

REDUCTION IN PAY

An employee may have their pay reduced as a disciplinary action by the Mayor or by his/her department head with the approval of the Mayor.

DISCIPLINARY DEMOTION

An employee may be demoted by the Mayor or by his/her department head with the approval of the Mayor.

DISCHARGE

An employee may be discharged by the Mayor or by his/her department head with the approval of the Mayor. Employees who are involuntarily discharged are not eligible for payout of accrued but unused paid leave, but will be paid out any unused compensatory time. The action of the Mayor, or designee as authorized by the Mayor, shall be final and binding on all parties involved, unless overturned or remanded by the chancery court on appeal.

The City will assess discharge actions using the following standard:

- The employee was informed either verbally, or by promulgation of work rules, that an act or behavior could reasonably result in discipline.
- The employee should have known that the act or behavior could reasonably result in discipline due to the nature of the act or behavior.
- The City took reasonable steps to make a fair determination of the circumstance(s) involved.
- The City has reason to believe the employee committed the alleged infraction, act, or behavior based on observation of reasonable facts.
- The City took reasonable measures to ensure the consistent application of rules and regulations using available resources.

INVESTIGATIVE LEAVES

ADMINISTRATIVE LEAVE WITH PAY/REASSIGNMENT

An employee may be placed on administrative leave with pay from his/her specific job duties and temporarily reassigned pending the outcome of an investigation, and upon approval of the Mayor, or approved designee. A copy of the temporary removal/reassignment notification and related documentation shall be forwarded to Human Resources for inclusion in the employee's file.

ADMINISTRATIVE LEAVE WITHOUT PAY

When an employee is unable to effectively perform the duties of his/her position due to an ongoing investigation, the employee may be placed on administrative leave without pay by the Mayor, or authorized designee, pending the outcome of the investigation when it is in the best interest of the City. In the event the employee is determined eligible to return to his/her duty at the conclusion of the investigation, the employee will be restored with backpay for hours missed.

SECTION 8 – MISCELLANEOUS POLICIES

8.1. NONSMOKER PROTECTION ACT

The City complies with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and City-owned vehicles. All employees who operate City-owned vehicles are prohibited from smoking, the use of vapor devices, or use of smokeless tobacco in the vehicle or piece of equipment. This includes other occupants that may be being transported in the vehicles. Violators of this policy will be subject to disciplinary action.

The city policy requires that all smoking shall be kept at a minimum of 25 feet from all city buildings or enclosed structures entrances or doorways.

8.2. VOTING POLICY

When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with T.C.A. 2-1-106. Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three (3) hours, necessary to vote during the time the polls are open in the county where the person is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for such absence.

If the tour of duty [workday] of an employee begins three (3) or more hours after the opening of the polls or ends three (3) or more hours before the closing of the polls of the county where the employee is a resident, the employee may not take time off under this section.

The employer may specify the hours during which the employee may be absent. Application for such absence shall be made to the employer before twelve o'clock (12:00) noon of the day before the election.

8.3. IDENTITY THEFT POLICY

The risk to the City, its employees and customers for data loss and identity theft is of significant concern to the City and can be reduced only through the combined efforts of every employee and contractor. The City adopts this sensitive information policy to help protect employees, customers, contractors and the City from damages related to the loss or misuse of sensitive information.

Sensitive information includes the following items whether stored in electronic or printed format:

1. Credit card information (including credit card number (in part or whole), credit card expiration date, cardholder name, and cardholder address);
2. Tax identification numbers (including social security number, business identification number, and employer identification number);
3. Payroll information (including paychecks and pay stubs);
4. Cafeteria plan check requests and associated paperwork;
5. Medical information for any employee or customer (including doctor names and claims, insurance claims, or any related personal medical information); and

6. Other personal information belonging to any customer, employee or contractor (including date of birth, address, phone number, maiden name, names, or customer number).

Municipal personnel are required to use good judgment in securing confidential information to the proper extent. If an employee is uncertain of the sensitivity of a particular piece of information, s/he should contact the supervisor. In the event that the City cannot resolve a conflict between this policy and the Tennessee Public Records Act, the City will contact the Tennessee Office of Open Records.

Each employee and contractor performing work for the City will comply with the following Hard Copy Distribution policies:

1. File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.
2. Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.
3. Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.
4. Whiteboards, dry-erase boards, writing tablets, etc. in common shared work areas will be erased, removed or shredded when not in use.
5. When documents containing sensitive information are discarded, they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD) approved shredding device.

Each employee and contractor performing work for the City will comply with the following Electronic Distribution policies;

1. Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.
2. Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail:

"This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited."

Staff training shall be conducted for all employees, officials and contractors for whom it is reasonably foreseeable that they may come in contact with accounts or personally identifiable information that may constitute a risk to the City or its customers.

The Mayor, or designee, is responsible for ensuring that identity theft training for all requisite employees and contractors is provided. Employees must receive annual training in all elements of this policy. To ensure maximum effectiveness, employees may continue to receive additional training as changes to the program are made.

8.4. JURY AND CIVIL DUTY LEAVE

Civil leave with pay shall be granted to employees for the following reasons:

1. Jury duty (T.C.A. 22-4-108);

2. To answer a subpoena to testify for the City.

Employees providing proper documentation when selected for jury duty shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, s/he shall be expected to return to his/her department. An employee shall receive full pay from the City during jury duty. Any monies received from jury duty may be kept by the employee.

8.5. DRIVERS LICENSES

Any employee who is required as an employment condition to operate a City vehicle must possess and maintain an appropriate valid driver's license. Any employee who drives a City vehicle must **immediately** inform his/her supervisor if his/her license becomes denied, expired, restricted, suspended, or revoked. Periodic review of employees' driving records may be conducted by the City.

All employees required to drive:

- a vehicle with a gross weight of more than 26,000 pounds;
- a trailer with a gross weight of more than 10,000 pounds;
- a vehicle designed to transport more than 15 passengers, including the driver; and
- any size vehicle hauling hazardous waste requiring placards

Employees operating vehicles of greater than 26,000 GVW and/or carrying 15 or more passengers are required to have a Tennessee Commercial Driver's License in accordance with T.C.A. 55-50-101 et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

8.6. USE OF CITY VEHICLES

Use of City Vehicles: No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group, or organization other than the City. Decisions about aid to charitable, civic or other organizations will be made exclusively by the Mayor and the City Council.

Authorized Positions for Vehicle Take Home: Due to the need for various departments to have on-call employees available to deploy in emergency situations, a take-home vehicle policy may be adopted by Resolution of the City Council.

Rules for Drivers of City Vehicles:

- No one may ride in City vehicles except City employees or people who are directly involved in ongoing City projects such as engineers, contractors, and vendors.
- Absolutely no family members are allowed to ride in a City vehicle except for City related matters or functions. All employees who are not the on-call person may only use the City vehicle for City business.
- The paid on-call employee will be required to have the vehicle with them at all times.
- The on-call employee may not leave the City's geographical utility service area in the City vehicle without proper approval.

- City employees may use City vehicles to attend job related schools if assigned by the department head. No other City employee will be allowed to take a City vehicle home overnight unless specifically approved by the department head.
- All employees are required to keep their assigned vehicle clean with maintenance up to date and documented.
- No smoking (including vapor devices), or smokeless tobacco use shall be allowed in City vehicles at any time.

Any employee who is required as an employment condition to operate a City vehicle must possess and maintain an appropriate valid driver's license. Any employee who drives a City vehicle must immediately inform his/her supervisor if his/her license becomes denied, expired, restricted, suspended, or revoked. Periodic review of employees' driving records may be conducted.

8.7. BREAKS AND MEALS

Employees working an eight (8)-hour daily work schedule may be allowed to take a fifteen (15) minute paid break in the morning and another one in the afternoon. The supervisor/manager will coordinate break schedules based on the needs of the department.

With the exception of the Police Department, Fire Department and Water Treatment Plant, whose schedules must cover 24-hour operations, full-time employees will observe a 40-hour workweek with a one-hour unpaid meal break and two 15-minute paid break times scheduled at the discretion of the department head.

B. Coffee breaks and snack breaks (15-minute breaks) are compensable rest periods and cannot be excluded from hours worked as meal periods as long as they are under 20 minutes in length.

C. Meal Periods - "A bona fide meal time, when employees are completely relieved from duty, is not work time." 29 C.F.R. § 785.19(a). "Short periods, such as coffee breaks or snack breaks, are not considered meal time. If an employee works during the meal, the time is compensable. Whether or not an employee's meal period can be excluded from compensable working time depends on the employee 'freedom meal test'." 29 C.F.R. § 785.19(a). Unless all of the following three conditions are met, meal periods must be counted as hours worked:

1. The meal period generally must be at least 30 minutes, although a shorter period may qualify under special conditions.
2. The employee must be completely relieved of all duties. (If an employee must sit at a desk and incidentally answer the telephone this would be compensable time)
3. The employee must be free to leave his/her duty station. There are no requirements, however, that an employee be allowed to leave the premises or work site.

D. Smoking Breaks: The 15-minute breaks in the morning and afternoon are also the designated times for smoking breaks and are to be compliant with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and City-owned vehicles.

Note: Employees working in the field, away from their department office locations, must begin and end their 15-minute break(s) at the worksite. Travel time to and from the work location is included in the 15-minute break time.

Overtime, lunch breaks, break times and any other modification of the hours/time mentioned above shall be subject to approval of the department head.

8.9. PERSONNEL RECORDS

Per Public Chapter 495 – 2019 the penalty for knowingly making a false entry in, or a false alteration of a government record is punishable as a Class E Felony under Tennessee Law.

The City respects the dignity and worth of each individual employee, while asking each employee to offer in return his/her loyalty, respect, and best effort. The City will collect, retain, use, disclose, and maintain the confidentiality of employee information as required by law.

Human Resources records for each employee are kept on file and maintained in a secure manner by the Human Resource Department.

The Human Resources File for each employee may contain, but not be limited to the following information: 1) Human Resources action forms noting position and wage information; 2) performance evaluation forms and other documentation related to an employee's job

performance; 3) employment documentation including application and resume, employee data sheet, and income tax deduction forms; 4) outside employment forms; 5) official commendations, training and education records including certificates and diplomas; 6) complete documentation pertaining to all disciplinary matters and corrective actions; 7) information relative to grievance proceedings, and complaints of discrimination and harassment filed by the employee; and, 8) all applicable benefits records. All medical records shall be kept in a separate confidential file for each employee.

It is the responsibility of each employee to update personal information including change of address, telephone number, marital status, draft status, beneficiaries, number of dependents, or completed education/training maintained in the Human Resources file by notifying the Human Resource Department. The City shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep Human Resources records current.

Collection, Retention, and Use of Personal Information

The City will strictly follow the requirements of applicable laws regarding information collection concerning membership in protected class. With these restrictions in mind, the City will gather such information about job applicants or employees as determined by the City to meet compliance initiatives.

The following basic principles will be applied in collecting and retaining personal information:

1. The Human Resource Department shall maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by applicable provisions within a City charter, ordinance or resolution. The master file shall be the central file containing all employee information.
2. Each department head may maintain a file on each employee in his/her charge. The file shall be limited to performance evaluations, attendance records, official memos, letters, and information related to an employee's salary history. All information contained in this file must also be present in the master file.
3. Payroll data may be kept separately from the human resources file and the departmental file, although both may include information about an employee's salary history.
4. Supervisors may maintain separate files on their subordinates. The file shall be limited to performance evaluations, attendance records, official memos, and letters. All information contained in this file must also be present in the master file.
5. Employee information may be collected from employees whenever possible, but the City may use outside sources for other information where allowed by law.
6. Worker's Compensation documents will be maintained in a separate file in the custody of the Human Resource Department.
7. Medical information obtained from city provided medical examinations are the property of the City, and will be maintained in a secured file system separate from an employee's official Human Resources record. Medical information may include, but not be limited to the following: benefit documentation such as health insurance forms, fitness for duty examinations, drug testing results, medical information related to leaves of absence, inoculation records, etc. These documents will be maintained in a secured file system

that is not open for public inspection. These procedures are in accordance with applicable laws.

Employees' Access to Human Resources Records and Management Files

Employees may have access to and review their own Human Resources files during normal business hours. If the employee disagrees with any information found therein, the employee may submit a written disagreement to the Human Resource Department, which will be attached to the specific document in the file(s). Contents of employee files may not be removed. An employee desiring to access the Human Resources file of another employee must follow the procedures for public records requests.

Employees' Access Procedures

Employees may contact the Human Resource Department for an appointment to view their own file. Employees must review the file in the presence of an appropriate representative. Employees may take notes and may request to be provided with a copy of any of the file's contents subject to the City's policy on copy charges. Any question about the information's accuracy must be referred to the Human Resource Department. Employees may submit a note of disagreement to the Human Resource Department.

Disclosure of Applicant and Employee Records and Information

The content of applicant and employee Human Resources files is open to public inspection under the Tennessee Public Records law; however, some personal information has been deemed confidential under state and federal law. Only the Human Resource Department is authorized to disclose information about applicants and employees to outside inquirers.

Confidential information shall only be disclosed under the following circumstances:

1. properly identified and duly authorized law enforcement officials without a warrant when investigating allegations of illegal conduct by applicants and employees;
2. legally issued summonses or judicial orders, including subpoenas and search warrants; and
3. others as legally allowed by state and federal law.

Requests for copies of detailed applicant and employment information shall be made in writing and should be directed to the City Recorder who will then forward to the appropriate departments. Requests for public inspection of applicant and employee records shall be directed to the City Recorder who will then inform the appropriate departments.

Police Department applicants and employment records may be exempt from public access pursuant to state law. All requests for applicants and employment records shall be reviewed by the Chief of Police on a case-by-case basis. When a request is for a professional, business, or official purpose, and includes a request for personal information as defined by T.C.A. § 10-7-504(g), the Chief of Police (or designated custodian of files) must notify the officer prior to disclosure. The officer must be given a reasonable opportunity to be heard to oppose the release of the information. If the Chief of Police decides not to disclose personal information, the requestor must be notified within two (2) business days of the request and the files shall be released with personal information redacted.

All public records requested shall be subject to the City's public records request process.

Confidential information will be redacted out of any Human Resources files that are requested for inspection, as per Tennessee Law. Adequate time will be allotted to allow for redaction of such information as allowed by law. All requests will be completed promptly, and in a responsive and timely manner.

In all such matters, the employee shall be notified within seventy-two (72) hours of the records inspection and/or provision of copies. Police officers shall be informed that an inspection has taken place or copies have been provided; the name, address, and phone number of the person(s) making the request; person(s) for whom the request was made; and the date of inspection and/or the provision of copies. Exceptions for non-police employees may be made to release limited general information, such as the following: (a) employment dates; (b) position held; and (c) location of job site.

Draft 08.07.2024



ACKNOWLEDGEMENT OF RECEIPT

Sign, date and keep this copy with your manual

Sign, date and return the duplicate acknowledgement to Human Resources

Employee Printed Name: _____ Employee #: _____

I acknowledge that I have received a copy (written or electronic access) of the City of Portland, TN Personnel Manual adopted by **Ordinance 20-07**. I understand and agree that it is my responsibility to read and familiarize myself with the policies and procedures contained in the Manual. If I have any questions, I understand that it is my responsibility to ask my supervisor or Human Resources.

I understand that any and all policies and practices can be changed at any time by the City by ordinance, or if appropriate by resolution. I understand and agree that other than by ordinance or resolution of the City Council a manager or representative of the City has no authority to enter into any agreement, expressed or implied, for employment for any specific period of time, or to make any agreement.

I understand and agree that the Personnel Manual may be changed at any time upon issuance of ordinance by the City Council. My continued employment indicates my agreement to work under those changes.

I understand that nothing in the Personnel Manual or any summary brochure or employee handbook should be deemed to be a promise by the City to provide any benefit. The City reserves the right to alter or eliminate any benefit, without notice, at any time by City Council action.

I understand that the Personnel Manual replaces (supersedes) any and all prior policies and any and all prior Personnel Manuals or employee handbooks and affected ordinances and/or resolutions, and any information contained in any such prior policy, handbook, or manual is no longer in effect.

As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I may not be informed prior to the drug and/or alcohol test if classified as a safety sensitive position, and that I may be subject to immediate dismissal if I refuse to take the test.

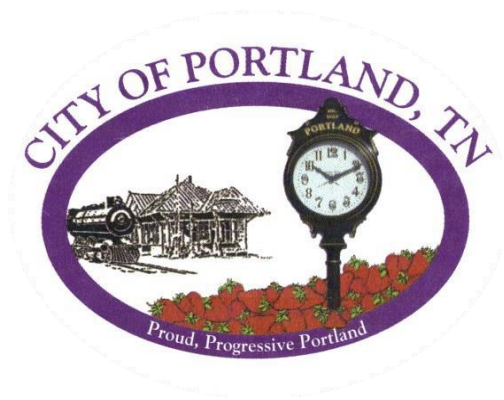
I am aware that the Personnel Policies grant me no property interest in my employment.

I understand and agree that the City may deduct from my final paycheck any amount due (on a depreciated/prorated basis) for failure to return City property, or for reimbursement of appropriate fees paid for educational assistance, as long as the deduction(s) do not reduce final pay to below minimum wage.

Delivered By

Signature

Date



PERSONNEL MANUAL 2020

Ordinance Number 20-07
Adopted March 2, 2020

Contents

SECTION 1 - INTRODUCTION TO HUMAN RESOURCES REGULATIONS	5
1.1. PURPOSE AND OBJECTIVES	5
1.3. COVERAGE	7
1.4. ADMINISTRATION OF POLICY	8
1.5. CONTACTING ELECTED OFFICIALS	8
1.6. POLITICAL ACTIVITY	8
1.7. AMENDMENTS TO PERSONNEL MANUAL	8
1.8. SEVERABILITY	9
SECTION 2 – JOB CLASSIFICATION AND PAY PLAN	10
2.1. PURPOSE AND USE OF JOB CLASSIFICATION	10
2.2. ALLOCATION OF POSITIONS	10
2.3. PURPOSE AND USE OF THE PAY PLAN	11
SECTION 3 – COMPENSATION	12
3.1. FAIR LABOR STANDARDS ACT (FLSA)	12
3.2. PAY FOR PART TIME WORK	13
3.3. ON CALL PAY	13
3.4. CALL OUT PAY	13
3.5. CHRISTMAS BONUS	14
3.5. DEDUCTIONS FROM PAY	14
3.6. PAYCHECKS AND DIRECT DEPOSIT	15
SECTION 4 – EMPLOYMENT	16
4.1. RECRUITMENT AND SELECTION	16
4.2. SELECTION EXAMINATIONS	18
4.3. APPOINTMENT TO POSITIONS	19
4.4. PROMOTIONS	20
4.5. TRANSFERS	21
4.6. DEMOTIONS	22
4.8. TYPES OF EMPLOYEES	23
4.9. PERFORMANCE EVALUATION	24
4.10. OUTSIDE EMPLOYMENT	25
4.11. GRIEVANCES	25

SECTION 5 – EMPLOYEE BENEFITS	27
5.1. HEALTH, DENTAL AND VISION BENEFITS	27
5.2. SECTION 125 PLAN	28
5.3. RETIREMENT / TCRS	28
5.5. CITY OBSERVED HOLIDAYS	29
5.6. HOLIDAY PAY	29
5.7. VACATION	30
5.8. SICK LEAVE	31
5.9. FUNERAL / BEREAVEMENT	32
5.10. FAMILY AND MEDICAL LEAVE	33
5.11. TN MATERNITY/PATERNITY LEAVE	37
5.12. WORKERS' COMPENSATION LEAVE	38
5.13. AMERICANS WITH DISABILITIES ACT (ADA)	39
5.14. MILITARY LEAVE	41
5.15. MILITARY RESERVIST LEAVE	42
5.16. LEAVE WITHOUT PAY	43
5.17. EMPLOYEE TRAINING	43
5.18. EMPLOYEE ASSISTANCE PROGRAM	44
5.19. EDUCATIONAL / TUITION ASSISTANCE	44
SECTION 6 – EMPLOYEE CONDUCT	49
6.1. GENERAL RULES OF CONDUCT	49
6.2. DRESS CODE	52
6.3. DRUG FREE WORKPLACE	53
6.4. TRAVEL POLICY	55
6.5. WORKPLACE VIOLENCE AND HARASSMENT POLICY	55
6.6. COMPUTER AND ELECTRONIC DEVICE USE	61
6.7. SOCIAL MEDIA	63
6.8. ATTENDANCE	64
SECTION 7 – SEPARATIONS AND DISCIPLINARY ACTION	67
7.1. SEPARATIONS	67
7.2. RESIGNATION	67
7.2. REDUCTION IN FORCE (LAYOFF)	67
7.3. DISABILITY	68
7.4. RETIREMENT	68
7.5. DEATH	68

7.6. DISMISSAL.....	68
7.7. DISCIPLINARY ACTION.....	68
SECTION 8 – MISCELLANEOUS POLICIES	71
8.1. NONSMOKER PROTECTION ACT.....	71
8.2. VOTING POLICY.....	71
8.3. IDENTITY THEFT POLICY.....	71
8.4. JURY AND CIVIL DUTY LEAVE.....	72
8.5. DRIVERS LICENSES.....	73
8.6. USE OF CITY VEHICLES.....	73
8.7. BREAKS AND MEALS.....	74
8.8. INCLEMENT WEATHER.....	75
8.9. PERSONNEL RECORDS.....	75
ACKNOWLEDGEMENT OF RECEIPT.....	79

SECTION 1 - INTRODUCTION TO HUMAN RESOURCES REGULATIONS

1.1. PURPOSE AND OBJECTIVES

The purpose of the following policies is to establish a high degree of understanding and cooperation among the City of Portland employees, which comes from the application of good procedures in personnel administration, and to provide uniform policies for all employees. **Each individual employee's primary purpose, regardless of occupational specialty, is to provide efficient and effective service for the citizens of Portland. The primary objective in providing efficient and effective service is good stewardship of the citizen investment whether through taxes or through fees paid to the City to provide those services.**

It is the policy of City of Portland to provide equal employment opportunity to all employees and applicants for employment. No person will be discriminated against in employment because of race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, exercise of free speech made as a citizen as a matter of public concern*, refusal to participate in or remain silent about illegal activities, exercise of a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law. The City will provide reasonable accommodation to qualified individuals with a disability unless the accommodation would pose an undue hardship on the City.

Per Article V, Sections 4, 2(A), 2(B) of the City of Portland Charter, the Mayor shall:

(A) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures adopted by the City Council; and

(B) Nothing in [the] charter shall be construed as granting a property interest to employees or department heads in their continued employment.

The Mayor may perform the actions listed in Article V, Section 4, 2(A) or may authorize the execution of the action(s) by a department head under his/her direction.

It is the intent of the City for this personnel policy to comport itself with the City Charter and offer reasonable processes for making non-discriminatory, job-related employment decisions. It is not the intent of the personnel policy to grant property interest to employees. Tennessee is an Employment-At-Will state unless property interest is otherwise granted.

The City will not discriminate on the basis of a person's national origin or citizenship status with regard to employment actions. However, the City will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will be subject to separation.

This policy applies to all terms, conditions, and privileges of employment and all policies of the City, including hiring, placement, training, employee development, promotion, transfer, compensation, benefits, grievances, educational assistance, layoffs, termination and retirement.

The City complies with Title VI of the Civil Rights Act of 1964. Title VI requires that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial

assistance. The City further complies with all federal and state laws protecting employees from discrimination.

The fundamental objectives to be achieved by these policies are to:

1. promote and increase effectiveness, efficiency and cooperation among employees of the City of Portland; and
2. provide fair and equal employment opportunity to all qualified individuals on the basis of demonstrated merit and fitness, as ascertained through fair and practical employment practices.

** Whether an employee's speech addresses a matter of public concern is determined by the assessment of the content, form, and context of a given statement. If the employee speaks pursuant to his/her official duties (performing a task he/she was paid to perform); and/or the speech was not a matter of public concern; and/or his/her free speech interests are not sufficient to outweigh the City's interest(s) in promoting efficiency in delivery of public services an employee may not expect free speech protection(s).*

1.2. PERSONNEL POLICY STATEMENT

This manual and all other City manuals do not bestow any property rights or interests to employees regarding employment or employment benefits. This manual is not part of a contract and no employee has any contractual right to the matters set forth herein. The City reserves the right to change any and all such policies, practices, and procedures in whole or in part at any time, with or without prior notice to employees.

It is the policy of the City of Portland to apply and foster a sound program of personnel management. The policies of the City are established to assist in fulfillment of the objectives below:

A. People

1. Deliver talent acquisition processes that maintain a workforce that meets the needs of the City by filling positions in accordance with job qualifications and requirements without discrimination as to membership in any protected class;
2. Establish sourcing, recruitment, selection assessment, onboarding and job offer contingency (drug screens, background checks, etc.) guidelines for the appointment, promotion, transfer, demotion, dismissal, and reassignment of personnel;
3. Establish, periodically review, and maintain job descriptions for every position; periodically conduct appropriate wage and salary surveys; and as applicable, propose wage and salary classification groups for board approval as the budget allows; and
4. Design, recommend, and implement compensation systems and benefit packages including pay practices; medical and ancillary insurance options; leave plans; and retirement strategies designed to attract and retain qualified employees.

B. Organization

1. Structure the Human Resources function to encompass the people, processes, systems and activities involved in the delivery of services that meet the personnel needs of the City;
2. Oversee any dealings between the City and its employees regarding the terms and conditions of employment including grievance and complaint resolution; disciplinary

- processes; employment rights; compliance programs and approaches to retaliation prevention; and
3. Management of technologies including social media and the policies and procedures governing their use in the workplace.

B. Workplace

1. Follow appropriate best practices for development of a diverse workforce;
2. Minimize the probability and impact of risks to the City through best practices ensuring employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to City employees; and
3. Ensure the knowledgeable application of relevant Federal, state and local laws and regulations relating to employment as well as the City Charter and Municipal Code, as applicable.

D. Records

1. Establish and maintain uniform personnel records;
2. Maintain confidentiality and privacy of employees to the extent allowed by the law subject to the Tennessee Public Records Act (T.C.A. 10-7-501 – 515).

1.3. COVERAGE

Unless otherwise stated, the content of this Personnel Manual applies to all employees of the City. All employees will receive a copy of, or electronic access to, the manual upon employment and a copy will be held by each department head for convenience.

The following personnel are not covered by this personnel policy manual, unless otherwise provided and as statutorily required, and are classified in the exempted class:

1. All elected officials;
2. Members of appointed boards and commissions;
3. Consultants, advisors, and legal counsel rendering temporary professional service;
4. The City Attorney;
5. Independent contractors;
6. Volunteer personnel;
7. Seasonal and temporary employees;
8. The City Judge;
9. The City Recorder*.

Some policies apply to all employees and officers of the City including those placed in the exempted class above, such as policies related to discrimination and/or harassment, and policies required by state or federal law.

**The City Recorder is subject to all terms and conditions of the Personnel Policy, except as provided in the City of Portland Charter (The City Recorder is appointed by election of the City Council by majority vote.)*

1.4. ADMINISTRATION OF POLICY

The Mayor is responsible for the proper operations of all City functions, enforcement and application of all laws, provisions of the City Charter, Municipal Code, and acts of the governing body including but not limited to personnel policies and procedures and pay classification plan.

The Mayor is also responsible for implementation of additional rules, policies and procedures, which may be necessary for the proper operation of the City or its various departments, provided that such rules and procedures are consistent with the personnel policies adopted by the City Council.

Department heads, managers and supervisors are responsible for the administration and enforcement of the personnel policies and procedures for employees in their respective departments.

1.5. CONTACTING ELECTED OFFICIALS

No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be disciplined for making untrue allegations concerning any job-related matter (T.C.A. 8-50-601--604).

1.6. POLITICAL ACTIVITY

City employees, whether on or off duty, whether in or out of uniform, and whether on or off City property, shall not, at any time or any place, act as a candidate for an elected City office. The City will not compensate employees for time when the employee is not performing work for the City. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the City.

In all other elections for public office, employees may enjoy the rights of any other citizen of the state of Tennessee to be a candidate for any local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by other time off duty arrangements worked out between the employee and the City. Nothing in this section is intended to prohibit any City employee from privately expressing his/her political views or from casting his/her vote in all elections.

1.7. AMENDMENTS TO PERSONNEL MANUAL

Amendments or revisions to the personnel manual may be recommended by the Mayor or designee for adoption of the City Council by ordinance. Such amendments or revisions of the personnel manual shall become effective upon adoption by the City Council. Departments may adopt their own internal operating policies (*i.e.* SOP/SOG) specific to their operations; however, none of these policies shall be in conflict with these personnel regulations. Copies of departmental policies shall be provided to the Mayor's office as well as to the HR office and are subject to review prior to adoption.

1.8. SEVERABILITY

If any chapter, article or section of this personnel manual is found to be in conflict with Federal, State or City laws and regulations, or court decision, that section will continue in effect only to the extent permitted by such law or regulation or court decision. If any chapter, article or section of this personnel manual is or becomes invalid or unenforceable, such invalidity or unenforceable nature will not affect or impair any other chapter, article or section of this personnel manual.

SECTION 2 – JOB CLASSIFICATION AND PAY PLAN

2.1. PURPOSE AND USE OF JOB CLASSIFICATION

Job classification provides an inventory of positions in the City's service. The plan standardizes titles, each of which is indicative of a range of duties and responsibilities and has the same meaning throughout the City.

Job classification may consist of:

- a. groupings of classes of positions that are approximately equal in difficulty and responsibility, that call for the same general level of qualifications and that can be equitably compensated within the same range of pay under similar working conditions according to the market and budget availability;
- b. class (job) titles reasonably descriptive of the work of the class;
- c. written job descriptions for each position; and
- d. physical and mental standards for performance of the duties of the position.

Job classification may be used:

- a. as a guide in recruiting and examining candidates for employment;
- b. in determining potential lines of promotion and developing employee training programs;
- c. in determining salaries and wages to be paid for various types of work;
- d. in determining placement within pay ranges/step plans;
- e. in providing uniform job terminology understandable by all City officers and employees and by the general public.

2.2. ALLOCATION OF POSITIONS

Before a new position is established by a department, the department head shall submit in writing 1) a job description describing in detail the duties of such a position, and 2) justification of the need for an additional position.

The Mayor may then approve or deny such recommendation. If the Mayor agrees that the new position is necessary, then the recommendation is put before the City Council for approval or denial.

The Mayor may recommend to the City Council the establishment of a new position independently of a department. Any new position shall be subject to budgetary review and evaluation as to the appropriate salary range prior to submission to the City Council. This review and evaluation shall take into account the relative qualifications and responsibilities of the

position such that there is no wage disparity on the basis of sex for comparable skill, effort and responsibility and which are performed under similar working conditions. (TCA 50-2-202).

Positions may be reclassified by the Mayor within the classification and compensation plan based on City business needs.

2.3. PURPOSE AND USE OF THE PAY PLAN

The pay plan is intended to provide equitable compensation for classes of positions in consideration of ranges or steps of pay for other positions, general rates of pay for similar employment in similarly situated private establishments and other public agencies in the labor market area, cost of living data as determined using the Consumer Price Index or other valid and accepted data, the financial condition of the City, and other factors as appropriate as the budget allows.

The pay plan for the City of Portland shall consist of minimum, midpoint and maximum rates of pay for each existing pay grade/step, and/or compensation step levels within ranges, as applicable.

The Mayor, or designee, may from time to time make comparative studies of all factors affecting the level of wage/salary ranges and may make changes in the wage/salary ranges/steps as the adopted and appropriated budget allows.

Salary/wage ranges/steps and flexible initial paid leave bank amounts are intended to furnish degrees of administrative flexibility in recognizing individual differences among positions and to provide objectivity and consistency in compensation, including consideration for placement within ranges based on job-related experience, qualifications, education, and certification, among other valid job-related criteria.

The minimum rate established for a position and minimum paid leave bank amounts and accrual rates are the normal starting point except in cases where circumstances related to operational needs appear to warrant employment of an individual at a higher rate in the pay range, or in consideration for applicable and appropriate education and/or experience levels, or other valid job-related criteria.

SECTION 3 – COMPENSATION

3.1. FAIR LABOR STANDARDS ACT (FLSA)

Minimum Wage

In accordance with the Fair Labor Standards Act (FLSA), no employee shall be paid less than the Federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked.

Overtime

The FLSA shall govern the overtime compensation of hourly, non-exempt, City employees. The FLSA defines overtime pay as one-and-one-half times the employee's regular rate of pay for all hours worked over the applicable overtime threshold. Generally, overtime work must be authorized by the department head.

Overtime pay calculations are based on actual hours worked during the workweek / work period. Overtime will be paid when the employee's actual hours worked exceed the hours that constitute a full workweek / work period for that employee.

Sworn Fire Service non-exempt employees working a 24-hour shift may be allowed to accrue up to a maximum of 480 hours of compensatory time, only for actual hours worked at 1.5 hours of compensatory time for each hour of overtime worked according to the Fair Labor Standards Act (FLSA).

Workweek

A workweek is a regular recurring period of 168 hours consisting of seven, consecutive 24-hour periods. The number of days that shall constitute a workweek for regular employment is typically five in total. Schedules may vary in departments as necessary for the operation of the City.

A standard workweek is scheduled between 12:00 AM on Monday through 11:59 PM on the following Sunday.

Section 7(k) of the FLSA provides that employees engaged in fire protection or law enforcement may be paid overtime on a "work period" basis. A "work period" may be from 7 consecutive days to 28 consecutive days in length. Work periods for the Police Department consist of 14 days, and the Fire Department consists of 7 days. Most City employees observe a 40-hour workweek; however, the overtime threshold for nonexempt police personnel is eighty-six (86) hours in a fourteen (14) day work period, and fifty-three (53) hours for nonexempt fire department personnel in a seven (7) day work period.

Minimum Age

The FLSA requires that employees of state and cities be at least 16 years of age for most jobs and at least 18 years of age to work jobs declared hazardous by the Secretary of Labor. All Firefighters and Police Officers must be a minimum of 18 years of age.

3.2. PAY FOR PART TIME WORK

Employees who are employed in part-time positions are not eligible for benefits and will only be paid for their actual hours worked. In the event that hours worked by a part-time employee exceed the FLSA defined workweek/work period threshold, overtime rates will apply. Part-time employees performing the same function as full-time employees will begin employment at the minimum rate of pay for the position as described in the classification and pay ranges established by the City, but will be eligible for across the board increases. Ongoing part-time workers are limited to an average of **29** hours or fewer per workweek.

Volunteer Firefighter and Volunteer EMT compensation is on a per-call basis. Each call will be paid a de minimis payment intended to cover expenses as a nominal fee. The fee paid is subject to establishment and adjustment by Resolution of the City Council.

3.3. ON CALL PAY

The designated on-call employee will be compensated at an hourly differential rate for every hour they are assigned to “on-call” status as adopted by Resolution of the City Council. This differential will be included in their regular rate of pay for overtime rate calculation.

3.4. CALL OUT PAY

Employees assigned to on call services during nights, holidays and weekends are required to restrict themselves from any activity that would impair their ability to drive or work safely while being subject to on-call and/or responding to after-hour service calls. When on call, employees are required to comply with the City’s drug and alcohol policy. The employee is required to respond within thirty (30) minutes after being called. An employee who is on-call and fails to respond to an emergency call within 30 minutes will be subject to disciplinary action up to and including discharge.

Non-exempt employees who are or called out after scheduled work hours will receive call out pay for a minimum of two (2.0) hours of regular pay for the first call-out. This pay will be paid at the straight time rate of pay when allowed by FLSA, and will be considered hours worked for the purpose of calculating overtime. All subsequent call-outs that occur prior to the beginning of the next scheduled work shift will be paid at actual hours worked.

Salaried/exempt employees and salaried/exempt supervisors are exempt from the overtime pay and from on-call services. Salaried/exempt employees and salaried/exempt supervisors may not be listed on the rotation for on call but are considered “on call as necessary”, as assumed with acceptance of the departmental supervisory responsibilities.

EMERGENCY CALL IN TO WORK FROM VACATION/HOLIDAY - If an employee is called in to work due to a City emergency on their pre-scheduled, pre-approved vacation day or holiday, then, the City will pay the employee at time and one-half their regular hourly rate for the hours actually worked on that day in addition to straight time pay for the regularly scheduled vacation day. All hours actually worked on the scheduled vacation day shall be used in the total hours calculated before overtime is paid.

3.5. CHRISTMAS BONUS

Employees classified as full-time with less than one (1) year of service, unless hired in December of the previous year, and those employees classified as ongoing part-time employees (regardless of time with the City) will receive a \$40.00 Christmas bonus.

Full-time employees with at least one (1) year of service (December hires from previous year are considered in this category) will receive the bonus according to the following schedule*:

Years of Service	Bonus Amount		Years of Service	Bonus Amount
1	\$150.00		13	\$600.00
2	\$175.00		14	\$650.00
3	\$200.00		15	\$700.00
4	\$225.00		16	\$750.00
5	\$250.00		17	\$800.00
6	\$275.00		18	\$850.00
7	\$300.00		19	\$900.00
8	\$350.00		20	\$950.00
9	\$400.00		21-25	\$1,200.00
10	\$450.00		26-30	\$1,350.00
11	\$500.00		31+	\$1,500.00
12	\$550.00	(Ongoing Part-Time employees receive \$50.00 each)		

Any retiring employee with at least 10 years of fulltime service with the City, will have their bonus prorated for that year. Retirees who are eligible for a pro-ration of the Christmas bonus upon retirement will have the bonus calculated based on the number of months worked in the retirement year, minus the actual month of retirement.

The City's continuation of Christmas Bonuses is subject to budgetary considerations within each fiscal year and will be paid in compliance with the Fair Labor Standards Act.

3.5. DEDUCTIONS FROM PAY

By law, the City is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee's pay. The following deductions will be made:

1. **Federal Income Tax** – Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to file with the City a copy of the W-4 form. In the event of changes in the employee's exemption status, a revised W-4 form must be filed before payroll deduction adjustments will be made.
2. **Social Security** – Social Security payments and deductions will be made according to the Social Security Act. The payroll department shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

3. **Others** – Other City authorized deductions will be made from an employee's pay with either the employee's signed consent or pursuant to a valid court order.

- a. health/hospitalization insurance (medical service premiums),
- b. life insurance,
- c. dental insurance,
- d. vision insurance,
- e. deferred compensation payments,
- f. credit union payments,
- g. pension plan,
- h. supplemental insurance approved by the city,
- i. child support or other garnishments*
- j. charity contributions approved by the city, and
- k. cost of uniforms, safety footwear, and other applicable equipment during employment or upon failure to return such upon separation as allowed by state law and the FLSA**

*An employee who is garnished for more than one indebtedness within a 12-month period may be subject to disciplinary action in accordance with the Consumer Credit Protection Act (15 USC, Ch. 41); except for assignment(s) of wages for spousal or child support (T.C.A. 36-5-501 (c)(2)(i)).

** The City may deduct from an employee's final paycheck any amount due (on a depreciated/prorated basis) for failure to return City property as long as the deduction(s) do not reduce final pay to below minimum wage.

3.6. PAYCHECKS AND DIRECT DEPOSIT

All employees of the City of Portland will be paid on a basis determined to best suit the needs of the City. Examples are: weekly, bi-weekly, etc. as allowed by law.

If an employee is absent on payday and wishes to have someone, such as a relative, obtain his/her live check, the employee may send his/her identification and a signed note authorizing the City to give the check to the note bearer.

Final Paycheck The final paycheck will be made available no later than the employee's next regularly scheduled pay date, or within twenty-one (21) days, whichever is later.

Lost Paychecks- Employees are responsible for their paychecks after they have been issued. Checks lost or otherwise missing should be reported immediately to the payroll department so that a stop-payment order will be initiated. The employee will be responsible for reimbursement to the City for any stop payment fees incurred due to employee loss of paycheck.

Unclaimed Paychecks- Paychecks not claimed by employees must be returned by the supervisor to the payroll office.

Direct Deposit - All ongoing employees hired after 7/1/17 are required to have their payroll checks deposited via direct deposit into the financial institution of their choice. Seasonal and temporary and employees are not required to have direct deposit. Employee pay stubs/checks will be distributed no later than Friday each week.

SECTION 4 – EMPLOYMENT

4.1. RECRUITMENT AND SELECTION

The City carefully selects employees through written applications, personal interviews, and applicable background and reference checks. After all available information is considered and evaluated, a decision may be made by the hiring manager. This selection process helps the City find and employ people who are concerned with their own personal success and the success of the City; people who want to do a job well; people who can carry on their work with skill and ability; and people who can work well with others to create an efficient team.

Applications

The City of Portland will make a reasonable effort to attract qualified applicants for all positions. Applications are only accepted for current position vacancies.

In the instance where positions within the same pay range and comparable skills requirements (for example maintenance or clerical), an eligibility list may be created in which future hires may be made from this list instead of requiring a separate recruitment.

All applications for employment are received at City Hall in the Human Resources Department and reviewed by the Human Resources Department or designee to ensure that minimum employment qualifications are met.

Vacancies for positions may be simultaneously posted internally and externally. The City exercises a policy of fairness for every individual who applies for work, and strives for the proper placement of individuals in various departments based on their experience, qualifications, and the needs of the City.

Potential applicants may request an application from the Human Resources Department or the receptionist at City Hall either in person, via email, or via the telephone, whereby an application will be sent to the applicant. Applicants will file their application with the receptionist or the Human Resources Department.

Applications will remain active for a period of six (6) months from the date of original submission, and only for the position(s) applied for. Applications are only accepted when vacancies exist. The City does not consider applications and resumes after a position closes except in limited circumstances, or as announced on a case by case basis.

Internal applicants for open positions are required to submit a transfer application for each open position applied for.

Applicants may be removed from consideration if:

1. Applicant declines an appointment when offered;
2. Applicant cannot be located by the postal authorities – it will be deemed impossible to so locate an applicant when a communication mailed to the last known address is returned unclaimed;
3. Applicant cannot be located via appropriate alternative means of communication;

4. Applicant moves out of a required geographic area if residency within is required for the position;
5. Applicant is currently using illegal drugs or narcotics as determined by a post-offer, pre-employment drug test;
6. Applicant is found to have been convicted of a felony or misdemeanor dependent upon the nature and gravity of the offense, the time passed since the offense, and the nature of the job sought;
7. Applicant has made a false statement on the application;
8. Applicant does not file the application within the period specified in the application/examination announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation;
9. Applicant fails to satisfactorily pass background check/investigation that is job-related and necessary; and/or
10. Applicant does not possess the minimum qualifications for the position.

Job Announcements - Department Heads who need to fill a job opening should contact the Human Resources Department in order to begin the recruitment process. The Human Resources Department shall work with the hiring department to establish a plan of action for the recruitment and testing process before the position is advertised. Once the selection process is established and approved by the Mayor and Human Resource Department, there shall be no deviations unless the position is advertised again with notification to all affected applicants. The Human Resource Department will cause the announcement to be prepared and publicized in order to bring notice of vacancies to as many qualified persons as possible.

In-House Posting - Notice of vacant, regular ongoing positions will be distributed to all departments for posting on designated bulletin boards or for circulation among employees within each department. The vacancy will be posted until a specified closing date or until the position is filled.

Public Advertisement - Applicants shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that qualified applicants are obtained for City employment. The Human Resource Department in collaboration with the hiring department, will determine what forms of media to use for advertisement.

Advertisements may also include the City's website along with the City cable channel. The notice shall contain brief descriptions of the qualifications for the particular position and will specify the locations where applications can be obtained and the deadline for accepting applications. The vacancy will be posted until a specified closing date or until the position is filled.

Recruitment by Examination - All appointments in the City shall be made according to merit and fitness and may be subject to competitive valid examination. All such examinations shall fairly and impartially test those matters relevant to the capacity and fitness of the applicant's ability to be able to perform the essential functions, as well as the requisite knowledge, skills and abilities for the position.

4.2. SELECTION EXAMINATIONS

The examinations held to establish eligibility and fitness for any position may consist of one or more of the following elements as determined by the Mayor and/or department head in conjunction with Human Resources.

1. **Written Test** – This validated test, when necessary, will include a written demonstration designed to show the applicant's familiarity with the knowledge involved in the class of positions to which he/she is seeking employment.
2. **Oral Test** – This test, when necessary, will include a personal interview where the ability to deal with others, to interact with the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.
3. **Performance Test** – This test, when necessary, will involve performance tests as would aid in determining the ability and manual skills of applicants to perform the work involved. The performance test may be given weight in the examination process or may be used to exclude from further consideration applicants who:
 - a. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated;
 - b. pose a direct threat to themselves or others.
4. **Physical Agility Test** – When necessary, this consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required physical job-related standards.
5. **Psychological Test** – When required and related to ongoing business necessity, this will include any test to determine mental alertness, psychological state/stability, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes that are job-related and consistent with business necessity.
6. **Pre-employment, Post-offer Drug Test** – Pre-employment drug testing will be conducted for all positions after the offer of employment is made. Positive results on the drug test will result in an applicant being denied employment.

The City will make reasonable accommodations in the examination process to disabled applicants requesting such accommodations.

Notification and Inspection of Examination Results: Each person who takes an examination shall be notified in writing of his/her standing on the eligibility list (if one is maintained) or of his/her passing or failing and may see any applicable testing results during regular City business hours.

4.3. APPOINTMENT TO POSITIONS

The Mayor shall appoint for budgeted, vacant positions existing within the Schedule of Authorized positions adopted by ordinance and may promote or transfer all officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs. New employees are appointed to existing salary schedules as established and approved by City Council.

Contingent Job Offers are made to the candidate approved for hiring. The City will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the City will not knowingly employ any person who is or becomes an unauthorized alien. In compliance with the Immigration Reform and Control Act, all employees hired after Nov. 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will not be hired. All offers of employment are contingent on verification of the individual's right to work in the United States. The City uses E-Verify to confirm employment eligibility.

The job offer is also contingent on the results of a job-related background check as applicable and job-related to the position. The check may consist of prior employment verification, professional reference checks, and education confirmation. As appropriate, a criminal conviction history, health examination, driving record history and credit check may also be obtained if related to the position and consistent with business necessity.

Following the requirements imposed by the Federal Truth-In-Lending and the Fair Credit Reporting Acts the City may conduct a post-offer, pre-employment credit check for positions who are responsible for payments, cash, payroll and other financial related duties, including some law enforcement positions. Employment may be conditional upon the information in the credit check.

Post-offer, Pre-employment physical examinations may be required of prospective employees for certain positions based on the essential functions of the position as contained in the job description after a conditional offer of employment is made. The physical examination shall be given by a licensed medical practitioner, occupational or physical therapist, or appropriate licensed examiner designated by the City to determine if the employee meets required standards in order to perform the essential functions of the job with or without reasonable accommodation.

A copy of the specific job description will be provided to the examiner. The cost of this physical examination shall be borne by the City. Prospective employees who are unable to successfully perform the essential functions tested for in the examination shall have their offer of employment by the City withdrawn only if they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

Post-hire Medical Examinations / Physical Agility Tests -- All employees of the City may, during the period of their employment, be required by their department head, with the approval

of the Mayor and coordination with the Human Resources Department, to undergo periodic medical (which may also include mental fitness) examinations, as allowed by law, to determine their fitness to perform the essential functions of the position they currently hold.

Any such medical examination shall be at no expense to the employee. Determination of fitness for duty will be by a licensed medical practitioner, occupational or physical therapist, or appropriate licensed examiner designated by the City or its insuring agency.

Annual job-related physical agility testing for incumbent positions may be required based on business necessity. These will be limited to physical agility tests, which measure an employee's ability to perform actual or simulated job tasks, and physical fitness tests, which measure an employee's performance of physical tasks, as long as these tests do not include examinations that could be considered medical.

Employees determined to be physically or mentally unfit to continue in their positions may be demoted, or they may be separated from the City service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

Barry Brady Law Fire Service Health Screenings -- To be eligible for presumption benefits, firefighters must be diagnosed after July 1, 2019, have served five or more consecutive years with an eligible fire department, and may only utilize the presumption for up to five years after their most recent date of exposure. A firefighter must have been exposed to heat, smoke, and fumes, or carcinogenic, poisonous, toxic, or chemical substances while performing the duties of a firefighter in the firefighter's capacity as an employee.

Eligible firefighters must also pass a pre-employment physical medical exam, with a cancer screening, and complete an annual physical medical examination that includes a cancer screening for the types of cancer covered under this law. Any firefighter employed by an eligible department before July 2019 who would like to be eligible for benefits must obtain a physical medical examination with the appropriate cancer screenings by July 1, 2020.

Elimination Periods - Newly appointed regular, ongoing, full-time employees are eligible for health, dental, and vision benefits the first of the month following appointment. The elimination period for all other benefits (voluntary life, AD&D, etc.) is completion of ninety (90) days of employment. Leave benefit elimination periods for leave benefits are described within leave policies.

4.4. PROMOTIONS

The Mayor may promote officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A promotion is the assignment of a qualified employee from one job class to another that has a higher pay rate. A qualified employee possesses the knowledge, skills and abilities, has the required experience level and is able to physically perform the duties and essential functions as outlined in the job description.

Temporary Promotion - The Mayor may authorize department heads to make promotions of employees, including temporary promotions to fill vacancies on an interim basis. The duration of absence in the position must create a business necessity for proper operation of the City. Employees will begin to earn the pay differential for a temporary promotion immediately upon assuming the related duties and will cease to do so upon completion of the interim assignment.

In every case, promotions must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When a promotion occurs and the employee's current pay rate is less than the minimum rate for the new position, the employee's salary/wage shall be raised to at least the minimum rate. When the employee's current pay rate falls above the new position's minimum rate, an appropriate increase in alignment with the compensation plan will be awarded as determined by the department head, Human Resources and the Mayor.

When a position is advertised for certified personnel (positions that require agency or subject matter certification) and no applications are received that meet the qualifications, then present employees may be given the opportunity to move into the position and receive training, unless it is necessary to fill the vacancy quickly, or on an emergency basis.

4.5. TRANSFERS

The Mayor may transfer officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A transfer is a lateral move assigning an employee from one position to another position of equal responsibility and class. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of the same class, or between positions of different classes of equal responsibility levels and pay. A transfer may also be implemented as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

Should a City employee wish to transfer to another position, in the same department or in another department, when there is a vacancy, the transfer may be allowed if the level of pay is the same and the position is considered as the same level position, and the employee wishing to transfer is qualified, can perform the essential functions and duties as outlined in the job description and it is in the best interest of the City.

An employee who transfers from one department to another will retain and carry forward all benefits earned, accrued, or both as of the date of transfer. In the event an employee of the fire department working 24-hour shifts transfers to another department, Sick Leave will be reduced at a ratio of fire department accrual divided by standard accrual. As a general rule, lateral transfers require no increase in compensation. If an employee has less than one (1) year of full-time employment with the City or less than six (6) months service in his/her current position, the transfer must be approved by the Mayor.

Under no circumstances will a department head (as defined in the City Charter), an employee of supervisory status, a certified operator, or any employee with a higher-level position be allowed to transfer to a position of lesser responsibility without accepting a lower rate of pay. Should

this type of transfer be allowed, the employee's existing length of overall service to the City will be acknowledged, but the employee's pay will be adjusted to the appropriate amount from the wage range for the position.

4.6. DEMOTIONS

The Mayor may demote officers and employees of the City, or may authorize appropriate designees and/or department heads to do so, subject to the provisions of the City Charter, state law, and this personnel policy adopted by ordinance in order to meet City operational needs.

A demotion is the assignment of an employee from one position to another that has a lower maximum pay rate and responsibility. An employee may be demoted for any of the following reasons:

1. because his/her position is being abolished and s/he would otherwise be laid off;
2. because his/her position is being reclassified to a higher grade, and the employee lacks the necessary skills to successfully perform the job;
3. because there is a lack of work;
4. because there is a lack of funds;
5. because another employee, returning from authorized leave granted in accordance with the rules of the leave, will occupy the position to which the employee is currently assigned;
6. because the employee does not possess the necessary qualifications to render satisfactory service to the position s/he holds;
7. because the employee voluntarily requests such a demotion, and an open position is available;
8. as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job, and job transfer, reassignment, or job redesign are not reasonable; and/or
9. as a form of disciplinary action.

4.7. NEPOTISM / PERSONAL RELATIONSHIPS

Members of the immediate family of a City employee or elected official who meet the hiring standards may be employed to fill City positions as detailed below. For purposes of this policy, members of the immediate family include spouse, child, brother, sister, son- or daughter-in-law, sister- or brother-in-law, parents, parents-in-law, nephews, nieces, stepsisters, stepbrothers, stepchildren, and stepparents.

- No member of an immediate may family supervise members of his/her immediate family. This does not preclude employment of immediate family members under other lines of supervision. If the city cannot reasonably transfer one of the family members to another line of supervision, and the family members can't decide which one will leave voluntarily, the employee in the more junior position will be subject to discharge.
- No special preference will be given to family members in the selection of work location, days off, vacation schedules, etc.
- The work and conduct of the family members will be governed by the same requirements and procedures as all other employees.
- Seasonal and part-time employees are exempt from this provision/policy.

If a personal, romantic, or intimate relationship is established between two or more employees post-hire, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the City. When a conflict or potential conflict arises due to the relationship affecting employment, the City reserves the right to make any and all employment decisions in the best interest of the City.

4.8. TYPES OF EMPLOYEES

- **Full-Time, Ongoing Employees.** A full-time, ongoing employee is an employee who is typically scheduled a minimum of 40 hours per week, is paid an hourly or salaried rate, is subject to all conditions of employment, and receives all benefits offered unless specifically excluded by the City Charter, code, or ordinance.
- **Part-Time Ongoing Employees.** A part-time ongoing employee is an employee who works fewer hours per workweek than a full-time employee on a regular basis and whose hours cannot exceed an average of **29 hours per week** during the standard measurement period. Week-to-week increases of hours beyond the 29-hour limit must be approved by the Mayor or department head. Human Resources will assist department heads with ongoing analysis of hours worked regarding the budgetary impact of benefits costs and compliance with the Affordable Care Act (ACA). Ongoing part-time employees are not eligible for benefits other than those statutorily mandated. Standard measurement periods can be defined separately for hourly and salaried employees.
- **Temporary Employees.** Temporary employees are individuals who perform work for the City for no more than six months during a 12-month period and whose ongoing employment with the City is not expected at time of hire. Temporary employees are not eligible for benefits except those coverage under workers' compensation. Hours of work shall be determined by the department head.
- **Seasonal Employees.** Seasonal employees are hired for a pre-established period, usually during peak workloads, either directly or through an employment service. They may work a full-time or part-time schedule. They are ineligible for City benefits except coverage under workers' compensation.
- **Non-Exempt Employees,** according to the Overtime Requirements of the FLSA are eligible for overtime pay and may be required to work more than the threshold hours for overtime in their workweek / work period. They are not exempt from overtime pay and are entitled to receive overtime pay for hours actually worked in excess of the employee's defined work period. Holiday pay and leave time will not be considered as "hours worked" for purposes of calculating overtime pay.
- **Exempt Employees.** Employees whose positions meet specific tests established by applicable state and federal laws and whose duties and responsibilities allow them to be "exempt" from overtime pay provisions as provided by the FLSA. They are not paid overtime regardless of the number of hours they work in a particular week. All exempt employees are expected to observe a normal forty-hour workweek and to work any additional hours necessary to accomplish the responsibilities of the position. *Exempt employees are required to complete time records which are maintained by the Finance Department and must be submitted during the payroll process. Exempt employees must*

utilize available paid leave if they work fewer than forty (40) hours in a work week. If no paid leave is available during the week in which fewer than forty (40) hours are worked, the employee will have his/her pay reduced by the number of hours not worked.

- **Salaried Employees.** Employees who are paid a specified weekly rate. All personnel defined as “department heads” in the City Charter, and any employee determined to be, and designated as exempt from the Fair Labor Standards Act, shall be paid on a salary basis and are not eligible for overtime pay.
- **Hourly Employees.** Employees who are paid an hourly rate and are paid overtime for worked hours over their overtime threshold for that work period. *Holiday pay and leave time for hours not worked will **not** be considered as “hours worked” for purposes of calculating overtime pay.*

4.9. PERFORMANCE EVALUATION

The annual rating period (period of performance measurement) evaluates performance occurring during the prior fiscal year, i.e. from June 30th of the completed fiscal year back through July 1st of the previous calendar year.

Employees will receive a performance evaluation at least annually at a time based on City needs. Additional evaluations shall be conducted prior to moving to another job in the organization, when performance outcomes fall below minimum expectations or whenever a department head/supervisor/manager determines a need.

The performance evaluation is intended to help the employee achieve a professional level of conduct and performance;

Employees must clearly understand what is expected and be committed to achieving quality results;

At a minimum, evaluations will be conducted annually, but may occur more frequently if the department head/supervisor/manager determines a need.

1. The Human Resources Department will maintain evaluation schedules and will notify department heads/supervisors/managers thirty (30) days in advance of evaluation due dates; and
2. Department heads/supervisors/managers will use the appropriate evaluation form to candidly and accurately document feedback on the critical success factors and previously agreed upon performance objectives established for the measurement period.

Reviews should be structured as follows:

1. Be sure that there is an accurate and complete job description for the position.
2. Incorporate input from the employee’s self-evaluation as appropriate.
3. Discuss the written performance ratings/summaries in the evaluation areas.
4. Goals, objectives, development plans, performance improvement plans, etc. should be established during this time for the upcoming rating period. Discuss what is expected and by when (develop a timeline for completion).

5. Determine how the expectations will be measured (i.e. complete a seminar or course of study, work quality or quantity improvements, cross training, etc.).
6. Secure all required authorization signatures and dates BEFORE DISCUSSING WITH THE EMPLOYEE.
7. Review the results of the overall evaluation with the employee.
8. Provide opportunity for the employee to ask questions and to document their remarks regarding the review.
9. Employee and reviewer should sign and date the evaluation form.
10. The appraisal is not final until it has been reviewed and acted upon by Human Resources and the Mayor.
11. The completed and signed evaluation form should be returned to Human Resources for filing in the employee's personnel file.
12. The City reserves the right to alter the terms and the manner in which performance is or is not appraised.

As important as written performance appraisals are, they are not meant as substitutes for ongoing discussions between employees and their supervisors about their performance.

4.10. OUTSIDE EMPLOYMENT

With the approval of the department head and Mayor (on an annual basis if ongoing), outside employment is permissible, provided that there is no conflict of interest or impairment of work performance for the City of Portland. Before outside employment begins, employees must present a written request to their department head describing the work to be performed.

Required overtime of any employee of the City takes priority over an employee's outside employment. Anyone who knowingly misses work or refuses mandatory overtime at his/her primary job to work a second job may be subject to disciplinary action up to, and including, termination of employment. Employees missing work because of sickness or injury that can be attributed to outside employment will not receive pay or other benefits for time lost from their City job. Approval of outside employment may be withdrawn for any business-related reason.

4.11. GRIEVANCES

A grievance is defined only as an expression of dissatisfaction, disagreement or dispute arising between a current employee and his/her supervisor and/or the City regarding an aspect of the application or interpretation of regulations and policies; reasonable accommodation under the ADA*; or an operational management decision affecting him/her. Disciplinary actions, promotions, demotions, and transfers are not grievable.

**If the grievance is for reasonable accommodation under the ADA, Human Resources must be involved in each grievance process step.*

It is the City's desire to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional situations that will be resolved only after a formal meeting and review.

Employee(s) who have a grievance should first discuss it with their immediate supervisor, within five business days following the incident or immediately upon returning to work from a

suspension. Every employee may present a grievance under the provisions of the grievance procedure free from fear of retaliation of any kind concerning employment.

STEPS OF THE GRIEVANCE PROCEDURE ARE AS FOLLOWS:

Step 1. The employee files a written grievance with the immediate supervisor within five (5) business days of the incident. An employee should give the supervisor copies of any witness statements or other supporting documents. The immediate supervisor will promptly investigate the circumstances surrounding the grievance, discuss the matter with the appropriate department head, and take action if within the scope of the immediate supervisor's authority. The supervisor shall inform the employee of his/her decision in writing within three (3) business days. The supervisor shall provide a copy of his/her decision to the department head. No supervisor may hold a grievance longer than three (3) business days without forwarding it to the next supervisory level.

Step 2. If the issue cannot be resolved between the employee and his/her supervisor, the employee may proceed to the second step by reducing the request to writing and requesting that the department head review the written grievance and supervisor's response. If an employee wishes a meeting with the department head, one will be arranged. Upon hearing the grievance, the department head must provide a written response to the employee and the immediate supervisor within three (3) business days of the meeting.

Step 3. If the issue still cannot be resolved by the department head, the employee may request in writing a meeting with the Mayor. The Mayor shall have ten (10) business days to schedule the meeting after which, the Mayor shall provide a written response to the employee with copies to the department head and immediate supervisor. Every attempt will be made to resolve the employee's grievance. The Mayor's decision shall be final and binding on all parties involved.

SECTION 5 – EMPLOYEE BENEFITS

The City provides a competitive benefits program for all eligible employees. In addition to receiving an equitable salary and having an equal opportunity for professional development and advancement, employees may be eligible to enjoy other benefits which will enhance job and employment satisfaction. The benefit programs described in this personnel manual represent a significant investment in each employee by the City.

This section contains only a summary of insurance benefits, and the terms and conditions of any Plan Document and Summary Plan Description control any benefit if the summary contained in the Personnel Manual conflicts or may be interpreted to conflict. Employees should review their Summary Plan Description(s) in addition to the information provided in the Personnel Manual.

Other benefits previously approved by the Portland City Council, and not in conflict with this policy, shall remain in effect. The Portland City Council may, from time to time, approve additional benefits.

5.1. HEALTH, DENTAL AND VISION BENEFITS

Eligibility for benefits

Ongoing, full time employees will be eligible for the benefits described in this personnel manual as soon as the eligibility requirements for each particular benefit are met. Coverage is available defined in the benefits' Summary Plan Descriptions.

- Part-time, temporary and seasonal employees are not eligible for benefits.
- No benefits are available to employees prior to the plan's stated eligibility date, except as otherwise provided by law.

Health benefits: Employees and those City officials specified in the Municipal Code are covered under plan providers selected by the City. For details regarding current benefit plans and availability, refer to the annually approved Schedule of Benefits available in Human Resources.

Medical, dental and vision insurance: Eligibility for the medical, dental and vision insurance is per each plan document.

COBRA: COBRA provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health insurance coverage at group rates. This coverage, however, is only available when coverage is lost due to certain specific events. Group health coverage for COBRA participants is usually more expensive than health coverage for active employees, since usually the employer pays a part of the premium for active employees while COBRA participants generally pay the entire premium themselves. For details regarding your COBRA coverage options following a covered event, please contact the Human Resource Department.

5.2. SECTION 125 PLAN

A Section 125 plan is a benefit plan that allows employees to make contributions toward medical and dental insurance on a pre-tax rather than an after-tax basis. This means qualified expenses are deducted from gross pay before income taxes and social security are calculated.

By doing so, employees elect to have their gross pay reduced by an amount equal to contributions for medical and dental insurance. Once this election is made, no changes may be made to the pre-tax contributions until the next open enrollment period, unless the change being requested is the result of a change in family status (such as marriage, divorce, death of a spouse or child, birth or adoption of a child or termination of employment of a spouse). A change in election due to a change in family status will be effective in the pay period following receipt of the election.

5.3. RETIREMENT / TCRS

Retirement is defined as voluntary withdrawal from City employment by an employee eligible to receive retirement benefits under Social Security or the Tennessee Consolidated Retirement System. Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement.

All regular employees (Mayor's participation is optional) completing six (6) months of continuous employment with the City are eligible to receive employer contributions in the City's retirement plan. Membership in this plan is mandatory for eligible employees and is non-contributory by the employee. In addition, the City participates in the Social Security System.

Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate schedule.

Details regarding TCRS retirement eligibility and procedures may be obtained from the Human Resources Department.

Re-employment after Retirement

Any retired member may return to service in a position covered by the TCRS and continue to draw such person's retirement allowance in a temporary capacity limited to the equivalent of 120 days per 12-month period, and may earn no more than 60% of their final compensation at time of retirement.

Retiree Health Insurance

Should the City of Portland withdraw from the state's health insurance plan, the retiree would no longer be eligible to continue the coverage [through the state's plan].

All retirees must elect to continue coverage in the Plan within 30 days of termination of coverage.

The retired employee's insurance premium, single coverage only, will be paid by the City with the retired employee's dependent's coverage offered at the retiree's expense.

Retirees or covered dependents who are not members of TCRS will be eligible for a BC/BS Medicare Supplement when they reach the age of 65 or become Medicare eligible.

5.4. 401(k) / 457(b) PLAN

The City participates in the State of Tennessee voluntary defined contribution 401(k) and 457(b) tax-deferred retirement savings programs. For details on enrollment in the program, please refer to the plan documents available in the Human Resource Department.

5.5. CITY OBSERVED HOLIDAYS

All offices of the City of Portland, except emergency and necessary operations, will be closed and employees excused from work on the holidays listed below. There is no elimination period for this benefit, with the exception of Employee Personal Holiday*.

- | | | | |
|----|---|-----|----------------------------|
| 1. | New Year's Day | 7. | Labor Day |
| 2. | Martin Luther King Jr. Day | 8. | Thanksgiving Day |
| 3. | Presidents' Day | 9. | Day after Thanksgiving Day |
| 4. | Good Friday | 10. | Veterans' Day |
| 5. | Memorial Day | 11. | Christmas Eve |
| 6. | Independence Day - July 4 th | 12. | Christmas Day |
| | | 13. | Employee Personal Holiday* |

**One day granted per calendar year beginning January 1, 2020 to a regular employee to be taken in a minimum of four-hour increments and with 24-hour advance notice to the supervisor. Any unused portion of a personal day will be forfeited at the end of the year and will not be eligible for cashing out nor paid upon separation from employment. This benefit becomes available upon completion of the 90-day elimination period.*

5.6. HOLIDAY PAY

The City's observance of the holidays listed above (with the exception of the Employee Personal Holiday) will be scheduled on either Monday, Tuesday, Wednesday, Thursday or Friday. A holiday calendar designating the weekday to be observed may be issued annually. Eight (8) hours of holiday pay will be paid at the eligible employee's straight-time rate of pay for the City's observed holidays. Holiday Pay is not considered hours worked for the purpose of calculation of overtime pay.

To receive compensation for a holiday, employees eligible for holiday benefits must be in an active pay status (not away on leave without pay or on workers' compensation) on their last regular shift scheduled before a holiday and their first regularly scheduled shift after a holiday. Employees must seek appropriate approval for paid leave in conjunction with a Holiday with the exception of statutorily mandated leaves (i.e. FMLA).

Pay for hours worked for full-time, non-exempt employees who are required to work (excluding emergency call-in) on a holiday shall be calculated at their regular, hourly pay rate for the actual hours worked on the holiday and shall be paid in addition to the regular straight-time holiday pay for the day. All hours actually worked will be counted as straight- time hours for overtime calculation purposes.

5.7. VACATION

Vacation is an employee benefit that depends on how long the employee has worked for the employer for all regular full-time, exempt and non-exempt employees.

The City will try to honor all vacation requests; however, vacations cannot interfere with the City's operation. Therefore, your vacation must be approved by your department head/supervisor/manager in advance on a first come, first-served basis. If any conflicts arise in vacation requests, preference will be given to the employee with the longest length of continuous service.

All regular, ongoing full-time employees of the City will be granted vacation leave annually January 1 based on continuous years of service to the City. As the number of years of service increases, the amount of vacation leave granted increases and may accumulate to the maximum amount as shown in the table below:

Service Completed	Non-Public Safety and Exempt	Police Non-Exempt	Fire Non-Exempt
1 Year	1 week = 40 hours	1 week = 43 hours	1 week = 56 hours
2 Years	2 weeks = 80 hours	2 weeks = 86 hours	2 weeks = 112 hours
5 Years	3 weeks = 120 hours	3 weeks = 129 hours	3 weeks = 168 hours
10 Years	4 weeks = 160 hours	4 weeks = 172 hours	4 weeks = 224 hours
20 Years	5 weeks = 200 hours	5 weeks = 215 hours	5 weeks = 280 hours

The City's vacation year is based on the calendar year. This means that the vacation year begins on January 1 and ends on December 31 of each year. Since employees are hired throughout the calendar year, vacation time will be prorated for any partial year of service upon hire and be taken upon accrual. **There is no elimination period for this benefit.** For each completed month of service during the first year of employment Non-Public Safety and exempt staff will accrue 3.34 hours of vacation, Police Non-Exempt personnel will accrue 3.58 hours of vacation, and Fire Non-Exempt personnel will accrue 4.67 hours of vacation.

Scheduling. Vacations should be scheduled in advance for the mutual convenience of the employee and the City so that proper adjustments can be made in work schedules. Department heads preparing vacation schedules may give a choice of dates based on seniority of the personnel in their departments, and no employee may begin his/her vacation leave until his/her request has been approved by the department head.

Employees may at any time cash out up to two (2) weeks of accrued vacation once annually.

Employees may roll over up to one (1) week to the following year in December annually.

Employees may convert unused vacation leave to sick leave without limit at any time.

At no time may an employee have more than his/her vacation accrual amount plus one week in his/her vacation bank.

An employee may not schedule more than two (2) weeks of vacation in any six (6) week period without approval from the Department Head.

Vacation Pay-out at Termination of Employment. If there is unused vacation time upon voluntary separation from employment with the City it will be paid out at the employee's regular, base rate. A break in service of 6 months or more will reset the vacation accrual calculation.

The Mayor, when newly elected (not for purposes of continuation due to re-election), as an elected official of the City and head of City operations, will be awarded two (2) weeks of vacation per year of his/her term. A vacation year for the Mayor runs from the date of taking office. The Mayor may exercise the Vacation Cash Out or Carry Over options listed above.

Legal Holidays. Legal holidays falling within a vacation period will not to be counted as vacation days.

5.8. SICK LEAVE

All full-time employees shall accumulate (9.33) hours of sick leave with pay for each month of work completed for the City (total of 14 days per calendar year), except sworn Police department employees working 12-hour shifts who shall accrue 12 hours of sick leave per month, and fire department employees working 24-hour shifts who shall accumulate 24 hours of sick leave per month. Sick leave may be used as it accrues. **There is no elimination period for this benefit.**

Sick leave may be granted for any of the following reasons, and must run concurrently with FMLA when applicable:

1. Personal illness or physical incapacity resulting from causes beyond the employee's control;
2. Medical, dental, optical or other professional treatments or examinations for the employee;
3. Medical, dental, optical or other professional treatments or examinations for family members;
4. Acute illness of a member of the employee's immediate family. Immediate family includes children, spouse or parent(s);
5. To attend to personal illness or physical incapacity of family members, resulting from causes beyond the employee's control;
6. Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees;
7. To attend to a family member with exposure to contagious disease so that the family member might jeopardize the health of other people;

There is no maximum accumulation of sick leave. Any unused sick leave upon retirement is to be a service credit toward the employee's retirement (T.C.A. 8-34-604). Accumulated sick leave is not otherwise payable to the employee upon termination, resignation or retirement; nor can it be used as a form of 'early retirement' in practice.

A doctor's statement shall be delivered to the supervisor after three (3) consecutive days of absence for sickness. To prevent abuse of the sick leave privilege, the City supervisory staff may satisfy themselves that the employee is genuinely ill before approving sick leave, and may require a doctor's certificate for any absence for which the employee requests sick leave.

Sick leave hours deducted from an employee's sick leave accumulation shall be for the number of regular work hours absent and shall not include holidays and scheduled days off. Employees claiming sick leave while on vacation leave must support their claim by a doctor's statement if requested by a department head or the Mayor. When an employee is on "leave without pay" for greater than half of their assigned shifts during any calendar month no sick leave accumulates.

Sick Leave Notice. The employee is required to notify his/her supervisor as soon as practical, but no later than the start of the workday. The employee should make every effort to reach the supervisor directly to explain the reason for absence.

Health Care Statement. To prevent abuse of the sick leave privilege, any absence may require a doctor's certificate. Absences in excess of three (3) days shall require a doctor's return to work certification in order to return to work.

Fire Personnel Sick Leave. Members of the fire department working a 24-hour shift will be charged 24 hours of sick leave for each missed shift due to illness. Fire department employees who work a regular eight or ten-hour shift shall be charged sick leave for the number of hours absent each day up to a maximum of eight or ten hours.

Workers' Compensation. Employees on Workers' Compensation will continue to accrue sick leave during the period of absence. Workers' Compensation leave runs concurrently with FMLA leave for employees who are eligible for FMLA job-protected leave.

Exhaustion of Leave. Once an employee exhausts sick leave, vacation leave will be substituted for the remaining absences or until the vacation leave is exhausted. If the illness is FMLA qualifying, once all accrued leave is exhausted, further absences shall be designated as leave without pay.

Department Head or Supervisor Requirements. Department heads and/or supervisors are required to report to Human Resources any employee sick leave absences of more than three (3) calendar days to ensure that the City complies with federal regulations regarding the Family and Medical Leave Act. Notification to Human Resources must occur on the fourth day after three consecutive days of absence.

5.9. FUNERAL / BEREAVEMENT

Full-time, ongoing employees may take **eight (8) hours** of funeral leave per relative for the following family members: grandparents-in-law, aunts and uncles. Full-time employees may take **twenty-four (24) hours** of funeral leave per relative for the following family members:

Children	Spouse	Parents	Mother-in-law
Father-in-law	Step parent	Step children	Grandfather
Grandmother	Brother	Brother-in-law	Sister
Sister-in-law	Grandchildren	Daughter-in-law	Son-in-law
Legal Guardian/Foster Child or Parent			

Should more than twenty-four (24) hours of bereavement leave be necessary; employees may seek approval from their supervisor to use available compensatory, vacation, or sick time in addition to the funeral leave. Notice must be given to the supervisor and the amount of vacation or sick time to be used must be approved by the supervisor prior to the additional time being taken. The twenty-four (24) hours of funeral leave is available per relative for each of these listed relatives. Bereavement Leave may be used non-consecutively as approved. **There is no elimination period for this benefit.**

5.10. FAMILY AND MEDICAL LEAVE

Overview: The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks (in some situations up to 26 weeks) of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave.

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interests of employers and promote equal employment opportunity for men and women.

Eligibility: The Family & Medical Leave policy is applicable employees who have worked at least 12 months for the City and who have worked at least 1,250 hours during the preceding 12-month period. Such employees are eligible for a maximum of 12 to 26* weeks of leave under the act. Special rules apply for husbands and wives employed by the same employer and for exempted key employees (top 10 percent of all wage earners, and who are paid on a salary basis). People who are not covered include elected officials, volunteers, independent contractors, and legal advisors.

Leave entitlement: Eligible employees may take up to 12 workweeks (480 work hours for 40-hour work week employees; 516 hours for 86-hour work period employee and 636 hours for 53-hour work period employees) of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

*Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 workweeks leave under FMLA to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a “serious injury or illness”.

Paid / Unpaid Leave. FMLA runs concurrently with paid time off (compensatory, sick, vacation leave) and concurrently with workers’ compensation leave. Sick time will be paid out first and vacation time will be paid afterwards. In the event that an hourly paid, non-exempt employee has accrued compensatory time, that use will precede the use of sick or vacation leave. Approved leave will be unpaid if the employee does not have paid leave available at the time FMLA starts or when all available paid leave is exhausted while out on leave.

Effects on Sick Leave Accrual. When an employee’s unpaid leave time is greater than half of their assigned shifts or more during any calendar month while on FMLA, no sick leave accrues. The combination of compensatory time, sick leave, vacation leave, and unpaid leave may not exceed the total allowable leave under the FMLA, except as required by statute.

Guidelines. An eligible employee may take up to 12 weeks of family and medical leave in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for one’s self, a child, spouse, or parent who has a serious health condition. Eligible employees may take up to 12 weeks of unpaid leave to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

Serious health condition. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment;
- A period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider;
- Any period of incapacity due to pregnancy or for prenatal care;
- A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity;
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider;
- Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

Serious Injury or Illness for an Injured Service Member is defined as a covered service member’s injury or illness incurred in the line of duty on active duty in the Armed Forces that

may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

Spouse / Same Employer. If spouses are employed by the same employer and eligible to take leave for the birth or adoption of a child, their aggregate leave under FMLA is limited to 12 weeks. For example, if the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouse experiences her own serious health condition as a result of the pregnancy, both employees are entitled to the full 12 weeks.

Right to Return to Work. On return from family and medical leave, an employee is entitled to be returned to the same position that s/he held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The City, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation.

Notification and Scheduling. An eligible employee must provide the City at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require altering scheduled medical treatment.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

It is the City's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was for FMLA. Failure to provide notification will result in the leave not being designated as FMLA. The City will, if necessary, provide the FMLA leave notice in alternate formats.

Certification. The City reserves the right to verify an employee's request for family and medical leave. Failure to provide certification from a health care provider in a timely manner may result in delay or denial of FMLA. Medical certifications will be treated as confidential and privileged information under HIPAA and the State's Open Records laws as appropriate.

If the City has a reason to question the original certification, the City may, at the City's expense, require a second opinion from a different health care provider chosen by the employer. The health care provider may not be employed by the City on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding. The City will pay for second and third opinion visits.

An employee may be required to report periodically to the City the status and the intention of the employee to return to work. Before return is granted, employees are required to furnish the City with a medical certification from the employee's health care provider stating that the employee is able to resume work.

Reduced and Intermittent Leave. Family and medical leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the City's approval. The schedule must be mutually agreed upon by the employee and the employer. Employees on intermittent or reduced leave schedules may be temporarily transferred by the City to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule. Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 12 workweeks total leave in a 12-month period.

Restoration. Employees who are granted leave under the FMLA policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave.

Certain highly compensated key employees, who are salaried and among the 10% highest paid workers, may be denied restoration if:

- the employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations;
- the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur; and
- if leave has commenced, the notice must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

If an employee fails to provide a requested fitness-for-duty certification to return to work, the City may delay restoration until the employee submits the certification.

The 12-Month FMLA Period. The City follows a **12-months measured forward method**. This means that the leave is measured from the first date an employee's FMLA leave begins.

Denial of FMLA Leave. If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the City may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave, the City may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave

may not be designated as FMLA. In instances of workers' compensation leave, pregnancy, or events where the City has sufficient knowledge of an event certification may not be required.

Employee Benefits While on FMLA. During periods of FMLA, the City will continue to provide health insurance benefits at the employee rate. If premiums are current, the City will maintain health insurance benefits during periods of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may be terminated. Arrangements may be made between the employee and the City for a payment plan for the employee's portion of insurance premiums. If interrupted, the City is obligated to reinstate benefits upon an employee's return to work.

The City has the right to recover from the employee all health insurance premiums paid by the City on behalf of the employee during the FMLA leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

FMLA leave under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit; however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

Workers' Compensation While on FMLA. Workers' Compensation injury/illness meets the criteria for a serious health condition, therefore, the workers' compensation absence and the FMLA leave entitlement will run concurrently.

5.11. TN MATERNITY/PATERNITY LEAVE

Under the Tennessee Maternity Leave Act, any employee who has been employed full-time for at least one year with the City of Portland and who gives at least three months advance notice of their anticipated date of departure, length of maternity/paternity leave, and intentions to return to full-time employment, may be granted maternity/paternity leave for a period not to exceed four (4) calendar months for pregnancy, childbirth, adoption, and nursing an infant. Use of paid leave (compensatory, sick, and vacation – in that order) shall be used until exhausted for maternity/paternity purposes; if no paid leave exists, leave will be without pay.

An employee desiring maternity/paternity leave shall notify her/his department head so a temporary replacement may be secured. Maternity/paternity leave will run concurrently with FMLA leave if FMLA has not exhausted otherwise, and shall be approved depending upon the medical needs and doctor's instructions. Return to duty must be accompanied by a release statement from the employee's attending physician under maternity leave.

5.12. WORKERS' COMPENSATION LEAVE

An employee of the City of Portland who suffers injury or illness as a result of a work-related accident or condition shall receive compensation during the period of illness or injury in accordance with the Tennessee Worker's Compensation Act.

Work Related Injuries Notification: *If you experience any injury on the job as a City employee- regardless of whether it seems minor; regardless of whether it needs medical attention -- you must take the following steps:*

1. *Report the injury immediately to your department head or Human Resources, and the city safety officer;*
2. *If the department head, Human Resources representative, or safety officer is not available, report it to your immediate supervisor;*
3. *Should the injury occur after hours (weekdays) or on the weekends, report of the injury must be made as soon as you return to work and must be reported within 24 hours;*
4. *Failure to comply with this procedure may result in disciplinary action up to, and including, termination of employment.*

Please note that your health insurance will not cover the cost of a work-related injury. *Timely reporting is important for you, and is required by law.*

No compensation shall be paid by the City for the first seven (7) days of disability resulting from injury, excluding the day of injury. If sick leave is accumulated, the employee may use it for this seven (7) day period. If disability extends beyond the seven (7) day period, workers' compensation payment from the workers' compensation insurer will commence with the eighth (8) day after the injury. Beginning on the eighth day, and for as long as worker's compensation benefits continue, no accumulated sick leave shall be used by the employee. In the event the disability from injury exists for a period as long as fourteen (14) days, then the workers' compensation insurer will be retroactively paid beginning with the first day after injury through.

Employees injured in an on-the-job accident may be compensated according to the state worker's compensation board's schedule of compensation.

Employees on occupational disability leave due to an on-the-job injury will not be charged sick or vacation leave during the period of convalescence. Employees shall continue to accrue sick leave and vacation leave at their regular rate while on occupational disability or injury leave.

Leave coordination: *Workers' Compensation Leave and Family and Medical Leave (FMLA) will run concurrently for employees who are eligible for FMLA leave.*

The employee shall continue paying their portion of their insurance while on worker's compensation. After returning to work, any workers' compensation related doctor's visits will be covered by worker's compensation. If worker's compensation does not cover these visits then the employee may use their sick days.

Time Off for Medical Appointments. Any City employee with a workers'-compensation-related illness or injury who is on the job but seeing a medical provider for said illness/injury will not be required to use his/her accumulated sick leave for medical appointments that are scheduled during the employee's regularly scheduled work hours.

Medical providers and medical appointments shall include, but not necessarily be limited to: specializing physicians, medical practitioners, chiropractors, occupational therapists, and providers from other medical fields, as prescribed by provisions of the TN Code, Title 50, Chapter 6.

Workers' compensation related medical appointments shall be noted as such on the employee's time sheet/time card but shall not be deducted from the employee's accumulated sick leave. The employee shall be compensated at his/her regular rate of pay.

The employee shall, as soon as s/he has knowledge of scheduled appointments, advise the supervisor of the date and times that s/he will be away from the job. The Mayor (or designee), at his/her discretion, may question the employee's number of appointments and length of appointments through the employee's workers' compensation case worker should there appear to be a pattern of irregularities.

Mileage Paid to Employees For Medical Appointment. When a City employee, who has suffered a workers'-compensation-related illness/injury, drives more than 15 miles for a medical appointment calculated from either the employee's residence or worksite that employee is eligible for mileage reimbursement. The per mile reimbursement rate for the injured employee shall be not less than the mileage allowance authorized for state employees who have been authorized to use personally owned vehicles in the performance of their duties. Said employee is personally responsible for keeping accurate records of all mileage.

Employee May Use City-Owned Vehicles for Doctors Appointment for Workers' Compensation Related Illnesses/Injuries. City employees, who have suffered a workers' compensation related illness/injury that have a City-assigned vehicle for his /her job, shall be permitted to use that vehicle to travel to medical appointments for said illness/injury. The employee, however, may not use the City-assigned vehicle for appointments that are scheduled during off-duty time. During off-duty, the employee shall use his/her personal vehicle for appointments and shall keep mileage records to turn in to workers' compensation for reimbursement.

Those City employees who do not have access to City-owned vehicles shall drive their personal vehicles to medical appointments and will be paid mileage by the City for the first 15 miles, and then paid mileage by workers' compensation for 15 miles and above. Said employee is personally responsible for keeping accurate records of all mileage.

5.13. AMERICANS WITH DISABILITIES ACT (ADA)

The City of Portland is committed to the fair and equal employment of individuals with disabilities under the Americans with Disabilities Act (ADA). It is The City of Portland's policy to provide reasonable accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the City. The City prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

In accordance with the ADA as amended, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

Disability

“Disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. A “qualified person with a disability” means an individual with a disability who **has the requisite skills, experience, and education for the job in question and who can perform the essential functions of the job with or without reasonable accommodation.**

Reasonable Accommodation

The City will seek to provide reasonable accommodation for a known disability or at the request of an individual with a disability. Many individuals with disabilities can apply for jobs and perform the essential functions of their jobs without any reasonable accommodations. However, there are situations in which a workplace barrier may interfere. A “reasonable accommodation” is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job without placing an undue hardship on the City.

There are three types of reasonable accommodation that may be considered:

- Changes to the job application process so that a qualified applicant with a disability will receive equal consideration for the job opportunity;
- Modifications to the work environment so that the qualified individual with a disability can perform the essential functions of the job; *or*
- Adjustments that will allow a qualified individual with a disability to enjoy the same benefits and privileges of employment as other similarly situated employees without disabilities.

Essential Job Functions

For each position, the job description typically will identify essential job functions. Human Resources generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An employee’s questions about a job’s requirements should be directed to the employee’s supervisor or Human Resources.

Requesting a Reasonable Accommodation

An employee with a disability is responsible for requesting an accommodation from the Human Resources Department, or his/her supervisor, and engaging in an informal process to clarify what the employee needs and to identify possible accommodations. The City will provide notice of the employee’s rights under the ADA and document the interactive process discussions. If requested, the employee is responsible for providing medical documentation regarding the disability.

The employee should describe the problem created by a workplace barrier so that an appropriate accommodation may be considered. The Human Resources Department will work with the employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the employee to perform the essential functions of the job.

Based on this interactive process, a reasonable accommodation will be selected that is appropriate for both the City and the individual employee. While an individual’s preference will be considered, The City is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the City. The City will provide notification in writing of denial based on undue hardship.

Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization's overall financial resources, the financial resources of the particular facility at which the accommodation is to be made, the number of employees at the facility, the total number of employees of the organization, and the type of operation.

Grievances

In the event that an employee would like to grieve the outcome of the reasonable accommodation and interactive process, he/she should follow the City of Portland Grievance Procedure.

Safety

All employees are expected to comply with all safety procedures. The City will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A "direct threat" means a significant risk to the health or safety of one's self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the Human Resources Department and will be based on factual, objective evidence. A written copy of the determination will be given to the employee so that s/he may submit additional information and/or challenge the determination that s/he poses a direct threat.

Confidentiality

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

It is the policy of the City to prohibit any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation. If an employee feels s/he has been subject to such treatment or has witnessed such treatment, the situation should be reported using the harassment complaint procedure. The City of Portland's policy prohibits retaliation against an employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an employee feels he or she has been retaliated against, the situation should be reported using the harassment complaint procedure.

5.14. MILITARY LEAVE

Any employee who is or becomes a member of the armed forces of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) and leaves work for initial training for the Guard or Reserves, leaves work to join active duty military, or is called to active duty, will be placed on military leave. Such employee must present his/her supervisor or department head with advance notice of the active duty orders. The employee's seniority, status and pay rate will remain unchanged during his/her time of military leave. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. For the first 31 days of military leave, the City will maintain contribution at the same level as was done prior to leave. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be

sent. When an employee's unpaid leave time is greater than half of their assigned shifts or more during any calendar month, no sick leave accrues for that month.

The process for reinstatement of employees returning from military leave begins when the employee submits an "application for re-employment." Said application must be submitted within ninety (90) days of the end of service, or from the end of hospitalization continuing after discharge for a period of not more than one (1) year for an injury/illness related to deployment.

The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

5.15. MILITARY RESERVIST LEAVE

Any employee who is member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days (160 hours) in any one (1) calendar year.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees serving in the National Guard or Military Reserve will receive full compensation for a period of twenty (20) days (or 160 hours) of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged to any form of accrued paid leave. An employee requesting military leave shall provide the City the dates for training and travel time in advance. After the twenty (20) working days (or 160 hours) of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, may use up to five (5) days of sick leave in lieu of vacation leave for the purposes of not having to take leave without pay.

Active State Duty: Army/Air National Guard and TN State Guard, Civil Air Patrol

In addition to the leave of absence provided above, employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Pursuant to T.C.A. § 42-7-102, members of the United States air force auxiliary civil air patrol who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

5.16. LEAVE WITHOUT PAY

Leave without pay is defined as time off from regular work which may be granted without pay at the recommendation of the employee's department head. Leave without pay may only be authorized by the Mayor unless provided for statutorily (i.e. FMLA, Mat/Pat, ADA).

Leave without pay may only be granted after an employee exhausts all applicable paid leave, and for a period not to exceed three (3) months for good and sufficient reasons which are considered uncontrollable. When an employee is on Leave Without Pay for greater than half of their assigned shifts during any calendar month no sick or vacation leave accumulates until the employee returns to work for greater than half of their assigned shifts for the calendar month in which they return.

There is no job protection entitlement associated with a leave without pay except where statutorily mandated. Such leaves of absence may be granted to regular, ongoing full-time employees in instances where unusual or unavoidable circumstances require a prolonged absence and all applicable unpaid and paid-time-off options have been exhausted, e.g. sick leave, vacation time, etc.

Additionally:

- Health insurance premiums must be paid on a monthly basis; if leave is not covered under FMLA, the entire amount of COBRA premium will be paid by the employee to the appropriate COBRA administrator.
- The City reserves the right to limit the number of leaves granted an employee unless statutorily mandated.
- The employee on leave without pay will not receive holiday pay.

An employee who utilizes leave time to actively pursue other employment or who accepts any employment or goes into business while on leave of absence shall be considered to have resigned from their employment and will be terminated as of the day the other employment began.

5.17. EMPLOYEE TRAINING

The Mayor or his/her designee may require employees to attend conferences, seminars, workshops or other functions that are intended to improve or upgrade the employee's job skills.

Employees are also encouraged to take advantage of education and training benefits to improve their job skills and ability to qualify for advancement opportunity. These benefits are limited to training and education relevant to the employee's current position or "reasonable" transfer and/or advancement opportunities. "Reasonable" is defined as attaining the minimum qualifications for advancement or transfer with no more than two years of additional training or education.

Education and training benefits will be available to employees on a first-come, first-served basis, subject to the availability of budgeted funds and departmental operational needs. Requests for training may be initiated by either the employee or the City. Certificates of completion should be forwarded to Human Resources for inclusion in the employee's personnel file. Final decisions on requests for education and training will be made by the Mayor and the department head. Requests to attend training sessions should be made at least 15 days prior to the deadline for registration (if available). The department head, based on the supervisor's recommendation, will determine who will attend conferences and/or training opportunities based on the availability of budgeted funds.

When a request for training is approved, the employee's cost for registration, tuition, training materials transportation, lodging, and other reasonable expenses will be covered by the City. All professional training should be documented in Human Resources training files.

5.18. EMPLOYEE ASSISTANCE PROGRAM

As a benefit to employees, the City of Portland provides an employee assistance program which allows for up for three sessions per issue per year with a mental health counselor for employees and their family members. In addition, there is access to limited legal and financial advice as well as online information on general issues.

Unless as part of a disciplinary referral, utilization of this program is confidential and encouraged as undue stress, either job or family related can interfere with your health or success at work or in your daily activities.

There are instances in which supervisors may feel it necessary to make a mandatory referral to the EAP when either your behavior or attitude at work is having a detrimental effect on the organization.

Prior to making a mandatory referral, supervisors should consult with HR. Should this referral be approved, the employee will be required to sign a release of information regarding attendance and level of cooperation during the sessions. No other information will be requested. Failure to attend the mandatory counseling or an uncooperative attitude (in the opinion of the counselor) will result in immediate disciplinary action, up to and/or termination.

5.19. EDUCATIONAL / TUITION ASSISTANCE

PROGRAM SUMMARY: The City of Portland offers educational assistance to eligible employees. Any approval of educational assistance must be applicable to the employee's current job or professional development deemed beneficial to the operation of the City. Assistance must be approved and employees must agree to the stipulations of the programs outlined below for participation.

The City reserves the right to limit Educational/Tuition Assistance opportunities on a first-come, first-served basis; to limit opportunities to comply with fiscal constraints and budgetary responsibility; and to limit opportunities to those circumstances deemed to be work or job-related in the best interest of the City.

EDUCATIONAL ASSISTANCE (Scope of the benefit):

- A. The *Educational Assistance Reimbursement Program*** includes tuition expenses, books and registration fees charged by colleges, universities and vocational/technical institutions for course work applied to the completion of a two- or four-year degree or technical diploma. Master's and doctorate level course work will be evaluated for the reimbursement program on a case-by-case basis. The City reimburses eligible employees after successful completion of the course and submission of the required paperwork. Participants will be required to sign a *City of Portland Tuition Reimbursement and Repayment Agreement* form.
- B. *Academy Training for Police Officer Certification*** Includes tuition, books and registration fees for course work applied to the completion of training through the state's police academy for police officer certification. Costs for police officer certification training will be paid in advance of the training to the state's academy. Participants will be required to sign a Police Department *Tuition Reimbursement and Repayment Agreement* prior to enrollment to recapture costs on a prorated basis if the employee leaves employment within two years of attending the academy.
- C. *Professional Development*** includes enrollment fees for training costs at approved seminars, workshops, conferences etc. related to an employee's job performance and skill development in their position. Approved Professional Development training costs paid on behalf of the employee do not require a reimbursement agreement.

EMPLOYEE ELIGIBILITY REQUIREMENTS for participation:

Eligible employees must:

- be a full-time employee at the time for application for participation in the program;
- have been employed full-time for at least one (1) year or required to obtain police officer certification;
- be performing at their job's "Acceptable" performance level;
- have completed, signed, secured the required approvals and returned all documentation on time.

Any failure to meet the eligibility and documentation requirements of the program(s) may jeopardize any reimbursement or pre-payment from the City of Portland, exclude an employee from future participation in the program(s) or, be cause for the repayment of funds to the City.

Participating employees are required to complete, sign and provide the following documentation:

- the Application for Educational Assistance (Reimbursement Program) form;
- the Tuition Reimbursement Agreement form;
- the applicable Repayment Agreement form;
- and provide the City of Portland with official evidence of satisfactory completion of any and all courses (with grades received) and documentation of any additional financial assistance from another agency or source within sixty (60) calendar days of completion of any pre-approved course.

PROCEDURE:

Educational Assistance Reimbursement Program -- Employees must submit a completed application with a proposed study curriculum from the learning institution to their department head at least 30 days prior to the registration deadline for such classes. Requests will be considered for attendance at accredited colleges, universities, business, technical/vocational schools and state run academies for single courses or programs leading to a degree, certificate, or a HiSET (High school equivalency test formerly a General Equivalency Diploma (GED)). The City reserves the right to review the adequacy of any programs, and/ or course work as to relevance to the position and the integrity of the educational process.

- A. . The City reserves the right to limit its assistance to the published average of the state's cost for post-secondary education tuition costs. Participants will be required to sign a *City of Portland Tuition Reimbursement and Repayment Agreement form* with the understanding that any monies owed will be deducted from their final paycheck as long as the final pay is not reduced to below minimum wage.
- B. **Academy Training for Police Officer Certification** -- Employees must submit a completed application form to their department head at the time of registration. Costs for Police Officer Certification training will be paid at registration (in advance) of the training to the state's academy by the City. Participants will be required to sign *Police Department Tuition Reimbursement and Repayment Agreements* prior to enrollment.
- C. **Professional Development** -- Employees must submit an approved (by the department head) purchase order for registration in the seminar, workshop, conference, etc. and provide a certificate or notification of completion to Human Resources for their training files, if provided. Repayment agreement is not applicable to this circumstance.
- D. **Grade Requirements for the tuition reimbursement program** -- If a written request is approved, the employee shall receive reimbursement for the cost of tuition (maintenance) fees upon proof of successfully completing the course(s) based upon the following schedule:
- 100% reimbursement for a grade of A, B or C
 - 0% reimbursement for a grade of D or F.
 - Pass/Fail class: Pass 100%, Fail 0%
 - Minuses and pluses (A-, B+, etc.) will not change the percentages

The city will reimburse up to a maximum of \$375/per credit hour (up to 12 hours per semester/quarter) to a maximum of \$5250 per fiscal year according to the above reimbursement schedule.

- E. **Additional financial assistance programs** -- The City's financial assistance for continuing education will be reduced by the funding amounts received from other agencies/sources such as scholarships, the Department of Veterans Affairs, etc. Employees will be required to provide documentation of the funding received from any other agency or source.

F. Required documentation at completion of course/training (for the employee file) --

1. at the end of all **educational assistance** course work (semester or quarter) -- the employee will provide an official transcript or grade report and an itemized statement of reimbursable expenses (with receipts) and documentation of all additional tuition assistance they receive from other sources to Human Resources for processing of the reimbursement.
2. At the end of the program for **Police Officer Certification Training** -- the employee will provide a copy of their certificate of completion to Human Resources for inclusion in his/her employee file.
3. **Professional Development Training** -- the employee will provide a copy of the certificate of completion (if applicable) from the training provider to Human Resources for inclusion in his/her employee file.

REPAYMENT REQUIREMENTS: Employees participating in the Educational Assistance Reimbursement Program, certain job-specific Certifications, and the Police Officer Certification Training program will be required to sign documentation agreeing that they are required to repay the City of Portland all or a portion of the funds paid on their behalf under the program for any affected course(s) or certification if they leave employment voluntarily, or involuntarily within two years from the cost being incurred by the City.

- A. ***Educational Assistance Reimbursement Program:*** If an employee is voluntarily, or involuntarily, separated from the City within two years (24 months) of receiving educational assistance through this program, the employee will be required to repay a portion of the funding paid on their behalf. The repayment plan will be calculated as an amount prorated over a 24-month period. Specifically, for each month of employment, after completion of the final course, the repayment amount owed to the City will be reduced by 1/24 of the total amount incurred and paid on behalf of the employee. The ***TUITION REIMBURSEMENT AGREEMENT & REPAYMENT AGREEMENT FOR TUITION REIMBURSEMENT FUNDS*** forms must be completed and signed.

Educational Assistance funds must be repaid if a participant:

1. does not successfully complete any course with a grade of "C" or better, as evidenced by an official grade report, transcript, or equivalent form;
2. drops, withdraws, or takes an incomplete grade in the course(s);
3. does not continue full time employment with the City of Portland at the start and completion of any course;
4. voluntarily resigns from the City of Portland's employment within two years after completion of the final course.

- B. ***Police Officer Certification Training:*** If a police officer is voluntarily, or involuntarily, separated from the City during the two years (24 months) after completion of the basic recruit training required to become a certified police officer, the employee will be required to repay the costs and expenses incurred by the City on a prorated basis. Specifically, for each month of employment, for two years after completion of the training program, the repayment amount owed to the City will be reduced by 1/24 of the total amount incurred and paid on behalf of the employee.

- C. ***Professional Development Training:*** An employee is not required to repay the costs of professional development training at separation.

WORK SCHEDULE ACCOMMODATIONS: In cases where employees have special scheduling problems while attending approved education or training programs, especially courses in preparation for a GED, reasonable effort will be made to allow the employee release time from his/her work schedule to attend classes, subject to departmental scheduling and workloads. In situations of this type, the employee may be required to make up the release time on a weekly basis. Written approval from the employee's department head must be obtained prior to using release time. Employees who obtain their GED or HiSet shall receive a one-time bonus of \$250.

NON-WORK-RELATED TYPES OF EDUCATION/TRAINING: Employees are encouraged to improve themselves through education or training, even if it is not related to their City work; however, the City will be unable to provide financial assistance for non-work-related types of education/training. Employees may be granted, upon written request, permission to take time away from their jobs for training when such time is taken without pay, as paid leave that is available and approved (excluding sick leave). This applies only so long as their absences are pre-approved and will not cause hardships for their departments.

TAX IMPLICATIONS: There may be tax implications for employees receiving Educational Assistance and/or Professional Development Training. Please contact your accountant or tax professional for complete details.

SECTION 6 – EMPLOYEE CONDUCT

It is the policy of the City of Portland that employees use appropriate conduct during the course of their official duties. These rules of conduct are established to give general guidelines to employees as to what is acceptable behavior and what is prohibited behavior. Violation of any of these or other appropriate rules shall be sufficient reasons for counseling, reprimand, suspensions, and/or dismissal of any City employee. Rules of Conduct are not intended to grant property interest in employment.

Employees may hold their positions during good behavior and acceptable performance, but may be removed for, but not limited to, the following reasons: acts of, or behaviors of, incompetence, inefficiency, ineffectiveness, dishonesty, insubordination, discourteous treatment of the public or other employees, unbecoming conduct, neglect of duty, undermining the efficiency and/or effectiveness of the City mission to deliver service to its citizens, unwarranted work slowdown or stoppage, and undermining employee morale.

6.1. GENERAL RULES OF CONDUCT

MISCONDUCT - The following list of unacceptable activities is a sample of the types of infractions to the Code of Conduct that may result in disciplinary action. It does not include all types of conduct that can result in disciplinary action, up to and including termination.

Rule 1 – VIOLATION OF RULES

Employees of the City of Portland shall not commit any act or omit any acts which constitute a violation of any of the rules, regulations, directives, or orders of this policy whether stated in this rule or elsewhere (i.e. departmental SOP/SOG). Examples: punching the timecard of another employee; leaving during workhours without the approval of the supervisor, etc.

Rule 2 – UNBECOMING CONDUCT

Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the City. Unbecoming conduct shall include that which brings the City disrepute or reflects discredit upon the individual as an employee of the City, or that which impairs the operation or efficiency of the City or individual. Examples: Using threatening, intimidating, abusive or vulgar language; fighting, horseplay, or other disorderly conduct; sabotage, etc.

Rule 3 – IMMORAL CONDUCT

Employees shall not participate in any incident involving moral turpitude, which impairs their ability to perform or causes the City to be brought into disrepute. Definition of Moral Turpitude: conduct that is believed to be contrary to community standards of honesty, justice or good morals, thought by a reasonable person to be shameful, corrupt or vile acts.

Rule 4 – CONFORMANCE TO LAWS

Employees shall in the course of their duties obey all laws of the United States and of any state and local jurisdictions in which the employees are present. A conviction of a violation of any law may be evidence of violation of this section.

Rule 5 – REPORTING FOR DUTY

Employees shall report for duty at the time and place required by assignment or orders and

shall be properly equipped and be cognizant of all information required for the proper performance of duty.

Rule 6 – NEGLECT OF DUTY

Employees shall not commit any acts expressly forbidden or omit any acts that are specifically required by the laws of this state, the ordinances of this City, the Personnel Policy, policies, procedures or directives of the City. Employees shall not engage in any activity or personal business, which could cause them to neglect or be inattentive to duty.

Rule 7 – FICTITIOUS ILLNESS OR INJURY REPORTS

Employees shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the City as to the condition of their health.

Rule 8 – EMPLOYMENT: SICK – INJURED – LIMITED DUTY

No employee shall engage in off-duty employment of any kind while on sick leave, workers compensation leave, or leave of absence status, except by specific written permission from the Mayor.

Rule 9 – SLEEPING ON DUTY

Employees shall remain awake while on duty. If unable to do so, they shall so report to their supervisor, who shall determine the proper course of action.

Rule 10 – UNSATISFACTORY PERFORMANCE

Employees shall maintain sufficient competency to properly perform their duties and assume the responsibility of their positions. Employees shall perform their duties in a manner, which will maintain the highest standards of efficiency in carrying out the functions and objectives of the department.

Unsatisfactory performance may be demonstrated by a lack of knowledge of the job duties; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the position; the failure to take appropriate action; or absence without approval.

Rule 11 – INSUBORDINATION

Employees shall promptly obey any lawful directives of a supervisor, manager, department head, or the Mayor.

Rule 12 – GRATUITIES.

Employees shall not accept, directly or indirectly, any money gift, gratuity, or other consideration or favor of any kind from anyone other than the City except as defined in the City of Portland Ethics Policy.

Rule 13 – ABUSE OF POSITION

Employees shall not use their official position, official identification card, or badges:

1. To secure any privilege or exemption for themselves or others that is not authorized by the charter, general law, or ordinance or policy of the City.
2. To avoid consequences of unlawful acts.

Employees shall not lend their identification cards or badges to another person or permit them to be photographed or reproduced without the approval of the Mayor.

Rule 14 – ENDORSEMENTS AND REFERRALS

Employees shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service.

Rule 15 – CITIZEN COMPLAINTS

Employees shall courteously and promptly direct complaints against employees to a supervisor for handling. Supervisors taking a complaint may attempt to resolve the complaint but shall never attempt to dissuade anyone from lodging a complaint against any employee.

Rule 16 – COURTESY

Employees shall be courteous to the public and co-workers. Employees shall be tactful in the performance of their duties; shall control their tempers and exercise the utmost patience and discretion; and shall not engage in argumentative discussions. In the performance of their duties, employees shall not use coarse, violent, profane, or insolent language or gestures, and shall not express any discriminatory intent toward members of protected classes.

Rule 17 – REPORTS

Employees shall submit all required reports on time and in accordance with established procedures. Reports submitted by employees shall be truthful and complete and no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information, or alter, remove, or destroy any report once filed for the purpose of altering the natural order of information.

Rule 18– ISSUANCE / RETURN OF CITY OWNED EQUIPMENT

Each employee may be issued or provided with authorized equipment required for duty. Any employee separated from employment shall return all equipment issued.

Employees shall utilize City-owned property only for its intended purpose in accordance with established procedures and shall not abuse, damage, alter, tamper with, repair unless authorized, or allow unauthorized persons to use City-owned property. All City-owned property issued to employees shall be maintained in a proper order and returned upon separation from employment. Intentionally defacing or damaging City property is not permitted.

Rule 19 – TRUTHFULNESS

Upon the directive of the Mayor, department head, Human Resources, or a supervisor, employees shall fully and truthfully answer all questions specifically directed and narrowly relating to the performance of official duties or fitness for duty which may be asked of them.

Rule 20 – PRIVACY

Employees provided lockers in the work place are expected to provide their own lock and to keep the locker locked when away. Liability for loss or damage to content of lockers cannot be assumed by the City. Employees may be requested to open their assigned locker for periodic housekeeping, inspections or other occasions when it is appropriate and/or necessary. Those who use the locker rooms are expected to assist in keeping them clean and orderly. Any suspicious activity around lockers, as well as break-ins and theft, should be reported to a supervisor. All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.

Rule 21 – ETHICAL and LEGAL BEHAVIORS

Employees shall not conspire or knowingly engage in any activity which deprives any person of their civil rights, due process, equal opportunity for employment, advancement, job opportunities, or any constitutional or statutory guaranteed right. No employee shall disseminate confidential or protected information to any unauthorized person for any purpose.

Employees are responsible to follow the ethics code as defined in Portland Municipal Code, Title 4, Chapter 8, Code of Ethics

6.2. DRESS CODE

Employees' personal appearance and hygiene are important both to employees and the City. Employees are expected to maintain a good personal appearance and to give consideration to neatness and cleanliness. Employees should always dress in a manner befitting the job, with due consideration to the needs of the City, other employees, and safety. Employees are responsible for dressing appropriately for work and following the dress code.

Supervisors/managers and, when notified, the Human Resources Department will interpret the application of the dress code and the appropriateness of an employee's dress at work.

Dress and appearance should not be offensive, revealing, sloppy or distracting. Clothing that works well for the beach, yard work, dance clubs, exercise sessions, and sports contests is not appropriate for a professional, casual appearance at work.

The following dress code includes appropriate appearance and dress guidelines for employees in both office and field positions. Employees in the Police, Fire, Parks and Public Works Departments are furnished uniforms, which must be worn on the job at all times.

Office personnel are expected to dress appropriately for their work environment (i.e., dress slacks, dresses, skirts and appropriate blouses, shirts, sweaters, jackets, sandals, boots, loafers, pumps).

Clothing that is not allowed to be worn by employees while working includes, but is not limited to, the following:

- tattered/torn jeans or shorts
- shirts with language or graphics that are vulgar, sexually explicit, or may otherwise be offensive;
- attire that is too tight, revealing or provocative;
- clothing that exposes bare midriffs;
- mini-skirts, sun dresses, beach dresses, spaghetti-strap dresses;
- see-through blouses or shirts;
- sports bras, halter tops, or similar attire;
- tank tops, muscle shirts or mesh shirts;
- flip-flops;
- hats (in the office);
- sweat suits, sweat pants, ski or jogging pants/shorts.

Also, remember that some employees are allergic to the chemicals in perfumes and makeup, so wear these substances with restraint.

Employees arriving at work dressed inappropriately will be sent home to change, with no pay for the time so spent. Repeated violations of the dress code may result in disciplinary action up to and including termination.

On “Casual Fridays” office personnel may wear neat, clean blue jeans (must not have holes or tears) and t-shirts, sweat shirts, sneakers, and sandals. However, items of casual clothing bearing offensive slogans and/or prints and/or with designs that are inappropriate, vulgar, offensive, or advertise drug, alcohol or tobacco-related products are not permitted.

6.3. DRUG FREE WORKPLACE

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City has adopted by resolution a drug and alcohol testing policy. The policy complies with the Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. The types of tests that may be required under the DFW policy are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol is prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to disciplinary action. Prohibited and/or illegal conduct includes but is not limited to:

1. being on duty or performing work for the City while under the influence of drugs and/or alcohol;
2. engaging in the manufacture, sale, distribution, use or unauthorized possession of drugs at any time and of alcohol while on duty or while in or on City property, or City vehicles;
3. refusing or failing a drug and/or alcohol test administered under this policy;
4. providing an adulterated, altered, or substituted specimen for testing;
5. use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures

Employees who are required to take prescribed or over-the-counter medication shall notify the immediate supervisor should the medication produce any effects which might limit the employee's ability to safely perform his/her job. Per Public Chapter 373 – 2019 a valid prescription is defined only as a prescription issued within six (6) months prior to a positive drug test.

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or disciplinary actions up to and including termination of employment. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or disciplinary actions up to and including termination of employment.

All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.

- a. Property includes, but is not limited to, vehicles, desks, containers, files and storage lockers.
- b. Employees assigned lockers (that are locked by the employee) are also subject to inspection.

Employees who have reason to believe another employee is using alcohol or illegal drugs while on duty must report the facts and circumstances immediately to their supervisor or Human Resources. Failure to do so may result in disciplinary action. Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head who shall immediately forward the information to Human Resources.

The City performs post-offer, pre-employment; random selection (for safety sensitive positions); post-accident; reasonable suspicion; fitness-for-duty; and follow-up drug testing.

All employees in safety-sensitive positions (such as gas department employees, equipment / vehicle operators that require a Commercial Driver's License, Police and Fire department employees, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, Title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199).

DOT regulated positions (i.e. CDL drivers) upon being engaged in a vehicle accident, or have been removed from duty due to reasonable suspicion of being under the influence by a trained supervisor, cannot resume driving activities until results of drug/alcohol screen have been confirmed as negative.

As a condition of continued employment with the City, all employees must abide by the City's policy and notify the immediate supervisor of any criminal drug statute convictions within five (5) days after such conviction. The City, in turn, informs any granting or contracting agency within ten (10) days of such notification.

Failure to comply with the provision or intent of this rule may be used as grounds for disciplinary action up to and including termination, or for requiring the employee to participate satisfactorily in an approved drug abuse assistance or rehabilitation program.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of City, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City may omit that employee from that random testing or await the employee's return to work.

An employee or job applicant whose drug test yields a positive result, indicating the presence of drugs or alcohol, shall be given the opportunity to speak with the Medical Review Officer prior for a final determination. Test results are then forwarded to Human Resources for appropriate action.

A job applicant will be denied employment with the City if his/her post-offer, pre-employment test result has been confirmed positive.

Current employees will be subject to disciplinary action up to and including termination of employment if their test result has been confirmed positive, if they refuse to test, or for any other violations outlined in the Drug Free Workplace policy.

To the extent allowed under the Tennessee Open Records Law, all information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results.

6.4. TRAVEL POLICY

All employees and elected and appointed officials are required to comply with the City's travel policy, adopted separately by ordinance, and any applicable laws and charter provisions. All trips that involve reimbursement and/or City expense shall not be undertaken without prior approval of the City. Mileage, meals, incidentals and expenses will be reimbursed according to the provisions of the City of Portland Travel Policy. For details regarding travel, obtain a copy of the City's travel policy from the City Recorder or Finance Department.

6.5. WORKPLACE VIOLENCE AND HARASSMENT POLICY

The City is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of the City to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the City's activities. Employees and customers are to be treated with courtesy and respect at all times.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of bullying or harassment will be tolerated, including sexual harassment and harassment based on race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, exercise of free speech made as a citizen as a matter of public concern, refusal to participate in or remain silent about illegal activities, exercise

of a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law.

This policy applies to all City employees, elected officials, appointed officials, regular part time/temporary employees, members of the public, and contractors. The governing body may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials.

Per Public Chapter 331 – 2019 the City can seek an injunction against a person who commits harassment against a City employee. Harassment under this statute is defined as two (2) or more instances of contact serving no legitimate purpose directed at an employee, in connection with that persons status as an employee, that a reasonable person would consider alarming, threatening, intimidating, abusive, or emotionally distressing and that does or reasonably could interfere with the performance of the employee's duties.

The City will not tolerate bullying, or verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, abusive, offensive or hostile environment.

1. No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:
 - a. Verbal harassment – Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive flirtations or propositions; verbal intimidation; exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.
 - b. Physical Harassment – Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
 - c. Visual Harassment – Displaying derogatory or offensive posters, cartoons, publications or drawings.
 - d. Bullying – Workplace bullying refers to unwanted aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The imbalance of power involves the use of physical strength, access to embarrassing information, or popularity to control or harm others. This behavior may be performed by individuals (or a group) directed towards an individual (or a group of individuals).
 - e. Abusive Conduct - acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to:
 - i. repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
 - ii. verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or

- iii. the sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe; multiple acts may arise to the level of pervasive. To aid employees in identifying abusive conduct, the following examples are provided.

These examples are not exhaustive; they illustrate, however, the types of conduct that may violate this policy:

- Intimidating an employee by excessive yelling, repeated emotional outbursts, berating others, using an unreasonably harsh tone of voice;
- Undermining another's work by withholding pertinent work-related information or purposefully giving incorrect information, or by not giving enough information to do what is required, as compared to others;
- Persistent or constant criticism in front of others for the purpose of humiliating another employee;
- Isolating an employee from co-workers, or launching a campaign not based on facts to provoke an employee to leave or be removed;
- Making humiliating or degrading remarks about a person through or on social media; or
- Any malicious behavior a reasonable person would find unprofessional, disturbing, and/or harmful to his or her psychological health.

Under no circumstances are the following items permitted on City property, including City-owned parking areas, except when issued or sanctioned by the City for use in the performance of the employee's job:

- a. dangerous chemicals;
- b. explosives or blasting caps;
- c. other objects carried for the purposes of injury or intimidation.

Copies of the investigative report with recommendations for appropriate action will be turned over to the Mayor to determine the appropriate further action.

Anyone determined to be responsible for threats of, or actual violence, or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors, Human Resources, or the Mayor before the situation escalates into potential violence.

The City is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion if they believe a criminal act has occurred.

Employees are prohibited from interfering or attempting to interfere with any departmental investigation.

False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action, up to and including termination.

The City will not tolerate harassment of its employees. The City will take necessary steps to stop such harassment when it occurs from employees, or third parties.

This policy applies to all officers and employees of the City including, but not limited to: full and regular part time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the Human Resources rules or regulations, citizens, third parties, and employees working under contract for the City.

Sexual Harassment

The following actions constitute an unlawful employment practice and are absolutely prohibited by the City when they affect employment decisions, create a hostile work environment, cause distractions, or unreasonably interfere with work performance. They are:

1. Sexual harassment or unwelcome sexual advances;
2. Requests for sexual favors;
3. Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. Explicit or implied job threats or promises in return for submission to sexual favors;
5. Inappropriate sexually-oriented comments on appearance;
6. Sexually-oriented stories;
7. Displaying sexually explicit or pornographic material, no matter how the material is displayed or communicated; and/or
8. Sexual assault on the job by supervisors, fellow employees, or non-employees
9. Demeaning insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, video and audio, and internet materials).

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

Making harassment complaints

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Any number of individuals may be chosen. The object is to give several options to a harassment victim. Complaints may be made orally or in writing to:

1. The employee's immediate supervisor,
2. The department head,
3. Human Resources,
4. The Mayor, or
5. the City Attorney.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people allegedly committing the harassment, including their title(s), if known;
3. the specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

Employee Obligation

Employees are obligated to report instances of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are to refrain from making bad faith accusations of harassment.

Disciplinary action may be taken against an employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action up to and including termination of employment.

Reporting and investigating harassment complaints

The Human Resource representative, or designee as appropriate, is the office the City designates as the investigator of harassment complaints against employees. In the event the harassment complaint is against the Human Resource representative, the investigator may be independent outside counsel appointed by the Mayor, or provided through the City employment practices liability insurer.

When an allegation of harassment is made by any employee, the following shall occur:

1. the City may separate the complainant and accused party for the duration of the investigation upon the approval of the department head and Mayor;
2. the investigator will meet with the employees, any witnesses, the supervisor(s), any other members of management considered appropriate and other individuals that may have relevant information. The investigator may elect to conduct a hearing as part of the investigation process;
3. the investigator will prepare a report of the complaint and submit it to the Mayor;

4. the investigator will make and keep a written record of the investigation, including notes on:
 - a. verbal responses made to the investigator by the person complaining of harassment,
 - b. witnesses interviewed during the investigation,
 - c. the person against whom the complaint of harassment was made, and
 - d. any other person contacted by the investigator in connection with the investigation.
5. the investigator will prepare and present the findings to the Mayor in a report, which will include:
 - a. the statement of the person complaining of harassment;
 - b. the statements of witnesses;
 - c. the statement of the person against whom the complaint of harassment was made; and
 - d. all the investigator's notes connected to the investigation.
6. If the City suspects a criminal act has occurred, the investigation process may be turned over to the Portland Police department or an outside agency for review.

Actions on complaints of harassment

If the Human Resources representative or Mayor, or designated investigator, determines that the report is not complete in some respect, they may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person(s) who may have knowledge about the harassment.

Based upon the report and his/her own investigation, the Human Resources representative and/or Mayor, within a reasonable time, will determine whether the conduct in question constitutes harassment.

In making that determination, the Human Resources representative and/or Mayor may look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether harassment actually took place will be determined on a case-by-case basis.

If the Human Resources representative and/or the Mayor determines that the harassment complaint is founded, the City shall take immediate and appropriate disciplinary action against the offending employee, consistent with its authority under the City charter, ordinances, resolutions, or rules governing its authority to discipline employees.

The disciplinary action may include oral counseling, written reprimand, suspension, demotion, mandatory referral to the EAP program, or termination depending upon the severity of the matter and circumstances surrounding the incident(s).

A written record of disciplinary actions, including oral reprimands, shall be maintained in the employee's human resources file.

Determining the level of disciplinary action shall also be made on a case-by-case basis. The disciplinary action may be consistent with the nature and severity of the offense and any other

factors sincerely believed to relate to fair and efficient administration of the City. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. The City will notify the employee who filed a harassment complaint of the outcome of the investigation once determined.

In all events, an employee found guilty of violation of this policy shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation. All other City employees are also hereby warned not to retaliate in any way to the complaining or participating parties.

Any such retaliation or harassment may include disciplinary action, up to and including termination of employment.

If the employee complaining of harassment is not satisfied with the manner in which the City addressed the complaint, the employee shall be given an opportunity to present a request for review of the outcomes to the Mayor through the City Grievance Process.

The Office of the Mayor will render a determination in the matter within prescribed timelines, and in the manner outlined in applicable grievance or complaint processes.

The decision of the Mayor will be final in all such matters, unless otherwise provided for in these personnel policies.

The Mayor has the authority to appoint a neutral third party (arbitrator) to be the final decision-maker in lieu of the Mayor when he/she determines that a neutral third party is in the best interest of the City.

6.6. COMPUTER AND ELECTRONIC DEVICE USE

It is every employee's duty to use the City's computer resources and communication devices responsibly, professionally, ethically and lawfully. These policies are not intended to, and do not grant users any contractual rights. The term "computer resources" refers to the City's computers, electronic equipment, and its entire computer network.

The computer resources are the property of the City and should be used for legitimate business purposes. While personal use of City computer resources including Internet and electronic mail is not forbidden, it is limited to breaks and meal times. Personal use shall be minimal and shall not interfere with the performance of job duties and responsibilities. Users are permitted access to the computer resources to assist them in performing their jobs. Use of the computer resources is a privilege that may be restricted or revoked at any time. All information contained in the computer resources and all documents generated there from are for the exclusive use of the City in connection with the conduct of its business and are the sole property of the City. Periodically, the City may make a random check of any device in order to ascertain any abuse.

A. General Computer Policies

- Computer information, programs, software and hardware are owned by and licensed to the City.

- All systems and information are considered proprietary.
- Utilization of computing resources, the Internet or electronic mail may not be used in any way that may be disruptive to the City's operations or in violation of Federal or State laws or City policy.
- Only those persons currently employed (or given special permission) are permitted to use any computer resources owned, leased or in control of the City of Portland.
- **Employees have no right or expectation of privacy regarding computing resources, the Internet or electronic mail and voice mail systems.** The City has the right to monitor Internet and e-mail use for security, as well as detection of an employee's use of these services for personal use on company time.
- Use of the City of Portland's computer resources or Internet connections for gambling, obtaining or distributing pornographic materials and all other illegal activity is strictly forbidden. The City actively monitors incoming and outgoing internet traffic for this type of usage.
- Programs and/or downloads related to specialized icons, wallpaper, screensavers, instant messaging, chat rooms, and online gaming is strictly prohibited.
- Only information system personnel or agents contracted by them may install software or hardware on any City computer system. Information systems personnel may, at their discretion, authorize staff to perform specific software or hardware installations. All other software or hardware installations are strictly prohibited.
- The changing of, or introduction of, any original software or hardware on users' systems or other company computer or communications systems from the original issued form is forbidden, without prior IT Department approval.
- No software programs are to be installed on any computer equipment without IT management's approval.
- Unless departmental arrangements have been made, always obtain permission from a co-worker before using his/her computer. Please be considerate, if you must use someone else's computer, do not change their colors or other settings.
- Do not log into your colleague's account(s). However, staff may authorize other staff members to use shared files and/or directories in cooperative projects.
- Where copyright laws apply, the City forbids unlawful copying of any software or manuals.
- Anyone misusing or tampering with computer information or equipment will face disciplinary action up to and including termination, as well as, possible prosecution. Also, violations of the policy guidelines can lead to revocation of system privileges.
- The City of Portland is under no obligation to store or forward the contents of an individual's computer files, e-mail inbox/outbox or voice mails after the termination of the individual's employment.

B. Internet Usage

- Access to the Internet is for the exchange of information and research consistent with the vision, mission, goals and activities of the City of Portland.
- Employees are expected to use the Internet solely for job related or approved educational research and City business communications during work hours.
- Employees shall not use the Internet for inappropriate or unlawful purposes, including but not limited to, placing unauthorized information, computer viruses or harmful programs on or through the computer system in either public or private files or messages, using obscene or otherwise inappropriate language in communications and obtaining, viewing or downloading information that is unlawful, obscene, indecent, vulgar, pornographic or otherwise objectionable.

- Employees are prohibited from posting anything on the Internet that could be construed as an act of unlawful harassment, a threat, or other evidence of discrimination.
- An employee may not characterize him or herself as representing the City, directly or indirectly, in any online posting unless done pursuant to a written policy of the City.
- Internet access records and records of downloaded files are not private and may be occasionally monitored as the Mayor or department head deems necessary.
- Department heads shall be responsible to ensure proper employee use of the Internet.
- Inappropriate or unlawful use of the Internet may result in the loss of access for the user and, depending on the seriousness of the infraction, can result in disciplinary action as deemed necessary.

C. E-Mail Usage

- In general, electronic mail is treated no differently than any other business record or correspondence.
- Employees should be aware that all types of business records are subject to inspection, review, or disclosure without prior notice for any business purpose or as required by law.
- Electronic mail may constitute a public record under certain circumstances and may be accessible or obtainable by individuals, agencies and others outside the City and subject to state archivist rules for retention / destruction.
- All electronic mail originating from or received by City computer systems is City property, and is not considered private information.
- Electronic mail may be monitored by the department head and/or the Mayor as they deem necessary.

6.7. SOCIAL MEDIA

This policy applies to every employee employed by the City in any capacity who post any material whether written, audio, video, or otherwise on any website, blog or any other medium accessible via the Internet.

City of Portland departments may utilize social media and social network sites in support of City goals and objectives. To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, City departments may consider participating in social media formats to reach a broader audience. The City of Portland encourages the use of social media to further the goals of the City and the missions of its departments where appropriate.

The Mayor and department heads will approve which social media outlets may be suitable for use by the City and its departments.

The City of Portland's website will remain the City's primary and predominant Internet presence.

All official City presences on social media sites or services are considered an extension of the City's information networks and are governed by the City of Portland's policy.

The Mayor and department heads will review department requests to use social media sites. In addition, the Mayor and department heads may assist in the selecting of appropriate social media outlets, as well as defining a strategy for engagement using social media.

Departments that use social media are responsible for complying with applicable federal, state, and local laws, regulations, and policies, as well as all applicable City policies. This includes adherence to established laws and policies regarding copyright, records retention, the open records statutes, the First Amendment, and privacy laws.

Authorized employees representing the City government via social media outlets must conduct themselves at all times as representatives of the City. Employees that fail to conduct themselves in an appropriate manner shall be subject to the disciplinary action outlined in the *City of Portland Personnel Manual* and the City of Portland Information Systems Policy and Procedures. Violation may also result in the removal of department pages from social media outlets.

Departmental staff members are responsible for the content and upkeep of any social media pages or sites that a department might create. One contact will be designated by the department and approved by the Mayor.

The simultaneous use of a City email address, job title, official City name, or logo in conjunction with a posting may be evidence of an attempt to represent the City in an official capacity. Other communications leading a reasonable viewer to conclude that a posting was made in an official capacity may also be deemed evidence to represent the City in an official capacity.

Any postings on non-City social media sites and platforms made in an official capacity may be subject to the Tennessee Public Records Act. A City employee posting on a non-City social media site or platform shall take reasonable care not to disclose any confidential information in any posting. When posting in a personal capacity an employee should take reasonable care to distinguish that his content is a personal expression and not that of the City.

6.8. ATTENDANCE

Punctual and regular attendance is necessary for the City to operate efficiently. The City provides a variety of forms of leave to cover absences from work. Employees are expected to report for duty, and be ready to begin work by the start of the regular work day or their regular shift, unless on approved leave.

Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor within the time frame established by each department, unless unusual circumstances prevent the employee from making proper notification. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. When this is not possible due to sudden illness or emergency, the employee is to notify his/her supervisor as soon as possible, and in all cases, prior to the start of the work day in which the employee will be absent. Failure to notify one's supervisor of absences, or abuse of leave policies may result in disciplinary action.

ATTENDANCE: Punctual and regular attendance is necessary for the efficient operation of the City. Attendance expectations for all employees are that they are to be at work every day, on time and work their complete workday. Uncontrollable circumstances may cause an employee's inability to meet attendance expectations. In those instances:

- Employees who are unavoidably late or absent from work due to illness or other cause must notify their supervisor (or the supervisor's designee if unable to reach the

supervisor) within the time frame established by his/her department before their regularly scheduled starting time (with the exception of an emergency situation).

- Employees should provide the reason for their absence and, if possible, an anticipated return to work date. A note should be provided to the supervisor if the employee is treated by a medical professional.
- Supervisors should notify Human Resources when an employee is absent more than three (3) consecutive days for guidance on possible FMLA leave eligibility.
- Failure to timely notify one's supervisor of absences may result in disciplinary action or dismissal.
- Excessive absences, unless protected under existing law, may be subject to disciplinary action regardless of an existing bank of available paid leave time.

Every City employee has been assigned working hours. These scheduled hours are not the same for every employee or every department.

Note: An unauthorized absence from work for a period of three (3) consecutive working days including three (3) days **no show/no call** will be considered a voluntary resignation.

RECORDING TIME: Some City employees record their hours on time sheets rather than “punching” time clocks. Employees who complete time sheets are subject to the same rules as those using a time clock.

- The 7-Minute Rule: Employees assigned a time clock must not clock in more than seven (7) minutes prior to the beginning of their work schedule, nor clock out more than seven (7) minutes after the end of their work schedule.
- Early or late clock-ins/outs in excess of seven (7) minutes deviation from the assigned work schedule must be justified and approved by the supervisor.
- Time accumulated on the time clock before or following the employee's scheduled work hours will not be allowed whether regular time or overtime – without written justification provided to the payroll office by the supervisor. The accumulation of extra time or overtime by virtue of early clock-in or late clock-out is prohibited as long as practices remain compliant with the FLSA regulations for time rounding 29 CFR § 785.48.
- An employee who does not have prior written permission and is found to have clocked in more than seven (7) minutes before his/her schedule, or clocked out more than seven (7) minutes after his/her schedule, will be in violation of the provisions of this policy and subject to discipline.

TIME CALCULATIONS: Tardiness exceeding the seven (7) minute grace period will be counted in 15-minute increments **for purposes of payroll calculation**. Fractions of time on the clock beyond the seven (7) minute grace period resulting in overtime will be paid in 15-minute increments but only when overtime has been authorized. **All issues of tardiness up to and including the 7-minute period are subject to disciplinary action.**

- Continual and/or repeated deviations from the assigned working hours will be grounds for disciplinary action. Such deviations include, but are not limited to: changes of schedule without prior approval, excessive tardiness, and clocking in/out too early or too late.
- Any time a City employee leaves the workplace during the workday, except for work-related business, the employee must clock out. Upon returning to work, the employee must clock-in.

PAID TIME OFF and TIME OFF DOCUMENTATION: If the time card /sheet calculations result in less than the assigned work hours for the pay period, the employee must claim paid-time-off leave e.g. vacation leave*, funeral leave*, sick time*, jury duty*, or other paid-time-off reason for the lost time. (**NOTE: All of these must be approved, and some in advance.*)

Prior arrangements, approved by the supervisor, for lost time for anything other than the approved, paid-time-off reasons noted above may supersede the prior approval requirement. In other words, the employee shall be docked for lost time during the workweek if no provision is made for the absence by using any of the paid-time-off reasons listed above.

For any time off including the *leave times mentioned above, a *Time Off Request Form* must be completed and approved by the supervisor in advance, except in the event of an emergency.

FALSIFICATION OF RECORDS: Time cards/sheets must be signed by the employee and forwarded to the supervisor for review and approval. The employee's signature attests to the accuracy and completeness of the time card/sheet.

No City employee is to punch the time clock in/out for another employee. This and any deliberate documentation errors to time cards/sheets will be considered falsification of records and documents and shall be a violation of City policy that will result in both employees receiving disciplinary action. **Per Public Chapter 495 – 2019 the penalty for knowingly making a false entry in, or a false alteration of a government record, may be punishable as a Class E Felony under Tennessee Law.**

SECTION 7 – SEPARATIONS AND DISCIPLINARY ACTION

7.1. SEPARATIONS

All separations of employees from positions with the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, death, or dismissal. At the time of separation and prior to final payment, all records, assets, and other City property in the employee's custody must be transferred to the City. Any amount due for failure to return City property may be withheld from the employee's final compensation on a depreciated/prorated basis. Deductions from pay cannot result in the employee being paid less than the federal minimum wage. These rules are not intended to grant property interest in employment.

7.2. RESIGNATION

In the event an employee decides to leave the City's employ, an appropriate (customarily, two weeks') notice shall be given so that arrangements for a replacement can be made. In such a case, employees will be expected to return any/or all City equipment assigned and/or in their possession. An unauthorized absence from work for a period of three (3) consecutive working days may be considered resignation from employment by means of job abandonment.

In the event an employee tenders a resignation with appropriate notice while in good employment standing, and not under investigation for an offense in violation of City policy, the City may, if in the best interest of City operation, remove the employee from service and compensate them for remaining scheduled work hours, and any unpaid vacation. In this event the employee will be placed on Administrative Leave with Pay until the last day of official employment not to exceed two (2) weeks.

If a former employee returns to City employment after resigning, his/her status of seniority, pay, leave, etc., will be the same as a new employee.

7.2. REDUCTION IN FORCE (LAYOFF)

To establish an effective and equitable process in the event that a reduction-in-force (RIF) is necessary, a RIF may be determined as necessary by the Mayor. The Mayor may promulgate additional policy, rules and procedures necessary for the implementation of a RIF.

This regulation applies to all regular full time, regular part time and temporary employees. Provisional employees, hired for a specific period covering the duration of an assigned project, are not subject to the provisions of this policy. State-funded positions, which the City supplements, may be subject to a reduction or elimination of the City supplement. A loss of the City supplement may not ultimately result in a position reduction.

In the event that a RIF becomes necessary, consideration shall be given to organizational needs, the quality of each employee's service, and length of service in determining retention. For the purpose of this regulation, it is understood that upon determination that a RIF becomes necessary, a RIF plan may be implemented based on the circumstances.

Discharge, demotion, or layoff because of lack of work, RIF, or job elimination is non-grievable under the City's Grievance Policy and Procedure. The City retains the right, at any time, to abolish positions for business necessity.

7.3. DISABILITY

An employee may be separated from employment with the City for a disability when he/she cannot perform the essential functions of the job because of a physical or mental impairment that cannot be accommodated without undue hardship, or when the disability poses a direct threat to the health and safety of the employee and/or others.

7.4. RETIREMENT

Retirement is defined as voluntary withdrawal from City employment by an employee eligible to receive retirement benefits under Social Security, the Tennessee Consolidated Retirement System (TCRS), or other adopted retirement system. Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate schedule.

7.5. DEATH

All compensation due in accordance with T.C.A., Section 30-2-103, designation of beneficiary, wages and debts owed deceased employee, shall be paid except for such sums as by law must be paid to the surviving spouse.

7.6. DISMISSAL

The Mayor may remove all officers and employees of the City subject to the City Charter, state law, and provisions of this personnel ordinance.

7.7. DISCIPLINARY ACTION

Whenever an employee's performance, attitude, work habits, or personal conduct fall below desirable level, supervisors should inform employees promptly and specifically of such lapses and should give them counsel and assistance. All records associated with disciplinary action shall become a permanent part of the employee's file. The employee may attach a rebuttal statement.

The types of disciplinary action are:

1. oral reprimand,
2. written reprimand,
3. suspension,

4. reduction in pay,
5. demotion, and
6. dismissal

Disciplinary action may be remedial and progressive, if possible, with the objective of directing and motivating employees to fully carry forth their work obligations to the City.

Employees should be informed of standards of conduct, performance, and applicable rules and regulations. Rules and regulations should be consistently applied considering the gravity of the infraction, mitigating circumstances, previous work record, and other relevant criteria.

As a public employee, the City may require you to provide information as part of an internal and/or administrative investigation to determine whether disciplinary or administrative action is necessary. You may be ordered to truthfully respond to questions or be subject to disciplinary action. You may be asked questions specifically, directly and narrowly related to performance of your official duties or fitness for your job. You are entitled to all the rights and privileges guaranteed by the law and the Constitution of the United States, including the right not to be compelled to incriminate yourself. If you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you could be subject to discharge. If you do answer, neither your statement, nor any information or evidence which is gained by reason of such statement, can be used against you in any subsequent criminal proceedings. However, these statements may be used against you in relation to subsequent internal discipline.

ORAL REPRIMAND

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor should inform the employee of such lapses and should give him/her counsel. If justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. The supervisor will place a memorandum in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response. The memorandum will be reviewed with the employee prior to placement in the employee's file.

WRITTEN REPRIMAND

When an employee receives a written reprimand, a copy will be placed in the employee's file. The supervisor administering the reprimand will advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite applicable previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail performance improvement plans and identify dates by which the correction actions shall be taken.

At the conclusion of a meeting with the employee, a signed copy of the written reprimand will be given to the employee and a copy placed in the employee's file. It is recommended that the affected employee sign the written reprimand to indicate that he/she has seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the supervisor will obtain a witness to sign and date the form and so indicate the employee's refusal to sign.

SUSPENSION

An employee may be suspended with or without pay by the Mayor or by his/her department head with the approval of the Mayor.

REDUCTION IN PAY

An employee may have their pay reduced as a disciplinary action by the Mayor or by his/her department head with the approval of the Mayor.

DISCIPLINARY DEMOTION

An employee may be demoted by the Mayor or by his/her department head with the approval of the Mayor.

DISCHARGE

An employee may be discharged by the Mayor or by his/her department head with the approval of the Mayor. Employees who are involuntarily discharged are not eligible for payout of accrued but unused paid leave, but will be paid out any unused compensatory time. The action of the Mayor, or designee as authorized by the Mayor, shall be final and binding on all parties involved, unless overturned or remanded by the chancery court on appeal.

The City will assess discharge actions using the following standard:

- The employee was informed either verbally, or by promulgation of work rules, that an act or behavior could reasonably result in discipline.
- The employee should have known that the act or behavior could reasonably result in discipline due to the nature of the act or behavior.
- The City took reasonable steps to make a fair determination of the circumstance(s) involved.
- The City has reason to believe the employee committed the alleged infraction, act, or behavior based on observation of reasonable facts.
- The City took reasonable measures to ensure the consistent application of rules and regulations using available resources.

INVESTIGATIVE LEAVES

ADMINISTRATIVE LEAVE WITH PAY/REASSIGNMENT

An employee may be placed on administrative leave with pay from his/her specific job duties and temporarily reassigned pending the outcome of an investigation, and upon approval of the Mayor, or approved designee. A copy of the temporary removal/reassignment notification and related documentation shall be forwarded to Human Resources for inclusion in the employee's file.

ADMINISTRATIVE LEAVE WITHOUT PAY

When an employee is unable to effectively perform the duties of his/her position due to an ongoing investigation, the employee may be placed on administrative leave without pay by the Mayor, or authorized designee, pending the outcome of the investigation when it is in the best interest of the City. In the event the employee is determined eligible to return to his/her duty at the conclusion of the investigation, the employee will be restored with backpay for hours missed.

SECTION 8 – MISCELLANEOUS POLICIES

8.1. NONSMOKER PROTECTION ACT

The City complies with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and City-owned vehicles. All employees who operate City-owned vehicles are prohibited from smoking, the use of vapor devices, or use of smokeless tobacco in the vehicle or piece of equipment. This includes other occupants that may be being transported in the vehicles. Violators of this policy will be subject to disciplinary action.

8.2. VOTING POLICY

When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with T.C.A. 2-1-106. Any person entitled to vote in an election held in this state may be absent from any service or employment on the day of the election for a reasonable period of time, not to exceed three (3) hours, necessary to vote during the time the polls are open in the county where the person is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for such absence.

If the tour of duty [workday] of an employee begins three (3) or more hours after the opening of the polls or ends three (3) or more hours before the closing of the polls of the county where the employee is a resident, the employee may not take time off under this section.

The employer may specify the hours during which the employee may be absent. Application for such absence shall be made to the employer before twelve o'clock (12:00) noon of the day before the election.

8.3. IDENTITY THEFT POLICY

The risk to the City, its employees and customers for data loss and identity theft is of significant concern to the City and can be reduced only through the combined efforts of every employee and contractor. The City adopts this sensitive information policy to help protect employees, customers, contractors and the City from damages related to the loss or misuse of sensitive information.

Sensitive information includes the following items whether stored in electronic or printed format:

1. Credit card information (including credit card number (in part or whole), credit card expiration date, cardholder name, and cardholder address);
2. Tax identification numbers (including social security number, business identification number, and employer identification number);
3. Payroll information (including paychecks and pay stubs);
4. Cafeteria plan check requests and associated paperwork;
5. Medical information for any employee or customer (including doctor names and claims, insurance claims, or any related personal medical information); and

6. Other personal information belonging to any customer, employee or contractor (including date of birth, address, phone number, maiden name, names, or customer number).

Municipal personnel are required to use good judgment in securing confidential information to the proper extent. If an employee is uncertain of the sensitivity of a particular piece of information, s/he should contact the supervisor. In the event that the City cannot resolve a conflict between this policy and the Tennessee Public Records Act, the City will contact the Tennessee Office of Open Records.

Each employee and contractor performing work for the City will comply with the following Hard Copy Distribution policies:

1. File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.
2. Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.
3. Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.
4. Whiteboards, dry-erase boards, writing tablets, etc. in common shared work areas will be erased, removed or shredded when not in use.
5. When documents containing sensitive information are discarded, they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD) approved shredding device.

Each employee and contractor performing work for the City will comply with the following Electronic Distribution policies;

1. Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.
2. Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail:

"This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited."

Staff training shall be conducted for all employees, officials and contractors for whom it is reasonably foreseeable that they may come in contact with accounts or personally identifiable information that may constitute a risk to the City or its customers.

The Mayor, or designee, is responsible for ensuring that identity theft training for all requisite employees and contractors is provided. Employees must receive annual training in all elements of this policy. To ensure maximum effectiveness, employees may continue to receive additional training as changes to the program are made.

8.4. JURY AND CIVIL DUTY LEAVE

Civil leave with pay shall be granted to employees for the following reasons:

1. Jury duty (T.C.A. 22-4-108);

2. To answer a subpoena to testify for the City.

Employees providing proper documentation when selected for jury duty shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, s/he shall be expected to return to his/her department. An employee shall receive full pay from the City during jury duty. Any monies received from jury duty may be kept by the employee.

8.5. DRIVERS LICENSES

Any employee who is required as an employment condition to operate a City vehicle must possess and maintain an appropriate valid driver's license. Any employee who drives a City vehicle must **immediately** inform his/her supervisor if his/her license becomes denied, expired, restricted, suspended, or revoked. Periodic review of employees' driving records may be conducted by the City.

All employees required to drive:

- a vehicle with a gross weight of more than 26,000 pounds;
- a trailer with a gross weight of more than 10,000 pounds;
- a vehicle designed to transport more than 15 passengers, including the driver; and
- any size vehicle hauling hazardous waste requiring placards

Employees operating vehicles of greater than 26,000 GVW and/or carrying 15 or more passengers are required to have a Tennessee Commercial Driver's License in accordance with T.C.A. 55-50-101 et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

8.6. USE OF CITY VEHICLES

Use of City Vehicles: No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group, or organization other than the City. Decisions about aid to charitable, civic or other organizations will be made exclusively by the Mayor and the City Council.

Authorized Positions for Vehicle Take Home: Due to the need for various departments to have on-call employees available to deploy in emergency situations, a take-home vehicle policy may be adopted by Resolution of the City Council.

Rules for Drivers of City Vehicles:

- No one may ride in City vehicles except City employees or people who are directly involved in ongoing City projects such as engineers, contractors, and vendors.
- Absolutely no family members are allowed to ride in a City vehicle except for City related matters or functions. All employees who are not the on-call person may only use the City vehicle for City business.
- The paid on-call employee will be required to have the vehicle with them at all times.
- The on-call employee may not leave the City's geographical utility service area in the City vehicle without proper approval.

- City employees may use City vehicles to attend job related schools if assigned by the department head. No other City employee will be allowed to take a City vehicle home overnight unless specifically approved by the department head.
- All employees are required to keep their assigned vehicle clean with maintenance up to date and documented.
- No smoking (including vapor devices), or smokeless tobacco use shall be allowed in City vehicles at any time.

Any employee who is required as an employment condition to operate a City vehicle must possess and maintain an appropriate valid driver's license. Any employee who drives a City vehicle must immediately inform his/her supervisor if his/her license becomes denied, expired, restricted, suspended, or revoked. Periodic review of employees' driving records may be conducted.

8.7. BREAKS AND MEALS

Employees working an eight (8)-hour daily work schedule may be allowed to take a fifteen (15) minute paid break in the morning and another one in the afternoon. The supervisor/manager will coordinate break schedules based on the needs of the department.

With the exception of the Police Department, Fire Department and Water Treatment Plant, whose schedules must cover 24-hour operations, full-time employees will observe a 40-hour workweek with a one-hour unpaid meal break and two 15-minute paid break times scheduled at the discretion of the department head.

A. Coffee breaks and snack breaks (15-minute breaks) are compensable rest periods and cannot be excluded from hours worked as meal periods as long as they are under 20 minutes in length.

B. Meal Periods - "A bona fide meal time, when employees are completely relieved from duty, is not work time." 29 C.F.R. § 785.19(a). "Short periods, such as coffee breaks or snack breaks, are not considered meal time. If an employee works during the meal, the time is compensable. Whether or not an employee's meal period can be excluded from compensable working time depends on the employee 'freedom meal test'." 29 C.F.R. § 785.19(a). Unless all of the following three conditions are met, meal periods must be counted as hours worked:

1. The meal period generally must be at least 30 minutes, although a shorter period may qualify under special conditions.
2. The employee must be completely relieved of all duties. (If an employee must sit at a desk and incidentally answer the telephone this would be compensable time)
3. The employee must be free to leave his/her duty station. There are no requirements, however, that an employee be allowed to leave the premises or work site.

C. Smoking Breaks: The 15-minute breaks in the morning and afternoon are also the designated times for smoking breaks and are to be compliant with the Non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, equipment, and City-owned vehicles.

Note: Employees working in the field, away from their department office locations, must begin and end their 15-minute break(s) at the worksite. Travel time to and from the work location is included in the 15-minute break time.

Overtime, lunch breaks, break times and any other modification of the hours/time mentioned above shall be subject to approval of the department head.

8.8. INCLEMENT WEATHER

It is the City's intent to remain open through various weather situations unless it is determined that the essential functions of the City cannot be safely be administered. This decision will be made by the Mayor and will be communicated via appropriate communication methods.

However, when the weather conditions appear to be so severe that an employee fears for his/her safety in traveling to or from the work site, he/she may be absent with leave if the following conditions are met:

1. The employee informs his/her immediate supervisor of his/her absence and the reason for it as soon as possible; and
2. The employee reports to work immediately if a change in weather conditions allows safe transportation to the work site.

If the above conditions are not met, the employer will deduct the missed workday (or portion thereof) from accumulated vacation leave, and if no leave is available, the missed portion of the work day will be unpaid. Reporting this leave shall follow the same requirements as other leave.

In situations where advanced notice of closure is known, the Mayor will communicate such closure via appropriate means. If City government operations are closed due to inclement weather, all non-essential personnel will be provided administrative leave with pay. Those employees deemed essential personnel will be provided the choice between time off to be used at a later date equivalent to time awarded off with pay to non-essential employees, or payment incurred for the time served during closure of government operations.

The policy is meant for those who are in danger due to weather conditions only. Should any employee abuse this policy, he/she will be subject to disciplinary action.

8.9. PERSONNEL RECORDS

Per Public Chapter 495 – 2019 the penalty for knowingly making a false entry in, or a false alteration of a government record is punishable as a Class E Felony under Tennessee Law.

The City respects the dignity and worth of each individual employee, while asking each employee to offer in return his/her loyalty, respect, and best effort. The City will collect, retain, use, disclose, and maintain the confidentiality of employee information as required by law.

Human Resources records for each employee are kept on file and maintained in a secure manner by the Human Resource Department.

The Human Resources File for each employee may contain, but not be limited to the following information: 1) Human Resources action forms noting position and wage information; 2) performance evaluation forms and other documentation related to an employee's job

performance; 3) employment documentation including application and resume, employee data sheet, and income tax deduction forms; 4) outside employment forms; 5) official commendations, training and education records including certificates and diplomas; 6) complete documentation pertaining to all disciplinary matters and corrective actions; 7) information relative to grievance proceedings, and complaints of discrimination and harassment filed by the employee; and, 8) all applicable benefits records. All medical records shall be kept in a separate confidential file for each employee.

It is the responsibility of each employee to update personal information including change of address, telephone number, marital status, draft status, beneficiaries, number of dependents, or completed education/training maintained in the Human Resources file by notifying the Human Resource Department. The City shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep Human Resources records current.

Collection, Retention, and Use of Personal Information

The City will strictly follow the requirements of applicable laws regarding information collection concerning membership in protected class. With these restrictions in mind, the City will gather such information about job applicants or employees as determined by the City to meet compliance initiatives.

The following basic principles will be applied in collecting and retaining personal information:

1. The Human Resource Department shall maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by applicable provisions within a City charter, ordinance or resolution. The master file shall be the central file containing all employee information.
2. Each department head may maintain a file on each employee in his/her charge. The file shall be limited to performance evaluations, attendance records, official memos, letters, and information related to an employee's salary history. All information contained in this file must also be present in the master file.
3. Payroll data may be kept separately from the human resources file and the departmental file, although both may include information about an employee's salary history.
4. Supervisors may maintain separate files on their subordinates. The file shall be limited to performance evaluations, attendance records, official memos, and letters. All information contained in this file must also be present in the master file.
5. Employee information may be collected from employees whenever possible, but the City may use outside sources for other information where allowed by law.
6. Worker's Compensation documents will be maintained in a separate file in the custody of the Human Resource Department.
7. Medical information obtained from city provided medical examinations are the property of the City, and will be maintained in a secured file system separate from an employee's official Human Resources record. Medical information may include, but not be limited to the following: benefit documentation such as health insurance forms, fitness for duty examinations, drug testing results, medical information related to leaves of absence, inoculation records, etc. These documents will be maintained in a secured file system

that is not open for public inspection. These procedures are in accordance with applicable laws.

Employees' Access to Human Resources Records and Management Files

Employees may have access to and review their own Human Resources files during normal business hours. If the employee disagrees with any information found therein, the employee may submit a written disagreement to the Human Resource Department, which will be attached to the specific document in the file(s). Contents of employee files may not be removed. An employee desiring to access the Human Resources file of another employee must follow the procedures for public records requests.

Employees' Access Procedures

Employees may contact the Human Resource Department for an appointment to view their own file. Employees must review the file in the presence of an appropriate representative. Employees may take notes and may request to be provided with a copy of any of the file's contents subject to the City's policy on copy charges. Any question about the information's accuracy must be referred to the Human Resource Department. Employees may submit a note of disagreement to the Human Resource Department.

Disclosure of Applicant and Employee Records and Information

The content of applicant and employee Human Resources files is open to public inspection under the Tennessee Public Records law; however, some personal information has been deemed confidential under state and federal law. Only the Human Resource Department is authorized to disclose information about applicants and employees to outside inquirers.

Confidential information shall only be disclosed under the following circumstances:

1. properly identified and duly authorized law enforcement officials without a warrant when investigating allegations of illegal conduct by applicants and employees;
2. legally issued summonses or judicial orders, including subpoenas and search warrants; and
3. others as legally allowed by state and federal law.

Requests for copies of detailed applicant and employment information shall be made in writing and should be directed to the City Recorder who will then forward to the appropriate departments. Requests for public inspection of applicant and employee records shall be directed to the City Recorder who will then inform the appropriate departments.

Police Department applicant and employment records may be exempt from public access pursuant to state law. All requests for applicant and employment records shall be reviewed by the Chief of Police on a case by case basis. When a request is for a professional, business, or official purpose, and includes a request for personal information as defined by T.C.A. § 10-7-504(g), the Chief of Police (or designated custodian of files) must notify the officer prior to disclosure. The officer must be given a reasonable opportunity to be heard to oppose the release of the information. If the Chief of Police decides not to disclose personal information, the requestor must be notified within two (2) business days from the request and the files shall be released with personal information redacted.

All public records requested shall be subject to the City's public records request process.

Confidential information will be redacted out of any Human Resources files that are requested for inspection, as per Tennessee Law. Adequate time will be allotted to allow for redaction of such information as allowed by law. All requests will be completed promptly, and in a responsive and timely manner.

In all such matters, the employee shall be notified within seventy-two (72) hours of the records inspection and/or provision of copies. Police officers shall be informed that an inspection has taken place or copies have been provided; the name, address, and phone number of the person(s) making the request; person(s) for whom the request was made; and the date of inspection and/or the provision of copies. Exceptions for non-police employees may be made to release limited general information, such as the following: (a) employment dates; (b) position held; and (c) location of job site.



ACKNOWLEDGEMENT OF RECEIPT

Sign, date and keep this copy with your manual

Sign, date and return the duplicate acknowledgement to Human Resources

Employee Printed Name: _____ Employee #: _____

I acknowledge that I have received a copy (written or electronic access) of the City of Portland, TN Personnel Manual adopted by **Ordinance 20-07**. I understand and agree that it is my responsibility to read and familiarize myself with the policies and procedures contained in the Manual. If I have any questions, I understand that it is my responsibility to ask my supervisor or Human Resources.

I understand that any and all policies and practices can be changed at any time by the City by ordinance, or if appropriate by resolution. I understand and agree that other than by ordinance or resolution of the City Council a manager or representative of the City has no authority to enter into any agreement, expressed or implied, for employment for any specific period of time, or to make any agreement.

I understand and agree that the Personnel Manual may be changed at any time upon issuance of ordinance by the City Council. My continued employment indicates my agreement to work under those changes.

I understand that nothing in the Personnel Manual or any summary brochure or employee handbook should be deemed to be a promise by the City to provide any benefit. The City reserves the right to alter or eliminate any benefit, without notice, at any time by City Council action.

I understand that the Personnel Manual replaces (supersedes) any and all prior policies and any and all prior Personnel Manuals or employee handbooks and affected ordinances and/or resolutions, and any information contained in any such prior policy, handbook, or manual is no longer in effect.

As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I may not be informed prior to the drug and/or alcohol test if classified as a safety sensitive position, and that I may be subject to immediate dismissal if I refuse to take the test.

I am aware that the Personnel Policies grant me no property interest in my employment.

I understand and agree that the City may deduct from my final paycheck any amount due (on a depreciated/prorated basis) for failure to return City property, or for reimbursement of appropriate fees paid for educational assistance, as long as the deduction(s) do not reduce final pay to below minimum wage.

Delivered By

Signature

Date

ORDINANCE

City of Portland, Tennessee

No. 25 - 12

First Reading

AN ORDINANCE TO ENTER INTO AN AGREEMENT WITH OLYMPIAN CONSTRUCTION CO. LLC FOR CONSTRUCTION OF THE SPLASHPAD AT RICHLAND PARK.

WHEREAS, the City of Portland deems it necessary to make improvements by constructing a splashpad at Richland Park; and

WHEREAS, the City of Portland received and opened bids on March 28, 2025, are as follows:

1. Olympian Construction Co, LLC - \$2,636,000
2. C & C Contracting, LLC - \$ 3,297,500

WHEREAS, after careful consideration the bid from Olympia Construction Co. LLC has been recommended as best bid for the Splashpad at Richland Park project; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland to enter in an agreement with as best bid for the Splashpad at Richland Park project; and

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading:

Passed Second Reading:

ORDINANCE

City of Portland, Tennessee

No. 25 - 01

Second Reading

AN ORDINANCE AMENDING PORTLAND MUNICIPAL CODE CHAPTER 6, PROPERTY MAINTENANCE CODE, BY ADDING ARTICLE 12-603, DANGEROUS BUILDINGS

WHEREAS, the Mayor and City Council have recommended that the City of Portland Municipal Code be amended regarding the identification of and remedy for dangerous building conditions,

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland that the Portland Municipal Code, Chapter 6, Property Maintenance Code, be amended by adding Article 12-603, Dangerous Buildings, in its entirety as follows:

ARTICLE 12-603. DANGEROUS BUILDINGS

1. Definitions.

The following definitions shall be applicable to the terms as used within this article:

- (1) "Dangerous building" shall mean any structure that is unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or other conditions rendering it unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the occupants or users of neighboring structures or other residents of the City.
- (2) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outbuildings and appurtenances belonging thereto or usually enjoyed therewith.
- (3) "Governing body" shall mean the City Council.
- (4) "Municipality" shall mean the City of Portland, Tennessee, and the areas encompassed within existing city limits.
- (5) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.
- (6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a building or structure and any who are in possession thereof.
- (7) "Place of public accommodation" shall mean any building or structure in which goods are supplied or services performed or in which the trade of the general public is solicited.
- (8) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the City or state relating to health, fire, building regulations, or other activities concerning structures in the City.
- (9) "Public nuisance" shall mean any building or structure that threatens the health, morals, safety, comfort, convenience or welfare of the residents of the City.
- (10) "Public officer" shall mean the Mayor, Building Official, City Attorney, or other

officer who is authorized by the City Council to exercise the power prescribed herein and pursuant to T.C.A. § 13-21-101, et. seq.

- (11) "Structure" shall mean any dwelling or place of public accommodation or vacant building or building suitable as a dwelling or place of public accommodation.

2. Initiation of proceedings.

The Building Official, Mayor, or City Attorney of the City is hereby authorized to exercise the authority prescribed by this article.

- (1) Wherever a petition is filed with a public officer and signed by at least five (5) residents of the City charging that any structure is unfit for human occupancy or use, or whenever it appears to a public officer that any structure is unfit for human occupation or use, the Building Official shall be notified of such within 24 hours.
- (2) The Building Official shall conduct, or cause to be conducted, a preliminary investigation into the charges made.
- (3) If the Building Official determines through the preliminary investigation that the charges made have merit, the Building Official shall post or cause to be posted on the property a notice stating "THIS BUILDING HAS BEEN FOUND TO BE A DANGEROUS BUILDING BY THE BUILDING INSPECTOR. THIS NOTICE IS TO REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED, VACATED, OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE WHICH HAS BEEN GIVEN THE OWNER, OCCUPANT, LESSEE, MORTGAGEE, OR AGENT OF THIS BUILDING, AND ALL OTHER PERSONS HAVING AN INTEREST IN SAID BUILDING AS SHOWN BY THE RECORDS IN THE TAX ASSESSOR'S OFFICE OF THIS CITY AND THE LAND RECORDS IN THE REGISTER'S OFFICE OF SUMNER COUNTY OR ROBERTSON COUNTY, TENNESSEE. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL SUCH NOTICE IS COMPLIED WITH."
- (4) The Building Official shall issue or cause to be issued a complaint by certified mail to the owner of the property, stating the charges and containing a notice that a show-cause hearing shall be held before the City Council (or its designated agent) not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and that the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person and give testimony at the designated hearing. A copy of the hearing notice shall be posted on the property.

3. Orders to owners of dangerous buildings.

If, after such notice and hearing as provided for in Section 5-242, the City Council determines that the structure under consideration is unfit for human occupation or use, it shall state in writing its finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order stating that:

- (1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), the property owner shall, within the time specified in the order, vacate, secure and repair the structure; or
- (2) If the structure cannot be repaired at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), the property owner shall, within the time specified in the order, vacate, secure and demolish the structure.

4. Owner's failure to comply.

If the owner fails to comply with the order to repair or demolish the structure within the time specified in the order, the public officer may cause such structure to be vacated and secured and repaired or demolished. The Building Official shall place a notice on the main entrance of the structure stating: "THIS BUILDING IS UNFIT FOR HUMAN OCCUPATION OR USE. THE USE OR OCCUPATION OF THIS BUILDING FOR HUMAN OCCUPATION OR USE IS PROHIBITED AND UNLAWFUL."

5. Lien for expenses; sale of salvaged materials; powers not limited.

- (1) The amount of the cost of such repairs, alterations or improvements, or vacating and securing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Sumner County, be a lien on the property in favor of the City, second only to liens of the state, county and City of Portland for taxes, any lien of the county for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The City may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties.
- (2) If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Sumner County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court.
- (3) Nothing in this article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

6. Service of complaints or orders.

Complaints or orders issued by the public officer pursuant to this article shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper published in the City. In addition, a copy of the complaint or order shall be posted in a conspicuous place on the dangerous building to which it relates and also filed for record in the office of the Sumner County Register of Deeds.

7. Imminent danger and emergency cases.

In cases where it reasonably appears that there is immediate or imminent danger to the life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated or demolished, the Building Official shall report such facts to the City Council and the City Council may and shall have the right to cause the immediate vacation, repair or demolition of such dangerous building, unless the owner or responsible party can effect such repair or demolition within fifteen (15) days. The costs of such emergency vacation, repair or demolition of such dangerous building shall be collected in the manner as provided in section 5-245.

8. Enjoining enforcement of order.

- (1) Any person affected by an order issued by the public officer served pursuant to this article may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.
- (2) The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

9. Additional authority of public officer.

The public officer, in order to carry out and effectuate the purposes and provisions of this article, shall have the following authority in addition to those otherwise granted herein:

- (1) To determine that a structure is unfit for human occupation and use;
- (2) To investigate conditions of the structures in the City in order to determine which structures therein are dangerous or unfit for human occupation or use;
- (3) To administer oaths, affirmations, examine witnesses and receive evidence;
- (4) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (5) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (6) To delegate any of his functions and powers under this article to such officers and agents as he may designate.

10. Supplemental nature of powers conferred.

This article shall not be construed to abrogate or impair the powers of the City with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this article shall be in addition and supplemental to the powers conferred by the charter and other laws.

11. Structures unfit for human habitation deemed unlawful.

It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the City structures that are dangerous or unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or

dangerous or detrimental to health, safety and morals, or otherwise inimical to the welfare of the residents of the City.

Violations of this article shall subject the offender to a class C misdemeanor. Each day a violation is allowed to continue shall constitute a separate offense.

12. Severability

In the event that any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other portion of this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading: January 6, 2025

Passed Second Reading:

ORDINANCE

City of Portland, Tennessee

No. 25 – 01

Second Reading – Proposed Update

AN ORDINANCE AMENDING TITLE 12 CHAPTER 6 OF THE PORTLAND MUNICIPAL CODE BY ADDING SECTION 12-603 DANGEROUS BUILDINGS

WHEREAS, pursuant to the Slum Clearance Act Tennessee Code Annotated, § 13-21-101, et seq., the Board of Mayor and Aldermen deems the possibility of structures existing within the City which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the City and have recommended that the City of Portland Municipal Code be amended regarding the identification of and remedy for dangerous building conditions; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland that Title 12 Building, Utility, Etc. Codes, Chapter 6 Property Maintenance Code of the Portland Municipal Code be amended by adding SECTION 12-603, Dangerous Buildings, in its entirety as follows:

SECTION 12-603. Dangerous Buildings

(1) Definitions. The following definitions shall be applicable to the terms as used within this article and are not meant to exclude or replace similar definitions found within different sections of any approved building code:

1. "Dangerous building" shall mean any structure, or part thereof, that is unfit for human occupation and/or use due to dilapidation, decay, deterioration, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or other conditions rendering it unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the occupants or users of neighboring structures or other residents of the City of Portland, Tennessee.
2. "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outbuildings and appurtenances belonging thereto or usually enjoyed therewith.
3. "Governing body" shall mean the Mayor and Board of Aldermen (City Council) of Portland, Tennessee.
4. "Municipality" shall mean the City of Portland, Tennessee, and the areas encompassed within the city limits.

5. "Owner" shall mean the holder of title in fee simple and every mortgagee of record.
6. "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a building or structure and any who are in possession thereof.
7. "Place of public accommodation" shall mean any building or structure in which goods are supplied or services are performed or in which the trade of the general public is solicited.
8. "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the City or state relating to health, fire, building regulations, or other activities concerning structures in the City.
9. "Public nuisance" shall mean any building or structure that threatens the health, morals, safety, comfort, convenience or welfare of the residents of the City.
10. "Public Officer" shall mean the Mayor, Building Official, City Attorney, or other officer who is authorized by the City Council to exercise the power prescribed herein and pursuant to T.C.A. § 13-21-101, et. seq.
11. "Responsible party" shall mean any owner, manager, or person responsible for a structure declared unfit for human occupation or use who authorizes or facilitates the occupancy of the structure.
12. "Structure" shall mean any dwelling or place of public accommodation or vacant building or building suitable as a dwelling or place of public accommodation.
13. "Unfit" shall mean dangerous, injurious, harmful to nearby persons or property, unsafe for normal use and/or operation, or otherwise inimical to the welfare of the occupants or users of neighboring structures or other residents of the City of Portland, Tennessee.

(2) Structures unfit for human habitation or use deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the City structures that are dangerous or unfit for human occupation or use due to decay, dilapidation, vandalism, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to health, safety and morals, or otherwise inimical to the welfare of the residents of the City of Portland, Tennessee.

1. Title 13 Chapter 21 of the Tennessee Code provides authority to municipalities to exercise powers when dealing with properties that are deemed unfit for human habitation or use deemed unlawful.
2. The basis for the finding of unfitness may extend to possible injury of neighboring structures, other residents, or a general public nuisance that harms the public welfare and convenience of the City.

(3) Public Officer designation, authority and powers. There is hereby appointed a Public Officer to exercise the powers prescribed by Section 12-603, which powers shall be supplemental to all others held by the Public Officer. The City's Building Official will serve as the primary designated Public Officer. In order to carry out and effectuate the purposes and provisions of Section 12-603, the Public Officer shall have the following authority in addition to those otherwise granted herein:

1. To determine that a structure is unfit for human occupation and use;
2. To investigate conditions of the structures in the City in order to determine which structures therein are dangerous or unfit for human occupation or use;
3. To administer oaths, affirmations, examine witnesses and receive evidence;
4. To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
5. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
6. To delegate any of his functions and powers under Section 12-603 to such officers and agents as he may designate.

(4) Initiation of proceedings. In addition to the other powers enumerated within Section 12-603, the Public Officer is hereby authorized to initiate the following proceedings:

1. Wherever a petition is filed with a Public Officer and signed by at least five (5) residents of the City charging that any structure is unfit for human occupancy or use, or whenever it appears to a Building Official that any structure is unfit for human occupation or use, the Public Officer shall be notified of such within 24 hours.
2. The Public Officer shall conduct, or cause to be conducted, a preliminary investigation into the charges made.
3. If the Public Officer determines through the preliminary investigation that the charges made have merit, the Public Officer shall post or cause to be posted on the property a notice stating "THIS BUILDING HAS BEEN FOUND TO BE A DANGEROUS BUILDING BY THE BUILDING INSPECTOR. THIS NOTICE IS TO REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED, VACATED, OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE WHICH HAS BEEN GIVEN THE OWNER, OCCUPANT, LESSEE, MORTGAGEE, OR AGENT OF THIS BUILDING, AND ALL OTHER PERSONS HAVING AN INTEREST IN SAID BUILDING AS SHOWN BY THE RECORDS IN THE TAX ASSESSOR'S OFFICE OF THIS CITY AND THE LAND RECORDS IN THE REGISTER'S OFFICE OF SUMNER COUNTY OR ROBERTSON COUNTY, TENNESSEE. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL SUCH NOTICE IS COMPLIED WITH."
4. The Public Officer shall issue or cause to be issued a complaint by certified mail to the owner of the property, stating the charges and containing a notice that a show-cause hearing shall be held before the City Council (or its designated hearing body) not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and that the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person and give testimony at the designated hearing. A copy of the hearing notice shall be posted on the property.

(5) Orders to owners of dangerous buildings. If, after such notice and hearing as provided for in Section 12-603(4), the City Council (or its designated hearing body) determines that the structure under consideration is unfit for human occupation or use, it shall state in writing its finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order stating that:

1. If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), the property owner shall, within the time specified in the order, vacate, secure and repair the structure at the owner's expense; or
2. If the structure cannot be repaired at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), the property owner shall, within the time specified in the order, vacate, secure and demolish the structure at the owner's expense.

(6) Failure to comply. If the owner fails to comply with the order to repair or demolish the structure within the time specified in the order, the Public Officer may cause such structure to be vacated and secured and repaired or demolished.

1. The Public Officer shall place or cause to be placed a notice on the main entrance of the structure stating: "THIS BUILDING IS UNFIT FOR HUMAN OCCUPATION OR USE. THE USE OR OCCUPATION OF THIS BUILDING FOR HUMAN OCCUPATION OR USE IS PROHIBITED AND UNLAWFUL."
2. The Public Officer shall immediately notify the Mayor's office, the Police Chief, and the Fire Chief of any structure required to have an "Unfit" posting.

(7) Lien for expenses; sale of salvaged materials; powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and securing, or removal or demolition by the Public Officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Sumner County or Robertson County, be a lien on the property in favor of the City, second only to liens of the state, county and City of Portland for taxes, any lien of the county for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice.

1. These costs shall be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.
2. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The City may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties.
3. If the structure is removed or demolished by the Public Officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of the presiding county by the Public Officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court.
4. Nothing in Section 12-603 shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(8) Service of complaints or orders. Complaints or orders issued by the Public Officer pursuant to Section 12-603 shall be served upon persons either personally or by registered mail.

1. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Public Officer in the exercise of reasonable diligence, and the Public Officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper published in the City.
2. In addition, a copy of the complaint or order shall be posted in a conspicuous place on the dangerous building to which it relates and also filed for record in the office of the Sumner County or Robertson County Register of Deeds.

(9) Imminent danger and emergency cases. In cases where it reasonably appears that there is immediate or imminent danger to the life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated or demolished, the Public Officer shall report such facts to the City Council and the City Council may and shall have the right to cause the immediate vacation, repair or demolition of such dangerous building, unless the owner or responsible party can effect such repair or demolition within fifteen (15) days.

1. The costs of such emergency order to vacate, repair or demolition of such dangerous or unfit building shall be collected in the manner as provided in Section 12-603(7).
2. The Public Officer shall immediately notify the Mayor's office, the Police Chief, and the Fire Chief of any structure suspected to be in imminent danger to life and/or safety.

(10) Enjoining enforcement of order. Any person affected by an order issued by the Public Officer served pursuant to this article may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the Public Officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the Public Officer, such person shall file such bill in the court.

1. The remedy provided herein shall be the exclusive remedy and no person affected by an order of the Public Officer shall be entitled to recover any damages for action taken pursuant to any order of the Public Officer, or because of noncompliance by such person with any order of the Public Officer.

(11) Supplemental nature of powers conferred. Section 12-603 shall not be construed to abrogate or impair the powers of the City with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by Section 12-603 shall be in addition and supplemental to the powers conferred by the charter and other laws.

(12) Violations of this chapter shall subject the responsible party to penalties. Each day a violation is allowed to continue shall constitute a separate offense in addition to other enforcement actions taken pursuant to Section 12-603.

1. Any owner, manager, or person responsible for a structure declared unfit for human occupation or use who authorizes or facilitates the occupancy of the structure will be subject to penalties.

(13) Severability. In the event that any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other portion of this Ordinance.

(14) Reporting. The Public Officer shall keep an accurate log of all activities associated with Section 12-603 and shall submit a report of those activities to the City Council on at least a monthly basis. Emergency or imminent danger cases must be immediately reported to the Mayor's office, the Police Chief, and the Fire Chief.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading: January 6, 2025

Passed Second Reading:

ORDINANCE

City of Portland, Tennessee

No. 25 - 11

Second Reading

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A DEVELOPER'S AGREEMENT WITH STEVEN STAGGS FOR THE WATER IMPROVEMENTS, INCLUDING THE INSTALLATION OF A NEW 8-INCH WATER MAIN THROUGH THE DEVELOPMENT AND A NEW 8-INCH WATER MAIN ALONG COLLEGE STREET AND A NEW 8-INCH SEWER MAIN THROUGHOUT THE DEVELOPMENT, FOR THE RUBY SPRINGS DEVELOPMENT, LOCATED AT 780 COLLEGE STREET, TAX MAP 034, PARCEL 72.09 IN PORTLAND, TENNESSEE.

WHEREAS, the City of Portland, Tennessee has determined that improvements need to be made to the Water System, as outlined in the attached agreement; and

WHEREAS, the Portland Department of Utilities has approved the Water, Sewer, and Gas Capacity Letter (see Exhibit A), stating the Water, Sewer, and Gas System has capacity for the Ruby Springs once improvements are made; and

WHEREAS, the Developer has agreed to be fully responsible for the cost of the improvements to City's Water, Sewer, and Gas System, as outlined in the attached agreement; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland authorize the Mayor to enter into the attached Developer's Agreement for Ruby Springs Development, located at 780 College Street, Tax Map 034, Parcel 072.09; and

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading: March 17, 2025
Passed Second Reading:

DEVELOPMENT AGREEMENT FOR RUBY SPRINGS

CITY OF PORTLAND, TENNESSEE

This Development Agreement (“AGREEMENT”) is made and entered into on this ____ day of _____, 2025 by and between Steven Staggs (Hereinafter called the “DEVELOPER”) and the City of Portland, Tennessee, a municipality organized and existing under the laws of the State of Tennessee (“CITY”).

WHEREAS, the DEVELOPER owns and desires to develop a 47-lot development, located at 780 College St, Tax Map 034, Parcel 072.09 in Portland, Tennessee (hereinafter called the "PROJECT"); and

WHEREAS, DEVELOPER has received a letter stating the existing Water System does not have capacity for the development and will require improvements to the water system specifically for the PROJECT from the Portland Department of Utilities on the **25th day of March, 2025** (hereinafter called the “LETTER”). A copy of the most-current capacity letter is attached to this Agreement as Exhibit A; and

WHEREAS, in order to provide the same level of service throughout the Water System for the PROJECT and the general public, it will be necessary for certain improvements to be constructed to serve the PROJECT. Said improvements include the IMPROVEMENTS (as defined below); and

WHEREAS, in order for said IMPROVEMENTS to be fully integrated with the public infrastructure of the CITY and to function in a satisfactory manner, the DEVELOPER has agreed to be responsible for design, permitting, construction, and inspection associated with the IMPROVEMENTS as set forth in this AGREEMENT.

WHEREAS, the DEVELOPER shall be responsible for all design, permitting, construction, and inspection of the IMPROVEMENTS. The IMPROVEMENTS shall be constructed by the DEVELOPER in accordance with the Portland Department of Utilities Standard Specifications and with the approval of the Construction Plans, and other rules, regulations, and ordinances of the CITY in said project and the terms of this Agreement, and

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties herein contained, it is agreed and understood as follows:

I. GENERAL CONDITIONS

A. Construction Costs

The DEVELOPER shall be responsible for all design, permitting, construction, and inspections necessary to install and complete approximately 4,376 linear feet (LF) of 8-inch water main, 3,658 LF of 8-inch sewer main, and all required appurtenances, the IMPROVEMENTS, in accordance with this agreement.

B. City Ordinances, Rules and Regulations

All currently existing CITY ordinances, and rules & regulations adopted by the Board of Mayor and Aldermen are made a part of this agreement. In the event of a conflict between the terms of this agreement and a CITY ordinance, the ordinance shall prevail. All work done under this agreement is to be performed in accordance with plans, and specifications approved by the CITY and made a part, hereof.

C. Agreement Not Assignable

No third party shall obtain any benefits or rights under this agreement, nor shall the rights or duties be assigned by either party.

D. Revocation and Interpretation

This agreement shall bind the DEVELOPER when executed by the DEVELOPER and may not be revoked by the DEVELOPER without permission of the CITY, even if the agreement has not been executed by the CITY, or does not bind the CITY, for other reasons. This agreement shall be interpreted in accordance with Tennessee law and may only be enforced in the Chancery Court or Circuit Court or Court of competent jurisdiction of Sumner County, Tennessee, and Tennessee Appellate Courts.

E. No Oral Agreement

This agreement may not be orally amended and supersedes all prior negotiations, commitments, or understandings. The Developer and Portland Board of Mayor and Aldermen must approve any written modification to this agreement.

F. Separability

If any portion of this agreement is held to be unenforceable, the court of competent jurisdiction shall have the right to determine whether the remainder of the agreement shall remain in effect or whether the agreement shall be void and all rights of the DEVELOPER and CITY pursuant to this agreement terminated.

G. Transferability

The DEVELOPER and/or Owner agrees that he/she will not transfer the property on which the PROJECT is to be located without first providing the CITY with notice of when the transfer is to occur and who the proposed transferee is, along with address and telephone numbers (except that no notice, consent or other requirement shall apply to the transfer or creation of any security or other interest pursuant to a deed of trust or other Owner financing). If it is the transferee's intention to develop this property in accordance with the agreement, the DEVELOPER agrees to provide the CITY an Assumption Agreement whereby the transferee agrees to perform the improvements required under this agreement and to provide the security needed to assure such performance. Said agreement will be subject to the approval of the CITY Attorney. The DEVELOPER and/or Owner understand that if he/she transfers said property without providing the notice of transfer and Assumption Agreement as required herein, he will be in breach of this agreement and that any surety held by the CITY to secure the agreement may be called. The DEVELOPER further agrees that he shall remain liable under the terms of this agreement though a subsequent sale of all or part of said

property occurs, unless an Assumption Agreement is entered into between the new owners and the CITY, and a new agreement is issued naming the new owners as Developer.

II. UTILITIES

A. Water Distribution System

a. Developer and Improvement Fees

The DEVELOPER shall be required to pay a Developer's Contribution of \$750 per unit for a total of **\$35,250** and Water Improvement Fees of **\$1,800** per unit for a total of **\$84,600**. All payments must be made prior to PDU signing the Final Plat.

b. Surety Amount:

The DEVELOPER shall provide a Letter of Credit or cash escrow (hereinafter called "SURETY") for each phase of this development and the offsite work to be done. The SURETY amounts listed below will need to be provided to the CITY for the Water Distribution System for this PROJECT, prior to PDU signing the Final Plat:

- i. Ruby Springs Phase 1 = \$311,437.50
- ii. Ruby Springs Phase 2 = \$386,250.00
- iii. Ruby Springs Phase 3 = \$182,812.50

Any surety for utilities will be kept and renewed each year until the City has inspected and approved the utility. For each year of renewal, there shall be an additional 10% increase added to each of the surety amounts. Once the utility is accepted by the City, a 12-month maintenance surety that is 15% of the most-current SURETY amount will be held. In the case that the utilities are installed, tested, and accepted by PDU prior to the City signing the Final Plat, the Developer will not be required to submit a Surety for the full amounts listed above, but PDU will require a maintenance surety (15% of the amounts listed above) to be submitted and held for 12 months from PDU's acceptance date or the taps will not be issued.

B. Sewer Collection System

a. Developer and Improvement Fees

The DEVELOPER shall be required to pay Developer's Contribution of \$1,000 per unit for a total of **\$47,000** and Sewer Improvement Fees of **\$1,200** per unit for a total of **\$56,400**. All payments must be made prior to PDU signing the Final Plat.

b. Surety Amount:

The DEVELOPER shall provide a Letter of Credit or cash escrow (hereinafter called "SURETY") for each phase of this development and the offsite work to be done. The SURETY amounts listed below will need to be provided to the CITY for the Sewer Collection System for this PROJECT, prior to PDU signing the Final Plat:

- i. Ruby Springs Phase 1 = \$372,000.00
- ii. Ruby Springs Phase 2 = \$376,375.00
- iii. Ruby Springs Phase 3 = \$344,250.00

Any surety for utilities will be kept and renewed each year until the City has inspected and approved the utility. For each year of renewal, there shall be an additional 10% increase added to each of the surety amounts. Once the utility is accepted by the City, a 12-month maintenance surety that is 15% of the most-current SURETY amount will be held. In the case that the utilities are installed, tested, and accepted by PDU prior to the City signing the Final Plat, the Developer will not be required to submit a Surety for the full amounts listed above, but PDU will require a maintenance surety (15% of the amounts listed above) to be submitted and held for 12 months from PDU's acceptance date or the taps will not be issued.

Developer's payment to the CITY in the amount of (i) **\$82,250.00** as the PROJECT's share of the cost for both WATER and SEWER DEVELOPER'S CONTRIBUTION fees, (ii) **\$141,000.00** as the PROJECT's share of the cost for both WATER and SEWER IMPROVEMENT fees, (iii) and a total SURETY amount of **\$1,973,125.00** for the PROJECT's utilities shall satisfy all Developer and Owner obligations with respect to all improvements, including without limitation the WATER AND SEWER IMPROVEMENTS.

III. PUBLIC WORKS

A. Stabilization Surety

The DEVELOPER shall provide a Letter of Credit or cash escrow (hereinafter called "SURETY") for site stabilization of this development. The SURETY amount below will need to be provided to the CITY for the Stabilization Surety for this PROJECT, prior to Public Works signing the Final Plat:

- a. Ruby Springs Stabilization = \$67,290

The Stabilization Surety must remain in place for the length of the development or until phases of the site have reached 75% vegetative cover. Once 75% vegetative cover has been achieved in a phase, the surety may be reduced for that portion of the site.

B. Public Works Surety

The DEVELOPER shall provide a Letter of Credit or cash escrow (hereinafter called "SURETY") for Public Works Improvements for each phase of this development. The SURETY amount below will need to be provided to the CITY for the Public Works Improvements Surety for this PROJECT, prior to Public Works signing the Final Plat:

- a. Ruby Springs Phase 1 = \$65,740
- b. Ruby Springs Phase 2 = \$428,580
- c. Ruby Springs Phase 3 = \$454,414

Any surety for Public Works will be kept and renewed each year until the City has inspected and approved the improvements. For each year of renewal, there shall be an additional 10% increase added to each of the surety amounts. Once the improvements are accepted by the City, a 12-month maintenance surety that is 15% of the most-current SURETY amount will be held. In the case that the improvements (roads, sidewalks, storm drainage and water quality measures) are installed, inspected, and accepted by City of Portland Public Works prior to the City signing the Final Plat, the Developer will not be required to submit a Surety for the full amounts listed above, but Public Works will require a maintenance surety (15% of the total of the amounts listed above) to be submitted and held for 12 months from Public Works's acceptance date.

IV. VIOLATIONS AND REMEDIES

In the event of a default in the performance by either party of its obligation hereunder, the other party, in addition to any and all remedies set forth herein, shall be entitled to all remedies provided by law or in equity, including the remedy of specific performance or injunction..

V. BINDING EFFECT

The covenants and agreements herein contained shall bind and endure to the benefit of the parties hereto, their respective heirs, personal representatives, successors, and assigns, as appropriate.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in multiple originals by persons properly authorized so to do on or as of the day and year first given.

OWNER

DEVELOPER

TITLE

TITLE

ATTEST:

ATTEST:

TITLE

TITLE

CITY OF PORTLAND (COUNTY OF
SUMNER), TENNESSEE

BY:

MAYOR
APPROVED AS TO FORM:

DATE

BY: _____
CITY ATTORNEY

DATE

EXHIBIT A: Capacity Letter



PORTLAND

Department of Utilities

Call 811 Before You Dig!
Portland, Tennessee

CITY OF PORTLAND

ZECHARIAH ROWLEY – ENGINEER TECHNICIAN

100 SOUTH RUSSELL ST.

PORTLAND, TENNESSEE 37148

Telephone (615) 323-1437

Email Address: zrowley@cityofportlandtn.gov

Steve Staggs
894 Coker Ford Rd
Portland, TN 37148

Date: 3/25/2025

**Re: RUBY SPRINGS
UTILITY SERVICE REQUEST (RENEWAL #3)
780 COLLEGE STREET, PORTLAND, TN 37148
SUMNER COUNTY, TAX MAP 034, PARCEL 72.09**

The Portland Department of Utilities (PDU) has completed its review of your renewal request for water, sewer, and gas for the 47-unit subdivision at the above-referenced location. Your original Capacity Letter was set to expire on April 18, 2023. An extension was sent on February 27, 2023. As per your email on March 3, 2025, PDU will grant a renewal from the extension expiration date of the letter. Please see below for the capacity details.

Water:

The system does not have capacity for this development, but as per Resolution 23-83, the City Council voted to continue issuing water capacity letters beyond known capacity limits recognizing that a letter of available water capacity is based on a snap-shot in time when the water model and/or decision is made, and is not a guarantee of water service at a point in the future when the petitioner may or may not choose to purchase their taps. Resolution 23-45 governs the expiration and renewal of capacity letters and at no time is the City of Portland mandated to provide water beyond its ability whether or not a capacity letter has been granted, or whether or not a project has already been started but not all water taps have been purchased.

After modeling, it was determined that the existing system does not have the capacity for this development. Improvements are required to meet fire and domestic demands. The system will have capacity for the 47-unit residential subdivision once improvements are made. PDU will require the six (6) inch waterline along the road frontage of development to be upsized to an eight (8) inch waterline, approximately 1,100 feet. This will include upsizing the six (6) inch across Summers Branch. You must also loop the waterline within your development to Buena Vista Drive with an eight (8) inch water main, all shown in light blue below. This is to ensure that we do not create another flushing point and to meet fire protection for your subdivision. See Exhibit 1.



Exhibit 1

The City is currently designing or constructing Water Capital Improvement Projects, including the Oak Hill Water System Improvements, Masons Tank 12-inch Connector, Oak Hill Tank, TGT Water Improvements, Zoning Vaults, and several others. The Developer will be required to pay a Developer's Contribution of \$35,250 towards the City's Capital Improvement Projects. The Developer will be required to pay \$84,600 towards water improvement fees as per Ordinance 24-42. The Developer's Contribution and water improvement fees shall be paid prior to a PDU Representative signing off on the Final Plat. Tap fees and connection fees will be required per lot prior to issuance of a building permit. The payment was calculated as follows:

Developer's Contribution:

Single Family Residence – 47 Units
 47 Units x \$750 = \$35,250

Improvement Fee:

Single Family Residence – 47 Units
 47 Units x \$1,800 = \$84,600

Total Water Contributions: \$35,250 + \$84,600 = \$119,850

Sewer:

Sewer taps are available for this development. The City is currently designing or constructing Sewer Capital Improvement Projects, including the Wastewater Treatment Plant Expansion, Annual Point Repairs Project, Sandye Avenue Sewer Improvements, Hwy 52E Lift Station, and several others. The Developer will be required to pay a Developer's Contribution of \$47,000 towards the City's Capital Improvement Projects. The Developer will be required to pay \$56,400 in improvement fees. The Developer's Contribution and sewer improvement fees shall be paid prior to a PDU Representative signing off on the Final Plat. Tap fees and connection fees will be required per lot prior to issuance of a building permit. The payment was calculated as follows:

Developer's Contribution:

Single Family Residence – 47 Units
 47 Units x \$1,000 = \$47,000

Improvement Fee:

Single Family Residence – 47 Units

47 Units x \$1,200 = **\$56,400**

Total Sewer Contributions: \$47,000 + \$56,400 = \$103,400

Gas:

Gas will be provided as per Title 19-207 of the Municipal Code. **All standard gas fees shall apply as per Ordinance 24-42.**

Also, all future parcels must have the utility main along the parcels' road frontage to be approved for service. The water meter shall be located on the property to be serviced or in a dedicated private easement for the property to be served, not more than twenty (20) feet from the Public Right-of-Way. All of this was approved by Resolution 24- 64 (Water), 24- 61 (Sewer), and 24-60 (Gas).

No approval of any services is indicated. Construction Plans will be required to be submitted and approved by PDU for the development. The fees associated for the development (i.e. tap, connection, capacity fees, etc.) will be determined once Construction Plans are submitted and utility installations have been accepted by the City, and Residential Service Availability Form and Commercial/Industrial Availability Form Request is filled out with specific flow requirements for the tenant for water, sewer, and gas.

This letter shall expire in twelve (12) months. All fees, rates, and conditions noted in this letter are current as of the date of this letter and are subject to change over time. PDU will hold the fees at the amount stated above for a twelve (12) month period after the date of this letter. After the twelve (12) month period expires, fees are subject to re-calculation and potential increases. You may request an extension of fee status in **writing** prior to expiration of the twelve (12) month period. PDU will review the request and either deny or grant the request in writing.

Should you have any questions, please feel free to give me a call.

Sincerely,



Zechariah Rowley
ZFRAV000781REN3

cc.

PDU Office
Business Office

ORDINANCE

City of Portland, Tennessee

No. 25 – 06

First Reading

AN ORDINANCE TO AMEND THE CITY OF PORTLAND, TENNESSEE ZONING MAP BY REZONING 700 AND 706 NORTH BROADWAY, (MAP 19 PARCELS 39.00, 39.01, 40.00, AND 40.01) FROM COUNTY RR (RURAL RESIDENTIAL), RS-20 (LOW DENSITY RESIDENTIAL) AND RS-40 (LOW DENSITY RESIDENTIAL) TO PUD (PLANNED UNIT DEVELOPMENT)

WHEREAS, the City of Portland desires to amend the official zoning atlas of the City; and

WHEREAS, the City of Portland believes that such amendment will promote, protect, and facilitate the public health, safety, and welfare of the community through coordinated and practical land use and land development for the betterment of Portland's population; and

WHEREAS, the Portland Municipal Planning Commission recommended approval of the rezoning to GCS (General Commercial Services) by a vote of 8-0 at their February 11, 2025 meeting.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from County RR (County Rural Residential) and RS-40 (Low Density Residential) and RS 20 (Low Density Residential) to PUD (Planned Unit Development)

Approximately 38.68 acres more or less, located at 700 and 706 North Broadway as shown on the attached map.

For reference, see Record Book 3367, Page 79-81, in the Register's Office of Sumner County, Tennessee, and being shown as Map 19, Parcels 39.00 and 39.01, 40.00 and 40.01 for Sumner County, Tennessee.

BE IT FURTHER ORDAINED hat all Ordinances in conflict herewith are repealed to the extent of said conflict, and that this Ordinance shall become effect upon the annexation of the property and after its passage on final reading, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading:

Notice Published:

Public Hearing

Passed Second Reading:



RESOLUTION

City of Portland, Tennessee

No. 25 – 18

A RESOLUTION TO ANNEX PROPERTY AT 700 AND 706 NORTH BROADWAY, ALSO IDENTIFIED AS (SUMNER COUNTY MAP 19 PARCEL 39.01 AND 40.01) CONTAINING 27.8 +/- ACRES UPON WRITTEN CONSENT OF THE OWNER AND TO ADOPT A PLAN OF SERVICES

WHEREAS, the owner has requested annexation of this property into the City of Portland corporate limits and said property is within the Urban Growth Boundary; and

WHEREAS, the owner will be responsible for the extension of any utilities; and

WHEREAS, this annexation will only be authorized if and when the Broad North Planned Unit Development is approved upon second reading through city council ; and

WHEREAS, the annexation will add no right-of-way to the city; and

WHEREAS, the Portland Municipal Planning Commission recommended approval of this Annexation and Plan of Services to the Mayor and Board of Aldermen by a vote of 8-0 at the February 11, 2025 meeting.

NOW, THEREFORE, BE IT Ordained by the City of Portland, Tennessee, as follows:

Section 1. That Tennessee Code Annotated 6-51-102 authorizes the City of Portland to annex land at the request of the landowner when it appears that the prosperity of the municipality and the territory will be materially underachieving, and the welfare of the inhabitants and property endangered if the property is not annexed. The City of Portland hereby determined that the prosperity of the municipality and territory described herein will be materially underachieving and the welfare of the inhabitants and property endangered if the property is not annexed.

Section 2. That pursuant to Section 6-51-101 through 6-51-114, Tennessee Code Annotated, the property described herein be, and the same is hereby annexed into the City of Portland, Sumner County, Tennessee, and incorporated within the corporate boundaries thereof.

PROPERTY DESCRIPTION: Approximately 27.8 +/- acres more or less, located at 700 and 706 North Broadway, as shown on the attached map.

For reference, see Record Book 3367, Pages 79-81 in the Register's Office of Sumner County, Tennessee, and being shown as Map 19 Parcel 39.01 and 40.01 for Sumner County, Tennessee.

Section 3. This annexation is contingent upon City Council passing the 2nd reading rezone for 700 and 706 North Broadway. That this ordinance takes effect 30 days from and after its final passage, the public welfare requiring it.

Plan for Serving the Annexation Area

1. **Police Protection**
Patrolling, radio response to calls, and other routine police services using the City's personnel and equipment will be provided on the effective date of the annexation.
2. **Fire Protection**
Fire protection by the present personnel and the equipment of the fire fighting force, within the limitations of available water and distances from fire stations, will be provided on the effective date of annexation.
3. **Gas, Water, and Sewer**
 - a. Gas - The City may require improvements by the owner as the property develops to ensure needed capacity is available.
 - b. Water - The City may require improvements by the owner as the property develops to ensure needed capacity is available.
 - c. Sewer - The City may require improvements by the owner as the property develops to ensure needed capacity is available.
 - d. Fire Hydrants - The City may require improvements by the owner as the property develops to ensure the needed capacity is available.
4. **Electric Service**
There are existing Cumberland Electric Membership Corporation power lines on this lot.
5. **Public Works**
 - a. Stormwater – Stormwater services will be available to this property in the same manner they are available to the rest of the City. Any improvements that must be completed as a result of development are the responsibility of the developer.
 - b. Sanitation – City sanitation services will be available at the time of annexation in accordance with existing City Ordinances.
 - c. Street and Right-of-Way Repair and Maintenance
 - i. This annexation adds no additional right-of-way to the City.
 - ii. The City and/or the County may require road improvements by the owner as the property develops.
6. **Schools**
This property is currently served by Sumner County School System.
7. **Inspection and Codes Enforcement**

All inspection and building/code enforcement programs existing within the City will be extended to the annexation areas on the effective date of the annexation.

8. Planning and Zoning

The zoning jurisdiction of the City will extend to the annexation areas upon the effective date of the annexation and all municipal planning activities will encompass the needs of the annexed areas.

a. The requested zoning for the annexation is PUD (Planned Unit Development).

9. Animal Control

Services include pick-up of stray and/or dangerous animals. These services will be available to the annexation areas on the effective date of the annexation.

10. Voting Rights and City Elections

a. If an eligible voter's permanent place of residence is located in an annexed area, that voter is automatically eligible to vote in City elections.

b. If an eligible voter is in the category of a property rights voter, then that voter must register at the Election Commission Office prior to voting in a City election.

Notice of the Public Hearing was published in the Portland Sun on December 24,2024.

NOW THEREFORE BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Portland
; and

BE IT FURTHER RESOLVED that this Resolution shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Approved this day of



RESOLUTION

City of Portland, Tennessee

No. 25 – 29

A RESOLUTION AMENDING THE ENGINEERING AGREEMENT WITH OHM ADVISORS, APPROVED BY ORDINANCE 21-37 & RESOLUTION 23-77 FOR ADDITIONAL CONSTRUCTION PHASE SERVICES AND CONSTRUCTION PROJECT OBSERVATION FOR THE OAK HILL WATER SYSTEM IMPROVEMENTS ARPA PROJECT IN THE AMOUNT OF \$670,120

WHEREAS, the City of Portland deems it necessary to add additional services to the original and amended engineering agreement for services for the Oak Hill Water System Improvements ARPA Project. The current engineering agreement is in the amount of \$612,120; and

WHEREAS, the amendment will revise the agreement to the following:

Task	Current Contract Value	Proposed Amendment	Proposed Total Contract Value
Topographic Survey	\$21,218.50	\$0.00	\$21,218.50
1 – Preliminary Routing	\$18,603.95	\$0.00	\$18,603.95
2 – Design	\$244,290.50	\$0.00	\$244,290.50
3 – Bid Phase	\$24,500.00	\$0.00	\$24,500.00
4 – Construction Administration	\$154,000.00	\$30,000.00	\$184,000.00
5 – RPR Services	\$109,637.08	\$27,500.00	\$137,137.08
6 – Tank Coatings Inspection	\$17,000.00	\$0.00	\$17,000.00
Project Management	\$20,000.00	\$0.00	\$20,000.00
Reimbursable Expenses	\$2,869.97	\$500.00	\$3,369.97
Total Amount	\$612,120.00	\$58,000.00	\$670,120.00

WHEREAS, OHM Advisors requested an additional \$58,000 to cover Construction Administration, RPR Services, and Reimbursable Expenses. Project scope increased due to the Oak Hill Tank contractor not meeting the project calendar days. The Oak Hill Tank contractor is currently estimating to complete the project by June 2025 which will be two hundred thirteen (213) days over contract amount; and

NOW THEREFORE BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Portland to approved an amended engineering agreement with OHM Advisors increasing the amount by \$58,000 for addition construction services as stated above for the Oak Hill Water System Improvements ARPA Project once approved the total adjusted agreement amount shall be \$670,120; and

BE IT FURTHER RESOLVED that this Resolution shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Approved this day of

ORDINANCE

City of Portland, Tennessee

No. 25 - 13

First Reading

AN ORDINANCE TO RESCIND AND REPLACE IN ITS ENTIRETY ORDINANCE 24-65, THE DEVELOPER'S AGREEMENT WITH STEVE KIRBY ON THE TWIN LAKES RESIDENTIAL SUBDIVISION, WHICH IS NOW IN THE NAME OF THE DEVELOPER 925 BROADWAY LLC FOR THE PROJECT LOCATED AT 925 NORTH BROADWAY IN PORTLAND, TENNESSEE.

WHEREAS, the Developer, Steve Kirby, has signed an Assignment of Developer's Agreement dated November 25, 2024, for this project and will now be in the name of the Developer, 925 Broadway, LLC; and

WHEREAS, the Developer has requested a gas extension within the residential development; and

WHEREAS, the City of Portland, Tennessee has determined that improvements need to be made to City infrastructure, including the water and sewer systems, as outlined in the attached agreement; and

WHEREAS, the Portland Department of Utilities has approved the Water and Sewer Capacity Letter (see Exhibit A), stating the Water and Sewer Systems have capacity for the Twin Lakes Residential Subdivision once improvements are made; and

WHEREAS, the Developer has agreed to be fully responsible for the cost of the improvements to City infrastructure, including the water and sewer systems, as outlined in the attached agreement; and

WHEREAS, after all utility improvements are installed and accepted by the City, the Developer shall pay the City of Portland all applicable fees as per the attached Developer's Agreement and as per Ordinance 23-15 for the fifty-five (55) residential water taps; and

WHEREAS, Resolution 23-83, the Council voted to continue issuing water capacity letters beyond known capacity limits recognizing that a letter of available water capacity is based on a snap-shot in time when the water model and/or decision is made, and is not a guarantee of water service at a point in the future when the petitioner may or may not choose to purchase their taps; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland authorize the Mayor to enter into the attached Developer's Agreement with **925 Broadway LLC** for the Twin Lakes Subdivision, located at 925 North Broadway, Tax Map 016, Parcel 085.03, and Parcel 085.04; and

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading:

Passed Second Reading:

Developer's Agreement: Twin Lakes Residential Subdivision

CITY OF PORTLAND, TENNESSEE

This Development Agreement ("AGREEMENT") is made and entered into on this ____ day of _____, 2025 by and between 925 Broadway, LLC ("DEVELOPER") and the City of Portland, Tennessee, a municipality organized and existing under the laws of the State of Tennessee ("CITY").

WHEREAS, the DEVELOPER owns and desires to develop a 55-lot residential subdivision, located at 925 North Broadway, Tax Map 016, Parcel 085.03 and Parcel 085.04, in Portland, Tennessee (hereinafter called the "PROJECT"); and

WHEREAS, DEVELOPER has received a letter stating the existing Water and Sewer Systems does not have capacity for the development and will require fees to be paid for upgrading our System, along with improvements installed by the Developer, from the Portland Department of Utilities on the 17th day of **August, 2023** (the "LETTER"). A copy of the Letter is attached to this Agreement as Exhibit A; and

WHEREAS, in order to provide the same level of service throughout the Water System and Sewer System for the PROJECT and the general public, it will be necessary for certain improvements to be constructed to serve the PROJECT. Said improvements include the IMPROVEMENTS (as defined below); and

WHEREAS, in order for said IMPROVEMENTS to be fully integrated with the public infrastructure of the CITY and to function in a satisfactory manner, the DEVELOPER has agreed to be responsible for design, permitting, construction, and inspection associated with the IMPROVEMENTS as set forth in this AGREEMENT.

WHEREAS, the DEVELOPER shall be responsible for all design, permitting, construction, and inspection of the IMPROVEMENTS. The IMPROVEMENTS shall be constructed by the DEVELOPER in accordance with the Portland Department of Utilities Standard Specifications and with the approval of the Construction Plans, and other rules, regulations, and ordinances of the CITY in said project and the terms of this Agreement, and

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties herein contained, it is agreed and understood as follows:

I. GENERAL CONDITIONS

A. Construction Costs

The DEVELOPER shall be responsible for all design, permitting, construction, and inspections necessary to install and complete approximately 250 linear feet (LF) of six (6) inch water main, 1,000 LF of eight (8) inch water main, 2,750 LF of ten (10) inch water main, and 2,500 LF of eight (8) inch gravity sewer, and all required appurtenances, the IMPROVEMENTS in accordance with this agreement.

B. City Ordinances, Rules and Regulations

All currently existing CITY ordinances, and rules & regulations adopted by the Board of Mayor and Aldermen are made a part of this agreement. In the event of a conflict between the terms of this agreement and a CITY ordinance, the ordinance shall prevail. All work done under this agreement is to be performed in accordance with plans, and specifications approved by the CITY and made a part, hereof.

C. Agreement Not Assignable

No third party shall obtain any benefits or rights under this agreement, nor shall the rights or duties be assigned by either party.

D. Revocation and Interpretation

This agreement shall bind the DEVELOPER when executed by the DEVELOPER and may not be revoked by the DEVELOPER without permission of the CITY, even if the agreement has not been executed by the CITY, or does not bind the CITY, for other reasons. This agreement shall be interpreted in accordance with Tennessee law and may only be enforced in the Chancery Court or Circuit Court or Court of competent jurisdiction of Sumner County, Tennessee, and Tennessee Appellate Courts.

E. No Oral Agreement

This agreement may not be orally amended and supersedes all prior negotiations, commitments, or understandings. The Developer and Portland Board of Mayor and Aldermen must approve any written modification to this agreement.

F. Separability

If any portion of this agreement is held to be unenforceable, the court of competent jurisdiction shall have the right to determine whether the remainder of the agreement shall remain in effect or whether the agreement shall be void and all rights of the DEVELOPER and CITY pursuant to this agreement terminated.

G. Transferability

The DEVELOPER and/or Owner agrees that he/she will not transfer the property on which the PROJECT is to be located without first providing the CITY with notice of when the transfer is to occur and who the proposed transferee is, along with address and telephone numbers (except that no notice, consent or other requirement shall apply to the transfer or creation of any security or other interest pursuant to a deed of trust or other Owner financing). If it is the transferee's intention to develop this property in accordance with the agreement, the DEVELOPER agrees to provide the CITY an Assumption Agreement whereby the transferee agrees to perform the improvements required under this agreement and to provide the security needed to assure such performance. Said agreement will be subject to the approval of the CITY Attorney. The DEVELOPER and/or Owner understand that if he/she transfers said property without providing the notice of transfer and Assumption Agreement as required herein, he will be in breach of this agreement and that any surety held by the CITY to secure the agreement may be called. The DEVELOPER further agrees that he shall remain liable under the terms of this agreement though a subsequent sale of all or part of said

property occurs, unless an Assumption Agreement is entered into between the new owners and the CITY, and a new agreement is issued naming the new owners as Developer.

II. UTILITIES

A. Sanitary Sewer Collections System

a. Installations:

The DEVELOPER will be required to install approximately 2,500 LF of eight (8) inch gravity sewer main, with all associated appurtenances with said installation.

b. Surety Amount:

The DEVELOPER shall provide to the CITY a Letter of Credit or cash escrow in the amount of **\$789,375** for the surety, prior to PDU signing the Final Plat. Any surety for utilities will be kept and renewed each year until the City has inspected and approved the utility.

For each year of renewal, there shall be an additional 10% increase added to the surety amount. Once the utility is accepted by the City, a 12-month maintenance surety in the amount of **\$118,406.25** will be held. In the case that the utilities are installed prior to the City signing the Final Plat, the utilities must be tested, approved, and accepted by PDU, which the City of Portland will still require a maintenance surety to be held of the amount above 12 months after PDU's acceptance date or the taps will not be issued.

B. Water Distribution System

a. Installations:

The DEVELOPER will be required to install approximately 250 LF of six (6) inch water main, 1,000 LF of eight (8) inch water main, 2,750 LF of ten (10) inch water main, with all associated appurtenances.

b. Improvement Fees:

The DEVELOPER shall be required to pay a Developer's Fee of **\$41,250** towards the City's Oak Hill Water System Improvements project, and a Developer's Fee of **\$183,630** towards the relocation of utilities for the TDOT SR 109 Bypass project, as per the attached Capacity Letter. All payments must be made prior to PDU signing the Final Plat.

The DEVELOPER will be required to pay a total of **\$224,880** to the CITY towards the WATER IMPROVEMENTS. This payment must be made prior to submitting the Final Plat to the CITY for signatures.

c. Surety Amount:

The DEVELOPER shall provide a Letter of Credit or cash escrow to the CITY in the amount of **\$912,812.50** for the Water Distribution System surety for the PROJECT, prior to PDU signing the Final Plat. Any surety for utilities will be kept and renewed each year until the City has inspected and approved the

utility. For each year of renewal, there shall be an additional 10% increase added to the surety amount. Once the utility is accepted by the City, a 12-month maintenance surety in the amount of **\$136,921.88** will be held. In the case that the utilities are installed prior to the City signing the Final Plat, the utilities must be tested, approved, and accepted by PDU, which the City of Portland will still require a maintenance surety to be held of the amount above 12 months after PDU's acceptance date or the taps will not be issued.

C. Gas Distribution System

Gas can be provided for this development as per Title 19-207 of the City of Portland's Municipal Code.

Developer's payment to the CITY in the amount of (i) **\$224,880** as the PROJECT's share of the cost of WATER IMPROVEMENTS, (ii) a total SURETY amount of **\$1,702,187.50** for the PROJECT's utilities, shall satisfy all Developer and Owner obligations with respect to all improvements, including without limitation the WATER IMPROVEMENTS and the SEWER IMPROVEMENTS. The WATER IMPROVEMENTS and the SEWER IMPROVEMENTS are collectively referred to herein as the "IMPROVEMENTS".

III. PUBLIC WORKS

A. City Streets & Sidewalks

The developer shall provide to the CITY a Letter of Credit or cash escrow in the amount of **\$716,000.00** for the surety, prior to Public Works signing the Final Plat. Any surety for Public Works will be kept and renewed each year until the City has inspected and approved the required improvement.

B. City Stormwater

The developer shall provide to the CITY a Letter of Credit or cash escrow in the amount of **\$624,668.18** for the surety, prior to Public Works signing the Final Plat. Any surety for Public Works will be kept and renewed each year until the City has inspected and approved the required improvement.

IV. VIOLATIONS AND REMEDIES

In the event of a default in the performance by either party of its obligation hereunder, the other party, in addition to any and all remedies set forth herein, shall be entitled to all remedies provided by law or in equity, including the remedy of specific performance or injunction..

V. BINDING EFFECT

The covenants and agreements herein contained shall bind and endure to the benefit of the parties hereto, their respective heirs, personal representatives, successors, and assigns, as appropriate.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in multiple originals by persons properly authorized so to do on or as of the day and year first given.

OWNER

DEVELOPER

TITLE

TITLE

ATTEST:

ATTEST:

TITLE

TITLE

CITY OF PORTLAND (COUNTY OF
SUMNER), TENNESSEE

BY:

MAYOR
APPROVED AS TO FORM:

DATE

BY: _____
CITY ATTORNEY

DATE

EXHIBIT A



CITY OF PORTLAND
MEGAN HEISLER, P.E. – UTILITIES ENGINEER
100 SOUTH RUSSELL STREET
PORTLAND, TENNESSEE 37148
Telephone 615-323-1437
Email Address: mheisler@cityofportlandtn.gov

Steve Kirby
159 W Harper Rd
Portland, TN 37148

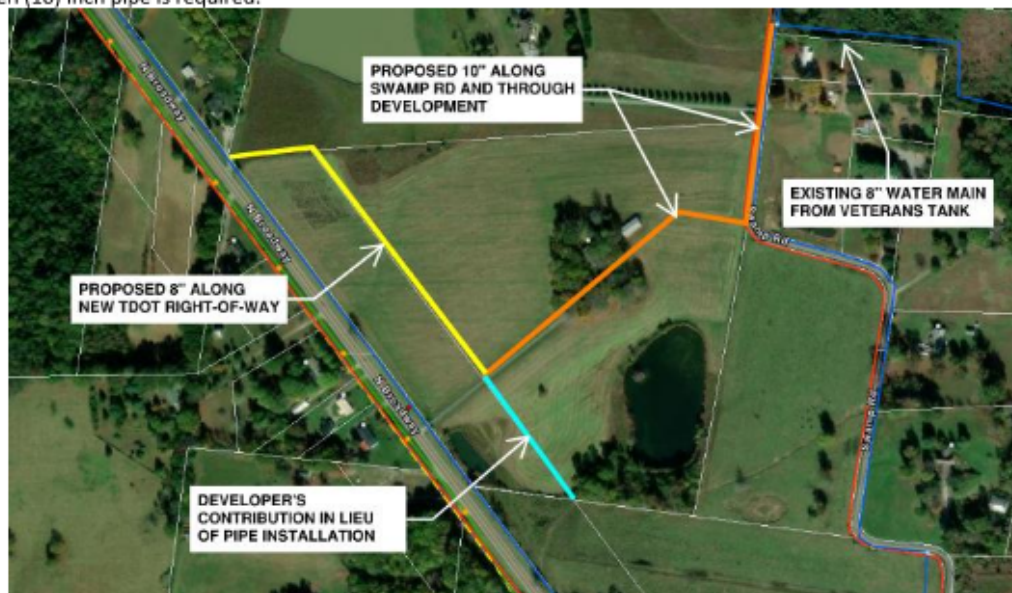
Date: 8/17/2023

Re: WATER, SEWER, & GAS CAPACITY LETTER
925 N BROADWAY, PORTLAND, TN 37148 (COMMERCIAL & RESIDENTIAL)
SUMNER COUNTY – TAX MAP 016, PARCELS 85.04 & 85.05

Portland Department of Utilities (PDU) has completed its review of your application for water and sewer for the proposed fifty-five residential units and three commercial buildings development at the above referenced location. Please see below for the capacity details.

WATER:

The system does have capacity for the fifty-five (55) residential units and three (3) commercial buildings once improvements are made. The City's minimum requirement for water main diameter within City Limits is eight (8) inches. Currently, at this location, there is a six (6) inch diameter water main. PDU will require this development to upsize the water main along North Broadway/State Route 109 for the entire length of the property's road frontage to an eight (8) inch diameter water main. Also, the Developer will be required to upsize the water main across a portion of the Swamp Road frontage for this development to an existing eight (8) inch diameter water main from the Veteran's Water Tank. This will entail approximately 1,250 feet of eight (8) inch along N Broadway and 500 feet of ten (10) inch along Swamp Rd of blue C900 DR 14 PVC or Ductile Iron Pipe and all associated appurtenances. Also, a ten (10) inch water main will need to be routed through the development. The eight (8) inch is shown below in yellow and the ten (10) inch is shown in orange. The upgrades are required to ensure fire protection for the commercial subdivision as well as the residential. Commercial subdivisions require 2,000 gpm, thus the larger ten (10) inch pipe is required.



The Developer's Contribution in lieu of the eight (8) inch pipe installation for the wetlands area to the southeast corner of the property will be \$302 per foot, including gate valves, tapping sleeve and valves, abandoning existing main, etc., with a 15% contingency fee. This portion of the project will entail approximately 489 feet of eight (8) inch blue C900 PVC water main. The Developer will be required to pay the City of Portland **\$183,630** towards this TDOT project. Please see the attached Developer's Contribution In-Lieu of Upsizing Calculator for the breakdown on how that total was calculated.

The Developer will be required to pay water improvement fees per equivalent residential unit for the commercial buildings only. Please see below on how the equivalent residential units were calculated for the **commercial buildings** as per Ordinance 23-15:

From Ordinance 23-15

One Equivalent Residential Unit for Water = 350 gallons per day (gpd)

General Commercial Services – 130 gpd per 1,000 square feet (sf) of floor space

$(7,500 \text{ sf} / \text{building}) \times (3 \text{ buildings}) = 22,500 \text{ sf}$

$22,500 \text{ sf} \times (130 \text{ gpd} / 1,000 \text{ sf}) = 2,925 \text{ gpd}$

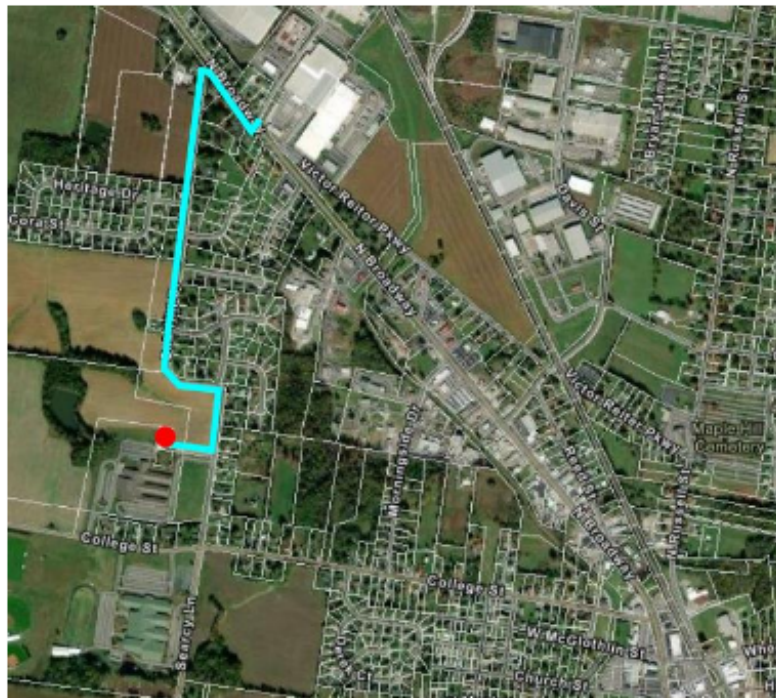
$2,925 \text{ gpd} \times (1 \text{ ERU} / 350 \text{ gpd}) = 8.4 = 9 \text{ units}$

$9 \text{ units} \times (\$1,500 / 1 \text{ unit}) = \$13,500$

This development will be utilizing the Oak Hill Water System Improvements. The 16-inch water main route is shown below in light blue and Oak Hill Tank shown below in red. The developer will be required to pay a pro-rata share of the project's water improvements. As with all projects, we are not asking one development to pay for the whole project. The Pro-Rata share was based upon the total number of equivalent residential units within your development. The Developer will be required to pay **\$48,000** to the City of Portland toward the improvements. This payment, along with the water improvement fees, must be made prior to PDU approving Construction Plans and/or signing off on a Final Plat.

The payment was calculated as follows:

$(55 \text{ units} + 9 \text{ units}) \times (\$750 \text{ per unit}) = \$48,000$



Please note that at the August 7, 2023 Council Meeting, the Council verbally agreed in a majority vote to continue issuing water capacity letters beyond known capacity limits recognizing that a letter of available water capacity is based on a snapshot in time when the water model and/or decision is made, and is not a guarantee of water service at a point in the future when the petitioner may or may not choose to purchase their taps. Resolution #23-45 governs the expiration and renewal of capacity letters and at no time is the City of Portland mandated to provide water beyond its ability whether or not a capacity letter has been granted, or whether or not a project has already been started but not all water taps have been purchased.

SEWER:

The system does have capacity for the fifty-five (55) residential units and three (3) commercial buildings. The Developer must route an eight (8) sewer main through the development and tie to the manhole in front of the property along Hwy 109. The Developer will be required to pay sewer improvement fees per equivalent residential unit for the commercial buildings only. Please see below on how the equivalent residential units were calculated for the **commercial buildings**:

From Ordinance 23-15

One Equivalent Residential Unit for Sewer = 250 gallons per day (gpd)

General Commercial Services – 130 gpd per 1,000 square feet (sf) of floor space

$(7,500 \text{ sf} / \text{building}) \times (3 \text{ buildings}) = 22,500 \text{ sf}$

$22,500 \text{ sf} \times (130 \text{ gpd} / 1,000 \text{ sf}) = 2,925 \text{ gpd}$

$2,925 \text{ gpd} \times (1 \text{ ERU} / 250 \text{ gpd}) = 11.7 = 12 \text{ units}$

$12 \text{ units} \times (\$1,000 \text{ per unit}) = \$12,000$

The sewer improvement fees must be made prior to PDU approving Construction Plans and/or signing off on a Final Plat.

GAS:

Improvements may be required. Gas will be provided as per Title 19-207 of the Municipal Code.

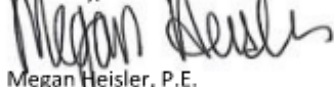
Also, all future parcels must have the utility main along the parcels' road frontage to be approved for service. All services must be located on the property being serviced and not more than twenty (20) feet from the public right-of-way. The City does not allow utility services within a private easement. All of this was approved by Resolution 19-27 (Water), 20-103 (Sewer), and 20-102 (Gas).

No approval of any services is indicated. Construction plans will be required to be submitted and approved by PDU for the development. An individual Residential Service Availability Request Form must be completed for each lot within this subdivision and the Commercial Industrial Availability Request Form must be completed for each unit of the commercial buildings once the water and sewer main installations are complete and have been accepted by PDU. The fees associated with each lot/unit (i.e. tap, connection, capacity fees, etc.) will be determined once those forms are filled out and submitted to PDU.

This letter shall expire in twelve (12) months. All fees, rates, and conditions noted in this letter are current as of the date of this letter and are subject to change over time. PDU will hold the fees at the amount stated above for a twelve (12) month period after the date of this letter. After the twelve (12) month period expires, fees are subject to re-calculation and potential increases. You may request an extension of fee status in **writing** prior to expiration of the twelve (12) month period. PDU will review the request and either deny or grant the request in writing.

Should you have any questions, please feel free to contact me.

Sincerely,



Megan Heisler, P.E.

MNHAV001257REV1

cc.

Business Office

ORDINANCE

City of Portland, Tennessee

No. 25 - 14

First Reading

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A DEVELOPER'S AGREEMENT WITH JAVAVISION PORTLAND PROPERTY LLC TO PAY-IN-LIEU OF INSTALLING 153 FEET OF TWELVE (12) INCH WATER MAIN FOR THE ENTIRE LENGTH OF THEIR ROAD FRONTAGE ALONG HWY 52W, FOR THE SCOOTER'S COFFEE DEVELOPMENT, LOCATED AT 413 HIGHWAY 52W, TAX MAP 034E, GROUP B, PARCEL 018.11 IN PORTLAND, TENNESSEE.

WHEREAS, the City of Portland, Tennessee has installed the 12-inch water main to supply fire protection for future commercial properties and improve capacity along Highway 52W; and

WHEREAS, the Scooter's Coffee development has a road frontage along Highway 52W of 152.58 linear feet; and

WHEREAS, the Scooter's Coffee development will be required to pay the City of Portland \$31,065.29 for the 152.58 linear feet of 12-inch water main that has been installed by the City; and

WHEREAS, the breakdown of the payment schedule is in the following Developer's Agreement; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland authorize the Mayor to enter into the attached Developer's Agreement for the Scooter's Coffee Development, located at 413 Highway 52 West, Tax Map 034E, Group B, Parcel 018.11; and

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading:
Passed Second Reading:

DEVELOPER’S AGREEMENT FOR SCOOTER’S COFFEE

CITY OF PORTLAND, TENNESSEE

This Development Agreement (“AGREEMENT”) is made and entered into on this ____ day of _____, 2025 by and between Javavision Portland Property LLC (Hereinafter called the “DEVELOPER”) and the City of Portland, Tennessee, a municipality organized and existing under the laws of the State of Tennessee (“CITY”).

WHEREAS, the DEVELOPER owns and desires to develop a commercial business, located at 413 Highway 52 West, Tax Map 034E, Group B, Parcel 018.11 in Portland, Tennessee (hereinafter called the "PROJECT"); and

WHEREAS, the DEVELOPER has agreed to the payment schedule detailed in Section II, Paragraph A, of this agreement to pay-in-lieu of installing twelve (12) inch water main along the property’s road frontage of the PROJECT; and

NOW, THEREFORE, in consideration of the premises and mutual covenants of the parties herein contained, it is agreed and understood as follows:

I. GENERAL CONDITIONS

A. Construction Costs

The DEVELOPER does not have any construction requirements as a part of this agreement.

B. City Ordinances, Rules and Regulations

All currently existing CITY ordinances, and rules & regulations adopted by the Board of Mayor and Aldermen are made a part of this agreement. In the event of a conflict between the terms of this agreement and a CITY ordinance, the ordinance shall prevail. All work done under this agreement is to be performed in accordance with plans, and specifications approved by the CITY and made a part, hereof.

C. Agreement Not Assignable

No third party shall obtain any benefits or rights under this agreement, nor shall the rights or duties be assigned by either party.

D. Revocation and Interpretation

This agreement shall bind the DEVELOPER when executed by the DEVELOPER and may not be revoked by the DEVELOPER without permission of the CITY, even if the agreement has not been executed by the CITY, or does not bind the CITY, for other reasons. This agreement shall be interpreted in accordance with Tennessee law and may only be enforced in the Chancery Court or Circuit Court or Court of competent jurisdiction of Sumner County, Tennessee, and Tennessee Appellate Courts.

E. No Oral Agreement

This agreement may not be orally amended and supersedes all prior negotiations, commitments, or understandings. The Developer and Portland Board of Mayor and Aldermen must approve any written modification to this agreement.

F. Separability

If any portion of this agreement is held to be unenforceable, the court of competent jurisdiction shall have the right to determine whether the remainder of the agreement shall remain in effect or whether the agreement shall be void and all rights of the DEVELOPER and CITY pursuant to this agreement terminated.

G. Transferability

The DEVELOPER and/or Owner agrees that he/she will not transfer the property on which the PROJECT is to be located without first providing the CITY with notice of when the transfer is to occur and who the proposed transferee is, along with address and telephone numbers (except that no notice, consent or other requirement shall apply to the transfer or creation of any security or other interest pursuant to a deed of trust or other Owner financing). If it is the transferee's intention to develop this property in accordance with the agreement, the DEVELOPER agrees to provide the CITY an Assumption Agreement whereby the transferee agrees to perform the improvements required under this agreement and to provide the security needed to assure such performance. Said agreement will be subject to the approval of the CITY Attorney. The DEVELOPER and/or Owner understand that if he/she transfers said property without providing the notice of transfer and Assumption Agreement as required herein, he will be in breach of this agreement and that any surety held by the CITY to secure the agreement may be called. The DEVELOPER further agrees that he shall remain liable under the terms of this agreement though a subsequent sale of all or part of said property occurs, unless an Assumption Agreement is entered into between the new owners and the CITY, and a new agreement is issued naming the new owners as Developer.

II. UTILITIES

A. Water Distribution System Pay-in-Lieu of Fee

The DEVELOPER shall be required to Pay-in-Lieu of installing the 12-inch water main along Hwy 52W in the total amount of **\$31,065.29**. *If the three separate amounts are not paid as per the timing specified below, the water service for the development shall be discontinued/cut off until said payment is received.* This amount shall be paid in the following installments:

- (i) Prior to the release of the Certificate of Occupancy, **\$7,500** will be paid towards the pay-in-lieu of fee and all applicable water and sewer taps fees, as per Ordinance 24-42.
- (ii) Six (6) months from the Certificate of Occupancy date **\$11,782.65** is due.

- (iii) Twelve (12) months from the Certificate of Occupancy date \$11,782.64 is due.

Developer's payment to the CITY in the amount of (i) \$31,065.29 as the PROJECT's share of the cost for DEVELOPER'S Pay-in-Lieu of installing 12-inch water main along their property's road frontage shall satisfy all Developer and Owner obligations with respect to all improvements, including without limitation the WATER IMPROVEMENTS.

IV. VIOLATIONS AND REMEDIES

In the event of a default in the performance by either party of its obligation hereunder, the other party, in addition to any and all remedies set forth herein, shall be entitled to all remedies provided by law or in equity, including the remedy of specific performance or injunction.

V. BINDING EFFECT

The covenants and agreements herein contained shall bind and endure to the benefit of the parties hereto, their respective heirs, personal representatives, successors, and assigns, as appropriate.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in multiple originals by persons properly authorized so to do on or as of the day and year first given.

OWNER

DEVELOPER

TITLE

TITLE

ATTEST:

ATTEST:

TITLE

TITLE

CITY OF PORTLAND (COUNTY OF
SUMNER), TENNESSEE

BY:

MAYOR
APPROVED AS TO FORM:

DATE

BY: _____
CITY ATTORNEY

DATE

Ordinance

City of Portland, Tennessee

No. 25 - 15

First Reading

AN ORDINANCE FOR THE CITY OF PORTLAND TO ENTER INTO A CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR RELOCATION OF WATER UTILITIES WITHIN THE PROPOSED SR-109 (PORTLAND BYPASS), FROM SR-52, WEST OF PORTLAND, TO EXISTING SR-109, NORTH OF PORTLAND.

WHEREAS the Tennessee Department of Transportation (TDOT) plans to construct proposed SR-109 (Portland Bypass) in Sumner County – PIN #106634.02 Contract 9501; and

WHEREAS the City of Portland has water utilities located on private easement and within the right-of-way along the route of the proposed SR-109 (Portland Bypass) that must be relocated prior to TDOT's construction; and

WHEREAS, the City of Portland has furnished TDOT with an estimate and plans showing the cost and manner of relocating these facilities, which estimate is in the total amount of \$3,422,842.84, including the amount of \$448,190.00 for the cost of engineering, which may be inclusive of preliminary engineering authorized on January 10, 2022; including the amount of \$200,638.51 for the cost of inspection provided by the City; including the amount of \$88,185.00 for the cost of betterment to the City's facilities and of which 17 percent represents the pro-rata share to which the City is entitled to reimbursement for relocation of City's water utility located on easement, and 83 percent represents the pro-rata share for relocation of City's water utility located on public highway right-of-way, reimbursement being for the cost of construction, engineering, and inspection on private utility right-of-way, but excluding inspection on public highway right-of-way, betterment, and the cost over the maximum TDOT reimbursement amount; and

WHEREAS it is in the mutual interests of TDOT and the City of Portland that this water utility relocation work be done, and it is necessary that the City of Portland enter a contract with TDOT for this water utility relocation; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland that a contract shall hereby be entered into with TDOT for water utility relocation on the proposed SR-109 (Portland Bypass) project.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading:

Passed Second Reading:



NH-109(41) / 83012-2212-14

Contract No. 9501

UTILITY RELOCATION CONTRACT

THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Portland (Water)**, hereinafter called the "Utility".

WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **106634.02, SR-109 PROP (Portland Bypass), From SR-52, west of Portland, to existing SR-109, north of Portland**, located in **Sumner County**, Tennessee (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to relocate certain of its facilities, **83** percent of which are located on public highway right-of-way and **17** percent of which are located on private utility right-of-way; and

WHEREAS, TDOT is liable for the relocation of utility facilities located on private utility right-of-way and is authorized, in accordance with TCA §54-5-804, to reimburse the Utility for the relocation of utility facilities located on public highway right-of-way but is not liable for any utility betterment costs; and

WHEREAS, in accordance with TDOT policy, the reimbursement of actual allowable costs for relocating utility facilities on public highway right-of-way for municipally owned utilities, Utility Districts, or Utility Cooperatives, as defined in TDOT's Policy #340-07, shall be capped at a maximum reimbursement of \$1,750,000, and for all other utilities the reimbursement shall be limited to 75% of actual allowable costs up to a maximum reimbursement cap of \$1,750,000; and

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$3,422,842.84**, including the amount of **\$448,190.00** for the cost of engineering, which may be inclusive of preliminary engineering authorized on **January 10, 2022**; including the amount of **\$200,638.51** for the cost of inspection provided by the Utility; including the amount of **\$88,185.00** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$939,421.04** for deposit for the utility work in the State contract, and of which **17** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **83** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering, and inspection on private utility right-of-way, but excluding inspection on public highway right-of-way, betterment, and the cost over the maximum TDOT reimbursement amount; and

WHEREAS, the parties want to enter into a contract to provide for the relocation of the Utility's facilities in conjunction with this highway construction project, and the Utility has requested TDOT to undertake the hereinafter described utility relocation work in its highway construction contract as provided in TCA §54-5-804; and

WHEREAS, it is in the mutual interest of the parties that this utility relocation work be performed together with the proposed highway construction;

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

1 (a) TDOT will show the proposed relocation of the Utility's facilities on TDOT's highway construction plans as project cost items and will receive bids for same by its highway contractor as a part of the contract for construction of the above mentioned Project. TDOT will be responsible for having its contractor perform the aforesaid utility relocation work in accordance with TDOT's construction contract, including the project plans, standard specifications, special provisions, and the utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference.

(b) The Utility agrees to reimburse TDOT for the Betterment Cost and the cost over the maximum TDOT reimbursement amount. Reimbursement shall be based on the agreed percentage of the actual cost of the Betterment Cost items as shown on the project plans incorporated herein by reference. It is further agreed that the Utility will make payment to TDOT in the amount of the estimated cost of the Betterment Cost items and the estimated cost over the maximum TDOT reimbursement amount prior to advertisement for bids. The Utility may provide these funds by one of the following means:

A. A check made payable to the order of and sent to TDOT; or

B. Documentation of a deposit made only by wire or by immediate credit transfer with the Treasurer of the State.

In the event said deposit exceeds the aggregate amount of the Betterment Cost charges, the difference will be refunded to the Utility. In the event said Betterment Cost charges exceed the deposit, the Utility agrees to reimburse TDOT for such additional amount.

(c) The Utility agrees that TDOT may advertise for and receive bids for the construction of the Project, including the proposed relocation of the Utility's facilities, and award and enter into contract with the lowest responsible bidder.

(d) The Utility agrees that any memoranda or other information concerning the estimated cost of the proposed relocation of the Utility's facilities will not directly or indirectly be released or disclosed to potential bidders except to the extent that the utility may otherwise be required to do so by law.

(e) Neither the Utility nor any affiliate or subsidiary thereof shall participate directly or indirectly as a bidder for any part of the Utility's relocation work to be performed under a contract to be awarded by TDOT. The Utility further agrees that no employee, officer, or agent of the Utility shall participate in the selection or the

award or administration of a contract for the performance of any part of the Utility's relocation work if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, or any member of his or her immediate family, or his or her partner, or an organization which employs or is about to employ any of the above, has a substantial financial interest, such as five-percent (5%) or greater ownership interest, or other interest in the firm selected for a award of a contract to perform the Utility's relocation work for this Project. Neither the Utility nor any affiliate, subsidiary, employee, officer, or agent of the Utility shall solicit or accept gratuities, favors, or anything of monetary value, except an unsolicited gift having nominal monetary value, from contractors or bidders.

- (f) It is also understood and agreed that TDOT, in its sole discretion, may reject any and all bids submitted for the construction of said Project without any liability whatsoever to the Utility.
2. (a) It is further agreed that in letting the contract with respect to the proposed relocation of the Utility's facilities, TDOT is acting solely in accommodation of the Utility and shall have no liability to the Utility for any damages or claims arising out of acts or omissions on the part of TDOT's contractor. The Utility agrees that it will not hold TDOT responsible for any claims arising out of the inclusion of the Utility's items of work in TDOT's highway construction contract. Under this contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment with the State of Tennessee.
 - (b) The utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference are provided by the Utility, signed and sealed in accordance with State regulations by a licensed engineer employed by the utility, and the utility is solely responsible for said relocation plans and specifications. The utility shall be responsible for all direct or indirect costs resulting from errors and omissions of said relocation plans and specifications included in the TDOT construction contract. The utility shall be responsible to provide to TDOT any and all necessary plans, electronic files, documentation, or anything else that is deemed necessary by TDOT to include the utility work in the TDOT construction contract.
3. (a) The Utility has acquired or shall acquire all utility rights-of-way outside of the available public highway right-of-way as may be needed to relocate its utility facilities, including any betterment, and the Utility shall provide TDOT and its contractor with the rights to use these utility rights-of-way for construction purposes. The Utility further agrees that it has acquired or will acquire these rights-of-way at no cost to TDOT except insofar as TDOT may be liable to reimburse the Utility for the replacement of previously owned private utility rights-of-way as may be provided in a separate contract between the parties.
 - (b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way as needed for highway purposes.

4. The Utility agrees that:

(a) The Utility will perform the utility engineering work provided for in this Contract by its own forces and/or consultant engineering services approved by TDOT.

(b) It will develop the utility engineering costs in accordance with the current provisions of 23 CFR §645.117.

5. The Utility shall have the right and responsibility to inspect and approve, prior to TDOT's release of its highway contractor's bond, all items of utility relocation work, including betterment, to be performed under the proposed highway construction contract to ensure that the relocation is completed in accordance with this Contract and all applicable specifications and safety codes. The Utility shall provide progressive inspection reports to TDOT in accordance with the current TDOT Construction Circular Letters section 105.07 "Utilities Diaries and Inspection Procedures" incorporated herein by reference. TDOT agrees that it will reimburse the Utility the pro-rata share for the inspection of utility facilities on private utility right-of-way when the utility relocation is completed in accordance with the approved relocation plans, incorporated herein by reference. The inspection of utility facilities on public highway right-of-way shall be performed at no cost to TDOT.
6. To the extent that facilities are being located within public highway right-of-way, the Utility agrees to comply with all current, applicable provisions of 23 CFR Subpart 645A, which are incorporated herein by reference; provided, however, that provisions for review, approval, authorization and participation by the Federal Highway Administration set forth in 23 CFR Subpart 645A shall not apply to the extent that the Project is not a (FHWA) federal-aid project. The Utility acknowledges possession of 23 CFR Subpart 645A.
7. The Utility agrees to comply with all current, applicable provisions of the Guidelines for Governmentwide Debarment and Suspension of 2 CFR §180.355 through §180.365, which are incorporated herein by reference. The Utility acknowledges possession of 2 CFR Part 180 and the requirements of the attached FHWA Form 1273, Section X – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.
8. The Utility agrees to comply with all current, applicable provisions of the Buy America requirements established under 23 USC § 313 and 23 CFR § 635.410. In accordance with guidance provided by the Federal Highway Administration, the Utility agrees that all products used in the Utility's relocation work that are manufactured of steel or iron shall be manufactured in the United States. For the purposes of applying this Buy America requirement and determining whether a product is a steel or iron manufactured product, the job site includes any sites where precast concrete products that are incorporated into the Utility's relocation work are manufactured.
9. Subject to the provisions of this paragraph and as otherwise provided in this Contract, TDOT agrees to reimburse the Utility for the Utility's reimbursable engineering and inspection costs associated with the relocation of the Utility's facilities, as follows:

- (a)** The Utility shall perform the engineering and inspection work in accordance with the estimate of cost and plans as approved by TDOT and incorporated herein by reference. The estimate of cost and schedule of work are attached hereto as Exhibit "A".
- (b)** The Utility may perform preliminary engineering to generate the schedule of calendar days, color coded relocation plans and estimate of cost as needed for TDOT to generate this agreement. Costs incurred for preliminary engineering prior to the execution date of this agreement are eligible for reimbursement as long as they were incurred after the preliminary authorization date. Any costs for consultant engineering shall also be eligible for reimbursement as long as they are incurred after consultant authorization.
- (c)** Any change in the approved estimate of cost or plans shall require the prior written approval of TDOT. TDOT agrees to review and, if acceptable, approve such requests for change in a timely manner, and TDOT agrees to cooperate with the Utility to resolve, if possible, any objections TDOT may have to such requested changes.
- (d)** TDOT shall reimburse the Utility for such direct and indirect costs as are allowable under the current provisions of 23 CFR Subpart 645A. Any claim for costs that would be ineligible for Federal reimbursement under 23 Subpart CFR 645A on a federal-aid project shall be ineligible for reimbursement by TDOT on this Project, whether it is or is not a federal-aid project.
- (e)** The Utility shall develop and record engineering and inspection costs in a manner consistent with the current provisions of 23 CFR §645.117 as of the effective date of this Contract and as approved by TDOT.
- (f)** The Utility shall submit all requests for payment by invoice, in form and substance acceptable to TDOT, with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amount charged for the period invoiced, and the total amount charged under the Contract to date.
- (g)** The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of cost attached hereto as Exhibit "A" to this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
- (h)** TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof, TDOT shall specifically identify those objections in writing to the Utility so as to allow the parties to address them in a prompt manner. If the invoice is

otherwise acceptable, TDOT shall only withhold payment(s) as to those cost items it has specified in its written notice of objections to the Utility. All other reimbursable cost items set out in the Utility's invoice shall be paid by TDOT.

- (i) Subject to the Utility's right to bill on an interim basis as described above, the Utility shall by invoice provide one final and complete billing of all costs incurred within one year following the completion of the Utility relocation work in its entirety. Otherwise, any previous payments to the Utility may be considered final, and the Utility may be deemed to have waived any claim for additional payments, except as TDOT and Utility may have agreed otherwise in writing before the end of that year.
 - (j) The Utility's invoice(s) shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by TDOT, on the basis of audits or monitoring conducted in accordance with the terms of this Contract, not to constitute allowable costs. The payment of an invoice shall not prejudice TDOT's right to object to or question any invoice or matter in relation thereto. Such payment by TDOT shall neither be construed as acceptance of the work nor as final approval of any of the costs invoiced therein.
 - (k) The Utility's invoice(s) shall include a Buy America certification attesting that all products used in the Utility's relocation work that are manufactured of steel or iron comply with the Buy America requirements set forth in 23 USC § 313 and 23 CFR § 635.410 and as further described in paragraph 8 of this Contract.
- 10.** The Utility agrees that its cost records will be subject to inspection at any reasonable time by representatives of TDOT before or after final payment for reimbursable work. In the event any costs are determined not to be allowable under provisions of this Contract, the Utility agrees to repay TDOT such amount of ineligible costs included within payments made by TDOT.
- 11.** The Utility shall keep and maintain accurate records by which all invoices can be verified. The books, records, and documents of the Utility, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years after final payment has been received by the Utility and shall be subject to audit at any reasonable time and upon reasonable notice by TDOT, the Comptroller of the Treasury, or their duly appointed representatives during this three year period. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- 12.** In the event that funds are not appropriated or are otherwise unavailable, TDOT reserves the right to terminate this Contract upon written notice to the Utility. Said termination shall not be deemed a breach of Contract by TDOT. Upon receipt of the written notice, the Utility shall cease all work associated with the Contract, except as may be reasonably necessary to return the Utility's facilities to safe operation. Should such an event occur, the Utility shall be entitled to compensation for all costs of relocation reimbursable under 23 CFR Subpart 645A (in accordance with paragraph 9 of this Contract) for work completed as of the termination date or in accordance with this provision. Upon such termination, the Utility shall have no right

to recover from TDOT any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- 13.** The Utility agrees, to the extent provided by law, that it will be solely responsible for any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Utility, its employees, its contractors, or any person acting for or on its or their behalf in the performance of the Utility's engineering and inspection work relating to this Contract. The Utility further agrees that it will not hold TDOT responsible for any such claims. Under this Contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment..

In the event that TDOT is sued for damages arising from acts, omissions, or negligence by the Utility or its employees, the Utility shall cooperate in TDOT's defense. TDOT shall give the Utility written notice of any such claim or suit, and the Utility shall have full right and obligation to conduct the Utility's own defense thereof. Nothing contained herein shall be deemed to accord to the Utility, through its attorney(s), the right to represent TDOT in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

- 14.** TDOT shall have no liability except as specifically provided in this Contract.
- 15.** This Contract may be modified only by a written amendment executed by the parties hereto.
- 16.** Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term, covenant, condition or provision of this Contract shall be held to be waived, modified, or deleted except by written amendment signed by the parties hereto.
- 17.** The Utility hereby agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Utility on the grounds of disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- 18.** The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended under this Contract.
- 19.** This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.

- 20.** The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- 21.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Utility acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.
- 22.** If any terms, covenants, conditions or provisions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms, covenants, conditions and provisions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- 23.** TDOT and the Utility agree that any notice provided for in this Contract or concerning this Contract shall be in writing and shall be made by personal delivery, by certified mail (return receipt requested), by nationally recognized overnight delivery service (such as FedEx or UPS), or by facsimile transmission (provided that notice shall also be given in one of the other methods prescribed herein) addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

To TDOT:

Tennessee Department of Transportation
Attention: State Utility Coordinator
Suite 600, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0329
Facsimile Number: (615) 532-1548

With a copy if requested by TDOT to:

Leslie South, General Counsel
Suite 300, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0326
Facsimile Number: (615) 532-5988

To the Utility:

Attention: _____

Facsimile Number: _____

With a copy if requested by Utility to:

Attention: _____

Facsimile Number: _____

IN WITNESS WHEREOF, the parties have executed this contract.

UTILITY

City of Portland (Water)

STATE OF TENNESSEE
DEPARTMENT OF
TRANSPORTATION

BY: _____

TITLE: _____

DATE: _____

BY: _____
Howard H. Eley
Commissioner

DATE: _____

APPROVED AS TO FORM AND
LEGALITY:

BY: _____
Leslie South
General Counsel

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- X. Compliance with Governmentwide Suspension and Debarment Requirements

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause or default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered

transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

CIRCULAR LETTER

Section: 105.07 Cooperation with Utilities

Number: 105.07-04

Subject: Utility Diaries and Inspection Procedures

Date: December 15, 2007

On all projects requiring utility relocations, Form DT-0667 "Project Utility Diary" is to be used to document said relocations whether the work is reimbursable or not. When a utility is relocating at its own expense or under a lumps sum reimbursement contract, the "Description of Work Performed" section will be the only notation required. The notation shall indicate if the relocation is a non reimbursable or lump sum reimbursable contract. Form DT-0667 fulfills the requirements for documentation detailed in Section 109.05 of the Department of Transportation Construction Manual and Section 18-7 of the Standard Utility Procedures Manual.

- 1 Form DT-0667 is to be completed in the field by the utility inspector.
- 2 The original or white sheet is to be transmitted to the TDOT Project Supervisor's office and bound.
- 3 The first copy or yellow sheet is to be transmitted to the utility company on reimbursable relocations.
- 4 The second copy or pink sheet is to be retained in the utility diary.

If the utility relocation is included in the state contract, the utility will be responsible for inspecting all phases of the relocation, per TCA 54-5-804, 2003 Public Chapter 86. The TDOT inspector shall document the utility work activities performed in the daily project diaries. The inspector provided by the utility company will:

- 1 Complete Form DT-0667 as described above and submit it each estimate period, as directed by the TDOT Project Supervisor. Along with the item descriptions, the inspector will include the quantities and stations of installed items.
- 2 Complete "Installed Item Certification" portion of Form DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be signed to certify that the items installed during that estimate period met all applicable specifications.
- 3 Complete and attach Form DT-1716A to DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be used to summarize, by project number, the utility items installed during that estimate period. The TDOT inspector shall sign Form DT-1716A after ensuring it is consistent with the utility diaries and daily project diaries. The completed Form DT-1716A shall be referenced in the progress pay quantity documentation.
- 4 Complete "Final Acceptance of Work" portion of Form DT-1716 and submit it to the TDOT Project Supervisor's office when the utility relocation work is complete.

PROJECT UTILITY DIARY

UTILITY COMPANY

RECORDED BY: _____

CONTRACT NO: _____

UTILITY CONTRACT NO.

PROJECT ENGINEER

PROJECT NO:

UTILITY REPRESENTATIVE:

REF. NO: _____

DATE: _____
(For Work Order Reimbursable Projects)

LABOR

[illegible]

LABOR USED TO RESTORE RECOVERED MATERIAL TO
SUITABLE CONDITION FOR REUSE SHOULD BE INCLUDED
ON THIS REPORT.

MATERIALS USED

[illegible]

MATERIALS REMOVED

[illegible]

IF BOTH PARTIES AGREE THAT MATERIAL IS NOT SALVAGEABLE, A CHECK IS TO BE ENTERED IN THE U.S. COLUMN

TRANSPORTATION AND EQUIPMENT

[illegible]

Distribution of copies:

White: Reg. Eng.

White: Reg. Eng.
Yellow: Utility Co.

Pink: Field

DT-0667

Rev. 4-90

UTILITY ITEM CERTIFICATION/FINAL ACCEPTANCE

Contract Number: _____ **Utility Company:** _____

Project Number(s): _____ **Utility Inspector:** _____

Print

County(ies): _____

Instructions: Please check appropriate box (or boxes) and fill out required information. For **Installed Item Certification**, attach **Summary of Installed Utility Items** sheet(s) for each project number and submit each estimate period as directed by the TDOT Project Supervisor.

☐ **Installed Item Certification**

On behalf of the above utility company, I certify that the materials used for the item(s) listed on the following page(s) meet and were installed in accordance with all applicable specifications. Any pertinent shop drawings or engineering changes have been approved.

Estimate Period: _____ **to** _____

Utility Inspector Signature

Date

☐ **Final Acceptance of Work**

I certify that the utility relocation work is complete and is accepted by the above utility company.

Utility Inspector Signature

Date

SUMMARY OF INSTALLED UTILITY ITEMS

Contract Number: _____ **Utility Company:** _____

Project Number: _____ **Utility Inspector:** _____
Print

County: _____

Estimate Period: _____ to _____

Item Number	Description	Unit	Installed Quantity

****Submittal and completion of this form is required for consideration of reimbursement on this project.****

Primary Contact: Bryan Price
E-mail: bprice@cityofportlandtn.gov **Phone:** (615) 323-1437
Secondary Contact: Megan Heisler **RG Approval and Date:**
E-mail: mheisler@cityofportlandtn.gov **Phone:** (615) 323-1437
Utility Name: City of Portland Department of Utilities
Address: 100 South Russell Street
City, State: Portland, TN **Zip:** 37148

Percent On Private: 17% Private ROW - #Poles / Length of facility: 1707
 Percent On Public: 83% Public ROW - #Poles / Length of facility: 8401
 Total Percentage: 100% Total #Poles / Length of facility: 10108

Is Utility Chapter 86 Certified (Obtained from Certification Sheet)? ☒ Y

(If project does not qualify for Chapter 86 Reimbursement, then "Percent on Private" will be used to calculate total amount due to Utility)

NO COST / NO REIMBURSEMENT (STOP HERE, REMAINDER OF FORM IS NOT REQUIRED) ☐

CHAPTER 86

REIMBURSEMENT MOVE PRIOR ☐
REQUESTED MOVE IN State Contract ☒ X
 (Please check ONE) Other ☐

NON-CHAPTER 86

% Private / Public Relocation ☐
 % Private / Public MOVE IN State Contract ☐
 Utility Replacement Easement Reimbursement ☐

ENGINEERING

Description	Amount
Pre-Construction	\$ 312,804.00
Construction	\$ 133,748.00
Construction Inspection Private	\$ 34,108.55
Construction Inspection Public	\$ 166,529.96
Reimbursable Expenses	\$ 1,638.00
ENGINEERING COST:	\$ 648,828.51

CONSTRUCTION (LABOR & MATERIAL)

Description	Amount
Installation Labor	\$ 1,584,136.34
Installation Materials	\$ 1,019,201.49
Removal Labor	\$ 170,676.50
Site Costs	\$ -
Material Provided to State	\$ -
Salvage Materials	\$ -
Non-Usable Materials	\$ -

ESTIMATED CONSTRUCTION COST: **\$ 2,774,014.33**

BETTERMENT

Description	Amount
Installation Labor	\$ -
Installation Materials	\$ 88,185.00

ESTIMATED UTILITY BETTERMENT COST: **\$ 88,185.00**

ESTIMATED REPLACEMENT EASEMENT COST: **\$ -**

If cost is listed above, separate Easement Contract is needed

ESTIMATED TOTAL CONSTRUCTION COST: **\$ 3,422,842.84**

TDOT USE ONLY

Consult Appr. Date: 1/21/2025
Amount Approved: \$ -
HQ Approval and Date: 1/21/2025
CH86 (Y/N): Y **PIN#:** 106634.02
LET: 8/15/2025 **Contract #:** 9501
Easement Contract #

UTILITY REIMBURSEMENT

CHAPTER 86 MOVE-IN CONTRACT: **\$ 482,298.55**

CHAPTER 86 MOVE PRIOR: **\$ -**

NON-CHAPTER 86 MOVE-IN CONTRACT: **\$ -**

NON-CHAPTER 86 % PUBLIC/PRIVATE: **\$ -**

Does Estimate Exceed \$1.75M Cap? - Y
 Does Estimate Require 75% Cap? - N

UTILITY DEPOSIT (IF APPLICABLE)

RELOCATION EXCEEDS \$1.75M CAP: **\$851,236.04**

AMOUNT OVER 75% REIMBURSEMENT: **\$0.00**

ESTIMATED UTILITY BETTERMENT COST: **\$88,185.00**

NON-CHAPTER 86 MOVE-IN CONS'T COST: **\$0.00**

TOTAL UTILITY DEPOSIT: **\$939,421.04**

The Utility will reference the page number where designated on the form when other Detail Cost Estimate sheets are attached.



ESTIMATE OF ENGINEERING COST

TDOT Project Number(s): NH-109(41) 83012-2212-14

Utility Name & Address:
City of Portland Department of Utilities
100 South Russell Street
Portland, TN 37148

County(ies): Sumner

Consultant Name & Address:
OHM Advisors, Inc.
209 10th Avenue South #154
Nashville, TN 37203

CONSULTANT ENGINEERING ESTIMATE

Place an "X" in the appropriate box:

☐ Standard Contract

☒ Continuing Contract (attach copy of Contract for TDOT verification)

I. ENGINEERING SERVICES

Classification	Rate/Hr	PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
		Hours	Total	Hours	Total	Hours	Total
Principal	\$ 190.00	45	\$ 8,550.00	8	\$ 1,520.00		\$ -
Project Manager	\$ 172.00	182	\$ 31,304.00	72	\$ 12,384.00		\$ -
Design Engineer	\$ 150.00	500	\$ 75,000.00	180	\$ 27,000.00		\$ -
Designer / Senior Designer	\$ 129.00	925	\$ 119,325.00	300	\$ 38,700.00		\$ -
Techician / Draftsperson	\$ 125.00	485	\$ 60,625.00		\$ -		\$ -
Administrative	\$ 90.00	200	\$ 18,000.00	520	\$ 46,800.00		\$ -
Field Inspector	\$ 105.00		\$ -		\$ -	1810	\$ 190,050.00
Licensed Surveyor	\$ 162.00		\$ -	12	\$ 1,944.00		\$ -
Rod Person	\$ 90.00		\$ -	60	\$ 5,400.00		\$ -
	\$ -		\$ -		\$ -		\$ -
Total Engineering Services		2337	\$ 312,804.00	1152	\$ 133,748.00	1810	\$ 190,050.00

II. REIMBURSABLE EXPENSES

Cost/Unit	Quantity	Total	Quantity	Total	Quantity	Total
Transportation / Mile:	\$ 0.59 X 1000 =	\$ 585.00	1800	\$ 1,053.00	18100	\$ 10,588.50
Meals / Day:	X =	\$ -		\$ -		\$ -
Lodging / Day:	X =	\$ -		\$ -		\$ -
Printing / Shipping:						
Other (Specify):						
Other (Specify):						
Total Reimbursable Expenses		\$ 585.00		\$ 1,053.00		\$ 10,588.50

III. INDIRECT / OVERHEAD EXPENSES

Indirect/Overhead Rate (not to exceed 145%): 125.00% \$ - 125.00% \$ - 125.00% \$ -

IV. PROFIT: (2.35x(1,2,3)x ALLOWABLE RATE)

Allowable Rate (Maximum of 13%): 10.00% \$ - 10.00% \$ - 10.00% \$ -

(Expenses for Sections III and IV only apply to Consultant Engineering Services without a Continuing Contract agreement with the Utility)

TOTAL ENGINEERING / SURVEY COST:

Standard Consultant: (I+II+III+IV) = \$ -
Continuing Contract: (I+II) = \$ 448,190.00

INSPECTION (Standard)

Private: \$ -
Public: \$ -

INSPECTION (Continuing)

Private: \$ 44,140.47
Public: \$ 156,498.03

TOTAL COST (Engineering and Inspection)

Standard Consultant: \$ -
Continuing Contract: \$ 648,828.50

Contingent upon pub/pvt percentage

IN-HOUSE ENGINEERING ESTIMATE

I. ENGINEERING SERVICES

Classification	Rate/Hr	PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
		Hours	Total	Hours	Total	Hours	Total
Project Manager			\$ -		\$ -		\$ -
Engineer			\$ -		\$ -		\$ -
Draftperson			\$ -		\$ -		\$ -
Administrative			\$ -		\$ -		\$ -
Field Inspector			\$ -		\$ -		\$ -
Licensed Surveyor			\$ -		\$ -		\$ -
Rod Person			\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -		\$ -
Total Engineering Services		0	\$ -	0	\$ -	0	\$ -

II. REIMBURSABLE EXPENSES

Cost/Unit	Quantity	Total	Quantity	Total	Quantity	Total
Transportation / Mile:	X =	\$ -		\$ -		\$ -
Meals / Day:	X =	\$ -		\$ -		\$ -
Lodging / Day:	X =	\$ -		\$ -		\$ -
Printing / Shipping:						
Other (Specify):						
Other (Specify):						
Total Reimbursable Expenses		\$ -		\$ -		\$ -

III. INDIRECT / OVERHEAD EXPENSES

Indirect/Overhead Rate (not to exceed 145%): 0.00% \$ - 0.00% \$ - 0.00% \$ -

TOTAL ENGINEERING COST:

\$ -

TOTAL INSPECTION COST:

Private: \$ -
Public: \$ -

INSTALLATION LABOR AND MATERIALS; BETTERMENT; MATERIALS PROVIDED TO THE STATE

EQUIPMENT COST INCLUDED WITH INSTALLATION COST ☐

EQUIPMENT COST INCLUDED WITH INSTALLATION COST ☐			LABOR				MATERIAL			BETTERMENT		
TDOT Item No.	Item Description	Qty	In House Cost		Contract (Bid/Continuing)		Unit Cost	Provided to State	Install Extended	Labor	Material	
			Unit Cost	Extended	Unit Cost	Extended						
795-01.14	16IN DIP SLIP JOINT WATER LINE	1289	\$	-	\$125.56	\$	161,846.84	\$83.70	\$	107,889.30		
795-03.34	6IN C900 PVC WATER LINE	1,000	\$	-	\$57.60	\$	57,600.00	\$38.40	\$	38,400.00		
795-03.35	8IN C900 PVC WATER LINE	8,300	\$	-	\$57.60	\$	478,080.00	\$38.40	\$	318,720.00	\$ 49,800.00	
795-03.37	12IN C900 PVC WATER LINE	1,610	\$	-	\$119.00	\$	191,590.00	\$70.00	\$	112,700.00		
795-06.04	CONNECT TO 6IN WATER LINE	8	\$	-	\$2,702.20	\$	21,617.60	\$1,801.47	\$	14,411.76		
795-06.05	CONNECT TO 8IN WATER LINE	1	\$	-	\$3,816.37	\$	3,816.37	\$2,544.24	\$	2,544.24		
795-06.07	CONNECT TO 12IN WATER LINE	8	\$	-	\$5,066.11	\$	40,528.88	\$3,377.41	\$	27,019.28		
795-13.01	DI FITTINGS	4,100	\$	-	\$9.07	\$	37,187.00	\$6.04	\$	24,764.00		
795-15.25	16IN STEEL CASING PIPE OPEN CUT METHOD	680	\$	-	\$189.00	\$	128,520.00	\$126.00	\$	85,680.00	\$ 37,125.00	
795-15.07	24IN STEEL CASING PIPE OPEN CUT METHOD	380	\$	-	\$297.50	\$	113,050.00	\$166.39	\$	63,228.20		
795-15.10	30IN STEEL CASING PIPE OPEN CUT METHOD	160	\$	-	\$388.62	\$	62,179.20	\$259.08	\$	41,452.80		
795-05.63	BORE/JACK 12IN STEEL CASING PIPE-UNCON.	150	\$	-	\$357.00	\$	53,550.00	\$180.00	\$	27,000.00		
795-05.68	BORE/JACK 24IN STEEL CASING PIPE-UNCON.	120	\$	-	\$757.63	\$	90,915.60	\$494.92	\$	59,390.40		
795-08.04	6IN GATE VALVE ASSEMBLY	4	\$	-	\$1,828.03	\$	7,312.12	\$1,218.68	\$	4,874.72		
795-08.05	8IN GATE VALVE ASSEMBLY	10	\$	-	\$2,404.93	\$	24,049.30	\$1,603.28	\$	16,032.80	\$ 1,260.00	
795-08.09	12IN GATE VALVE ASSEMBLY	8	\$	-	\$4,361.98	\$	34,895.84	\$2,907.99	\$	23,263.92		
795-10.05	2IN AUTO AIR RELEASE VALVE ASSEMBLY	3	\$	-	\$4,340.66	\$	13,021.98	\$2,893.77	\$	8,681.31		
795-09.01	3/4IN WATER SERVICE METER ASSEMBLY	12	\$	-	\$1,064.95	\$	19,979.40	\$1,109.97	\$	13,319.64		
795-09.19	3/4IN PVC SERVICE PIPE	180	\$	-	\$14.96	\$	2,692.80	\$11.26	\$	2,026.80		
795-11.02	FIRE HYDRANT ASSEMBLY	7	\$	-	\$5,957.63	\$	41,703.41	\$3,971.76	\$	27,802.32		
TOTAL INSTALLATION COSTS			\$	-	\$	1,584,136.34	\$	-	\$	1,019,201.49	\$ 88,185.00	
			(To Page 4.1; F44)		(To Page 4.1; F46)		(To Page 4.1; F48)		(To Page 4.1; F45)		(To Page 4.1; F56)	(To Page 4.1; F57)

REMOVAL LABOR; SALVAGE AND NON-USABLE (JUNKED) MATERIALS	
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

SITE COSTS

			LABOR				MATERIAL	
			In House Cost		Contract (Bid/Continuing)			
TDOT Item No.	Item Description	Qty	Unit Cost	Extended	Unit Cost	Extended	Salvage / Reused	Junked / Scrapped
795-21.02	RETIRE WATER VALVES AND HYDRANTS	1	\$	-	\$447.50	\$ 447.50		
795-11.12	RETIRE IN PLACE EXISTING WATER MAIN	9.510	\$	-	\$17.90	\$ 170.229.00		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
			\$	-		\$ -		
TOTAL REMOVAL COSTS				-		\$ 170,676.50	\$ -	\$ -

(To Page 4.1; F46)

(To Page 4.1; F49)

(To Page 4.1; F50)

(Move Prior Only)	
Clearing & Grubbing:	
Traffic Control:	
Erosion Control:	
TOTAL SITE COST	\$ -

(To Page 4.1; F47)

Revision 10-25-2013

TDOT Utility Form 2013-16

Sheet 2.1

APPROVED

By Wes Henderson at 12:16 pm, Jan 16, 2025

Chapter 86 Certification

In accordance with Tennessee Department of Transportation policy number 340-07, the following information is provided with regards to required compliance documentation for utility relocation reimbursement in accordance with TCA 54-5-804 and TCA 54-5-854.

PROJECT #/S: 83012-2212-14 COUNTY/S: Sumner
 FEDERAL: NH-109(41) PIN: 106634.02

1. The utility is seeking reimbursement under provisions of TCA 54-5-804 as amended by Public Acts 2003, Chapter number 86.
2. To the best of my knowledge the utility is in compliance with TCA § 54-5-804(a)(1) and this policy in that the utility has returned its relocation plan, schedule, and cost estimate to the Department within 120 days after receipt of the Department's project plans, or within such additional time as may be allowed in accordance with TCA § 54-5-854(b).
3. To the best of my knowledge the utility is in compliance with TCA 54-5-804(b) in that the utility has a valid permit to locate its utility facility on the public highway right-of-way.

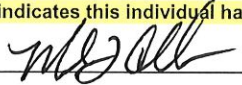
4. The utility is eligible for reimbursement in accordance with the Limitation provisions of the TDOT Policy 340-07 in that it is:

Municipally Owned ☒ Utility District ☐ Utility Cooperative ☐

5. The utility is considered to be a specific utility category listed in accordance with the Limitation provisions of the TDOT Policy 340-07:

- ☒ Water
☐ Waste Water
☐ Gas ☐ Distribution ☐ Transmission
☐ Electric ☐ Distribution ☐ Transmission
☐ Communication ☐ CATV ☐ Phone ☐ Fiberoptic ☐ Broadband
☐ Street Lighting
☐ Other _____

Signature indicates this individual has the legal authority to sign contracts and agreements to obligate the utility.

Signature: 
 Print Name: Honorable Mike Callis
 Title: Portland City Mayor
 Utility Name: Portland Department of Utilities
 Utility Address: 100 South Russell Street
 City, State, Zip: Portland, TN 37148
 Phone Number: (615) 325-6776
 Fax Number: _____
 Email Address: mcallis@cityofportlandtn.gov

Date: 5-9-22

APPROVED

By Wes Henderson at 12:16 pm, Jan 16, 2025



Declaration of Scheduled Calendar Days

Project Number: 83012-2212-14

Date: May 6, 2022

Description: Portland Bypass, from SR-52 to existing SR-109

County: Sumner

Utility Name: City of Portland Department of Utilities

Address: 100 South Russell Street

City, State: Portland, TN

Zip Code: 37148

Phone Number: (615) 323-1437

Fax Number:

Type of Facilities: ☒ Water ☐ Sewer ☐ Gas ☐ Telephone ☐ Electric
☐ CATV ☐ Fiberoptic ☐ Other

Required Period services cannot be interrupted: Coordinate with City

All estimated days should be expressed in "Calendar" days to complete installation, relocation or adjustment of the utility facilities on the above referenced project. The utility can as an option submit an "On or Before" date all work will be completed. In accordance with provisions set forth in TCA 54-5-854.

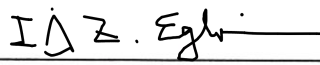
Task	Days to Complete	Special Conditions
Stock Pile Material (Including ordering material)	120	
Mobilize Work Force (including Bidding process if Required)	30	
Complete Relocation	210	
Total Days To Complete	360	

Special Conditions:


Signature of submitting
Utility Representative

5/9/2022

Date


Signature of submitting
State Representative

1/21/2025

Date

Subject to provisions of the TDOT Utility Office Maintenance of Traffic Procedures.

APPROVED

By Wes Henderson at 12:16 pm, Jan 16, 2025



Buy America

Rev. 12-23-2013

The Tennessee Department of Transportation (TDOT) in compliance with Federal Highway Administration (FHWA) directive **Effective February 29, 2016**

All utility and railroad relocation construction must comply with
23 U.S.C. 313 and 23 CFR 635.410 **Buy America requirements**

All Utility / Railroad invoices submitted to TDOT for Payment
MUST ATTACH THIS CERTIFICATION.

Utility / Railroad Name

Street Address

City

State

Zip

Certification: All products used in the relocation construction and identified in the attached invoice that are manufactured of steel or iron for permanent installation meet or exceed the requirements set forth in 23 USC 313 and 23 CFR 635.410 Buy America requirements.

Certification documentation is available for review that includes but is not limited to, if available, the Mill Test Report (MTR) for ALL steel products that have the certification statement (or similar) that the steel/iron was "melted and manufactured in the United States." All manufacturing processes and coatings applied thereon have occurred in the United States.

Per the Utility / Railroad Relocation Contract:

The Utility / Railroad agrees to comply with all current, applicable provisions of 23 CFR 645A / 23 CFR 140 and 23 CFR 646.

The Utility acknowledges possession of 23 CFR 645A / The Railroad acknowledges possession of 23 CFR 140 and 23 CFR 646.

The Utility / Railroad is subject to audit for a period of three (3) full years after final payment has been received.

The Utility / Railroad shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility / Railroad agrees that remedies for non-compliance are set out in the applicable regulations and the Contract.

I have reviewed the material provided herein and attached and hereby certify ALL material on the attached invoice is in compliance with Buy America requirements.

Signature of representative Authorized for financial obligations

Title

Date

STATE**OF****TENNESSEE**

(Rev. 6-20-11)

January 1, 2021

SPECIAL PROVISION**REGARDING****BUY AMERICA REQUIREMENTS**

All manufacturing processes for iron and steel products, and coatings applied thereon, used in this project shall occur in the United States except that if the proposal has bid items for furnishing domestic and foreign iron and steel, the bidder will have the option of (1) submitting a bid for furnishing domestic iron and steel, or (2) submitting a bid for furnishing domestic iron and steel and a bid for furnishing foreign iron and steel. If option (2) is chosen, the bid will be tabulated on the basis of (a) the total bid price using the bid price for furnishing domestic iron and steel and, (b) the total bid price using the bid price for furnishing foreign iron and steel.

For the total bid based on furnishing foreign iron and steel to be considered for award, the lowest total bid based on furnishing domestic iron and steel must exceed the lowest total bid based on furnishing foreign iron and steel by more than 25 percent. The 25 percent differential applies to the total bid for the entire project, not just the bid prices for the steel or iron products.

Iron and steel products are defined as products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed from iron and steel made in the United States. Iron products are included, however, pig iron and processed, pelletized, and reduced iron ore may be purchased outside the United States.

Manufacturing begins with initial melting and continues through the coating stage. Any process which modifies chemical content, physical size or shape, or the final finish is considered a manufacturing process. Coatings include epoxy, galvanizing, painting or any other surface protection that enhances the value and/or durability of a material.

The contractor shall provide a certification to the Engineer with each shipment of iron and steel products to the project site that the manufacturing processes for the iron and steel products occurred in the United States. No steel shall be placed until the contractor ensures the requirements of this Special Provision are met.

The above requirements do not prevent a minimal use of foreign materials, if the cost of such materials used does not exceed 0.1 percent of the total contract cost or \$2,500.00, whichever is greater. If steel not meeting the requirements of this Special Provision is used, the contractor shall provide a written statement to the Department prior to its use indicating where the steel will be incorporated in the work,

the value of the steel, the percentage of the contract amount, and the appropriate invoices shall be submitted as documentation.

The contractor shall be responsible for all cost associated with any steel that is permanently incorporated into the project that does not meet the requirements of this Special Provision without prior written approval from the Department, up to and including removal and replacement.

STATE**OF****TENNESSEE**

December 12, 2022

January 1, 2021

SPECIAL PROVISION**REGARDING****BUILD AMERICA, BUY AMERICA ACT
REQUIREMENTS**

The Build America, Buy America Act (BABA) Public Law No. 117-58 SEC. 70914 that all of the iron, steel, manufactured products, and construction materials used are subject to Build America, Buy America requirements and are produced in the United States.

- A. Iron and steel: FHWA existing requirements SP106A Regarding Buy America.
- B. Manufactured products: FHWA Buy America Final Rule 11/25/1983, 48 FR 53099; Waiver for Manufactured Products.
- C. Construction materials includes an article, material, or supply that is or consists primarily of:
 - non-ferrous metals;
 - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
 - glass (including optic glass);
 - Lumber; or
 - drywall.

Construction materials that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials.

Consider “all manufacturing processes” for construction materials to include at least the final manufacturing process and the immediately preceding manufacturing stage for the construction material.

Provide certifications to the Engineer for the construction materials that they meet the Build America Buy America Act requirements. Assure all submittals required for Buy America are submitted to the Engineer prior to the products and or materials being incorporated in the project.

The contractor shall be responsible for all cost associated with any of the construction materials that are permanently incorporated into the project that does not meet the requirements of this Special Provision without prior written approval from the Department, up to and including removal and replacement.



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

UTILITIES DIVISION
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-3196

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

January 24, 2025

DEPOSIT REQUEST

Attention : Bryan Price
Utility Name : City of Portland
Utility address: 100 South Russell Street, Portland, TN 37148
Type : Water

PROJECT# : 83012-2212-14

COUNTY/S: Sumner

FEDERAL# : NH-109(41)

PIN #: 106634.02

DESCRIPTION: SR-109 PROP (Portland Bypass), From SR-52, west of Portland, to existing SR-109, north of Portland

Dear Sir/Madame:

On **1/24/2025**, utility reimbursement contract number **9501** was sent which included work in the State contract for which the utility is responsible for and is obligated to pay the State the estimated amount of **\$939,421.04**. The Utility must provide these funds as instructed below:

- A. A check payable to the order of "Department of Transportation".
- B. Please, write **project #** and **contract #** on the check for proper credit.
- C. Mail check to address on top of this page, to attention of "Ms. Monica Cromer".

All deposits should be finalized and received no later than 5/2/2025. Original signed utility relocation contracts, utility relocation construction plans (pdf format), electronic specifications, and excel quantities file must also be received on or prior to this date. Our records indicate that you have either not made the required deposit yet or have another previously mentioned item missing. Under State law, the deposit must be received by this date or the utility work will be removed from the State contract which may result in the utility being ineligible for reimbursement for costs under provisions of TCA 54-5-804 if applicable. Failure to submit any of these items may result in your work being excluded from the State contract and the utility being put to work at their own cost. Should you have any questions, contact me immediately.

Sincerely,

Monica Cromer | Asst. State Utility Coordinator
Right of Way Division
James K. Polk Bldg, 6th Floor
505 Deaderick Street, Nashville, TN 37243
p. 615-741-3331

CC: File

Ordinance

City of Portland, Tennessee

No. 25-16

First Reading

AN ORDINANCE FOR THE CITY OF PORTLAND TO ENTER INTO A CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR RELOCATION OF SEWER UTILITIES WITHIN THE PROPOSED SR-109 (PORTLAND BYPASS), FROM SR-52, WEST OF PORTLAND, TO EXISTING SR-109, NORTH OF PORTLAND.

WHEREAS the Tennessee Department of Transportation (TDOT) plans to construct proposed SR-109 (Portland Bypass) in Sumner County – PIN #106634.02 Contract 9502; and

WHEREAS the City of Portland has sewer utilities located on private easement and within the right-of-way along the route of the proposed SR-109 (Portland Bypass) that must be relocated prior to TDOT's construction; and

WHEREAS, the City of Portland has furnished TDOT with an estimate and plans showing the cost and manner of relocating these facilities, which estimate is in the total amount of \$3,567,136.55, including the amount of \$636,197.00 for the cost of engineering, which may be inclusive of preliminary engineering authorized on January 10, 2022; the amount of \$277,125.00 for the cost of inspection provided by the City; including the amount of \$0.00 for the cost of betterment to the City's facilities and of which 15 percent represents the pro-rata share to which the City is entitled to reimbursement for relocation of City's sewer utility located on easement, and 85 percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering, and inspection on private utility right-of-way, but excluding inspection on public highway right-of-way, betterment, and the cost over the maximum TDOT reimbursement amount; and

WHEREAS it is in the mutual interests of TDOT and the City of Portland that this sewer utility relocation work be done, and it is necessary that the City of Portland enter a contract with TDOT for this sewer utility relocation; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland that a contract shall hereby be entered into with TDOT for sewer utility relocation on the proposed SR-109 (Portland Bypass) project.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading:

Passed Second Reading:



NH-109(41) / 83012-2212-14

Contract No. 9502

UTILITY RELOCATION CONTRACT

THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Portland (Sewer)**, hereinafter called the "Utility".

WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **106634.02, SR-109 PROP (Portland Bypass), From SR-52, west of Portland, to existing SR-109, north of Portland**, located in **Sumner County**, Tennessee (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to relocate certain of its facilities, **85** percent of which are located on public highway right-of-way and **15** percent of which are located on private utility right-of-way; and

WHEREAS, TDOT is liable for the relocation of utility facilities located on private utility right-of-way and is authorized, in accordance with TCA §54-5-804, to reimburse the Utility for the relocation of utility facilities located on public highway right-of-way but is not liable for any utility betterment costs; and

WHEREAS, in accordance with TDOT policy, the reimbursement of actual allowable costs for relocating utility facilities on public highway right-of-way for municipally owned utilities, Utility Districts, or Utility Cooperatives, as defined in TDOT's Policy #340-07, shall be capped at a maximum reimbursement of \$1,750,000, and for all other utilities the reimbursement shall be limited to 75% of actual allowable costs up to a maximum reimbursement cap of \$1,750,000; and

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$3,567,136.55**, including the amount of **\$636,197.00** for the cost of engineering, which may be inclusive of preliminary engineering authorized on **January 10, 2022**; including the amount of **\$277,125.00** for the cost of inspection provided by the Utility; including the amount of **\$0** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$1,046,509.82** for deposit for the utility work in the State contract, and of which **15** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **85** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering, and inspection on private utility right-of-way, but excluding inspection on public highway right-of-way, betterment, and the cost over the maximum TDOT reimbursement amount; and

WHEREAS, the parties want to enter into a contract to provide for the relocation of the Utility's facilities in conjunction with this highway construction project, and the Utility has requested TDOT to undertake the hereinafter described utility relocation work in its highway construction contract as provided in TCA §54-5-804; and

WHEREAS, it is in the mutual interest of the parties that this utility relocation work be performed together with the proposed highway construction;

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

1 (a) TDOT will show the proposed relocation of the Utility's facilities on TDOT's highway construction plans as project cost items and will receive bids for same by its highway contractor as a part of the contract for construction of the above mentioned Project. TDOT will be responsible for having its contractor perform the aforesaid utility relocation work in accordance with TDOT's construction contract, including the project plans, standard specifications, special provisions, and the utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference.

(b) The Utility agrees to reimburse TDOT for the Betterment Cost and the cost over the maximum TDOT reimbursement amount. Reimbursement shall be based on the agreed percentage of the actual cost of the Betterment Cost items as shown on the project plans incorporated herein by reference. It is further agreed that the Utility will make payment to TDOT in the amount of the estimated cost of the Betterment Cost items and the estimated cost over the maximum TDOT reimbursement amount prior to advertisement for bids. The Utility may provide these funds by one of the following means:

A. A check made payable to the order of and sent to TDOT; or

B. Documentation of a deposit made only by wire or by immediate credit transfer with the Treasurer of the State.

In the event said deposit exceeds the aggregate amount of the Betterment Cost charges, the difference will be refunded to the Utility. In the event said Betterment Cost charges exceed the deposit, the Utility agrees to reimburse TDOT for such additional amount.

(c) The Utility agrees that TDOT may advertise for and receive bids for the construction of the Project, including the proposed relocation of the Utility's facilities, and award and enter into contract with the lowest responsible bidder.

(d) The Utility agrees that any memoranda or other information concerning the estimated cost of the proposed relocation of the Utility's facilities will not directly or indirectly be released or disclosed to potential bidders except to the extent that the utility may otherwise be required to do so by law.

(e) Neither the Utility nor any affiliate or subsidiary thereof shall participate directly or indirectly as a bidder for any part of the Utility's relocation work to be performed under a contract to be awarded by TDOT. The Utility further agrees that no employee, officer, or agent of the Utility shall participate in the selection or the

award or administration of a contract for the performance of any part of the Utility's relocation work if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, or any member of his or her immediate family, or his or her partner, or an organization which employs or is about to employ any of the above, has a substantial financial interest, such as five-percent (5%) or greater ownership interest, or other interest in the firm selected for a award of a contract to perform the Utility's relocation work for this Project. Neither the Utility nor any affiliate, subsidiary, employee, officer, or agent of the Utility shall solicit or accept gratuities, favors, or anything of monetary value, except an unsolicited gift having nominal monetary value, from contractors or bidders.

- (f) It is also understood and agreed that TDOT, in its sole discretion, may reject any and all bids submitted for the construction of said Project without any liability whatsoever to the Utility.
2. (a) It is further agreed that in letting the contract with respect to the proposed relocation of the Utility's facilities, TDOT is acting solely in accommodation of the Utility and shall have no liability to the Utility for any damages or claims arising out of acts or omissions on the part of TDOT's contractor. The Utility agrees that it will not hold TDOT responsible for any claims arising out of the inclusion of the Utility's items of work in TDOT's highway construction contract. Under this contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment with the State of Tennessee.
 - (b) The utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference are provided by the Utility, signed and sealed in accordance with State regulations by a licensed engineer employed by the utility, and the utility is solely responsible for said relocation plans and specifications. The utility shall be responsible for all direct or indirect costs resulting from errors and omissions of said relocation plans and specifications included in the TDOT construction contract. The utility shall be responsible to provide to TDOT any and all necessary plans, electronic files, documentation, or anything else that is deemed necessary by TDOT to include the utility work in the TDOT construction contract.
3. (a) The Utility has acquired or shall acquire all utility rights-of-way outside of the available public highway right-of-way as may be needed to relocate its utility facilities, including any betterment, and the Utility shall provide TDOT and its contractor with the rights to use these utility rights-of-way for construction purposes. The Utility further agrees that it has acquired or will acquire these rights-of-way at no cost to TDOT except insofar as TDOT may be liable to reimburse the Utility for the replacement of previously owned private utility rights-of-way as may be provided in a separate contract between the parties.
 - (b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way as needed for highway purposes.

4. The Utility agrees that:

(a) The Utility will perform the utility engineering work provided for in this Contract by its own forces and/or consultant engineering services approved by TDOT.

(b) It will develop the utility engineering costs in accordance with the current provisions of 23 CFR §645.117.

5. The Utility shall have the right and responsibility to inspect and approve, prior to TDOT's release of its highway contractor's bond, all items of utility relocation work, including betterment, to be performed under the proposed highway construction contract to ensure that the relocation is completed in accordance with this Contract and all applicable specifications and safety codes. The Utility shall provide progressive inspection reports to TDOT in accordance with the current TDOT Construction Circular Letters section 105.07 "Utilities Diaries and Inspection Procedures" incorporated herein by reference. TDOT agrees that it will reimburse the Utility the pro-rata share for the inspection of utility facilities on private utility right-of-way when the utility relocation is completed in accordance with the approved relocation plans, incorporated herein by reference. The inspection of utility facilities on public highway right-of-way shall be performed at no cost to TDOT.
6. To the extent that facilities are being located within public highway right-of-way, the Utility agrees to comply with all current, applicable provisions of 23 CFR Subpart 645A, which are incorporated herein by reference; provided, however, that provisions for review, approval, authorization and participation by the Federal Highway Administration set forth in 23 CFR Subpart 645A shall not apply to the extent that the Project is not a (FHWA) federal-aid project. The Utility acknowledges possession of 23 CFR Subpart 645A.
7. The Utility agrees to comply with all current, applicable provisions of the Guidelines for Governmentwide Debarment and Suspension of 2 CFR §180.355 through §180.365, which are incorporated herein by reference. The Utility acknowledges possession of 2 CFR Part 180 and the requirements of the attached FHWA Form 1273, Section X – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.
8. The Utility agrees to comply with all current, applicable provisions of the Buy America requirements established under 23 USC § 313 and 23 CFR § 635.410. In accordance with guidance provided by the Federal Highway Administration, the Utility agrees that all products used in the Utility's relocation work that are manufactured of steel or iron shall be manufactured in the United States. For the purposes of applying this Buy America requirement and determining whether a product is a steel or iron manufactured product, the job site includes any sites where precast concrete products that are incorporated into the Utility's relocation work are manufactured.
9. Subject to the provisions of this paragraph and as otherwise provided in this Contract, TDOT agrees to reimburse the Utility for the Utility's reimbursable engineering and inspection costs associated with the relocation of the Utility's facilities, as follows:

- (a)** The Utility shall perform the engineering and inspection work in accordance with the estimate of cost and plans as approved by TDOT and incorporated herein by reference. The estimate of cost and schedule of work are attached hereto as Exhibit "A".
- (b)** The Utility may perform preliminary engineering to generate the schedule of calendar days, color coded relocation plans and estimate of cost as needed for TDOT to generate this agreement. Costs incurred for preliminary engineering prior to the execution date of this agreement are eligible for reimbursement as long as they were incurred after the preliminary authorization date. Any costs for consultant engineering shall also be eligible for reimbursement as long as they are incurred after consultant authorization.
- (c)** Any change in the approved estimate of cost or plans shall require the prior written approval of TDOT. TDOT agrees to review and, if acceptable, approve such requests for change in a timely manner, and TDOT agrees to cooperate with the Utility to resolve, if possible, any objections TDOT may have to such requested changes.
- (d)** TDOT shall reimburse the Utility for such direct and indirect costs as are allowable under the current provisions of 23 CFR Subpart 645A. Any claim for costs that would be ineligible for Federal reimbursement under 23 Subpart CFR 645A on a federal-aid project shall be ineligible for reimbursement by TDOT on this Project, whether it is or is not a federal-aid project.
- (e)** The Utility shall develop and record engineering and inspection costs in a manner consistent with the current provisions of 23 CFR §645.117 as of the effective date of this Contract and as approved by TDOT.
- (f)** The Utility shall submit all requests for payment by invoice, in form and substance acceptable to TDOT, with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amount charged for the period invoiced, and the total amount charged under the Contract to date.
- (g)** The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of cost attached hereto as Exhibit "A" to this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
- (h)** TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof, TDOT shall specifically identify those objections in writing to the Utility so as to allow the parties to address them in a prompt manner. If the invoice is

otherwise acceptable, TDOT shall only withhold payment(s) as to those cost items it has specified in its written notice of objections to the Utility. All other reimbursable cost items set out in the Utility's invoice shall be paid by TDOT.

- (i) Subject to the Utility's right to bill on an interim basis as described above, the Utility shall by invoice provide one final and complete billing of all costs incurred within one year following the completion of the Utility relocation work in its entirety. Otherwise, any previous payments to the Utility may be considered final, and the Utility may be deemed to have waived any claim for additional payments, except as TDOT and Utility may have agreed otherwise in writing before the end of that year.
 - (j) The Utility's invoice(s) shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by TDOT, on the basis of audits or monitoring conducted in accordance with the terms of this Contract, not to constitute allowable costs. The payment of an invoice shall not prejudice TDOT's right to object to or question any invoice or matter in relation thereto. Such payment by TDOT shall neither be construed as acceptance of the work nor as final approval of any of the costs invoiced therein.
 - (k) The Utility's invoice(s) shall include a Buy America certification attesting that all products used in the Utility's relocation work that are manufactured of steel or iron comply with the Buy America requirements set forth in 23 USC § 313 and 23 CFR § 635.410 and as further described in paragraph 8 of this Contract.
- 10.** The Utility agrees that its cost records will be subject to inspection at any reasonable time by representatives of TDOT before or after final payment for reimbursable work. In the event any costs are determined not to be allowable under provisions of this Contract, the Utility agrees to repay TDOT such amount of ineligible costs included within payments made by TDOT.
- 11.** The Utility shall keep and maintain accurate records by which all invoices can be verified. The books, records, and documents of the Utility, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years after final payment has been received by the Utility and shall be subject to audit at any reasonable time and upon reasonable notice by TDOT, the Comptroller of the Treasury, or their duly appointed representatives during this three year period. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- 12.** In the event that funds are not appropriated or are otherwise unavailable, TDOT reserves the right to terminate this Contract upon written notice to the Utility. Said termination shall not be deemed a breach of Contract by TDOT. Upon receipt of the written notice, the Utility shall cease all work associated with the Contract, except as may be reasonably necessary to return the Utility's facilities to safe operation. Should such an event occur, the Utility shall be entitled to compensation for all costs of relocation reimbursable under 23 CFR Subpart 645A (in accordance with paragraph 9 of this Contract) for work completed as of the termination date or in accordance with this provision. Upon such termination, the Utility shall have no right

to recover from TDOT any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- 13.** The Utility agrees, to the extent provided by law, that it will be solely responsible for any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Utility, its employees, its contractors, or any person acting for or on its or their behalf in the performance of the Utility's engineering and inspection work relating to this Contract. The Utility further agrees that it will not hold TDOT responsible for any such claims. Under this Contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment..

In the event that TDOT is sued for damages arising from acts, omissions, or negligence by the Utility or its employees, the Utility shall cooperate in TDOT's defense. TDOT shall give the Utility written notice of any such claim or suit, and the Utility shall have full right and obligation to conduct the Utility's own defense thereof. Nothing contained herein shall be deemed to accord to the Utility, through its attorney(s), the right to represent TDOT in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

- 14.** TDOT shall have no liability except as specifically provided in this Contract.
- 15.** This Contract may be modified only by a written amendment executed by the parties hereto.
- 16.** Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term, covenant, condition or provision of this Contract shall be held to be waived, modified, or deleted except by written amendment signed by the parties hereto.
- 17.** The Utility hereby agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Utility on the grounds of disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- 18.** The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended under this Contract.
- 19.** This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.

- 20.** The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- 21.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Utility acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.
- 22.** If any terms, covenants, conditions or provisions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms, covenants, conditions and provisions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- 23.** TDOT and the Utility agree that any notice provided for in this Contract or concerning this Contract shall be in writing and shall be made by personal delivery, by certified mail (return receipt requested), by nationally recognized overnight delivery service (such as FedEx or UPS), or by facsimile transmission (provided that notice shall also be given in one of the other methods prescribed herein) addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

To TDOT:

Tennessee Department of Transportation
Attention: State Utility Coordinator
Suite 600, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0329
Facsimile Number: (615) 532-1548

With a copy if requested by TDOT to:

Leslie South, General Counsel
Suite 300, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0326
Facsimile Number: (615) 532-5988

To the Utility:

Attention: _____

Facsimile Number: _____

With a copy if requested by Utility to:

Attention: _____

Facsimile Number: _____

IN WITNESS WHEREOF, the parties have executed this contract.

UTILITY

City of Portland (Sewer)

STATE OF TENNESSEE
DEPARTMENT OF
TRANSPORTATION

BY: _____

TITLE: _____

DATE: _____

BY: _____
Howard H. Eley
Commissioner

DATE: _____

APPROVED AS TO FORM AND
LEGALITY:

BY: _____
Leslie South
General Counsel

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- X. Compliance with Governmentwide Suspension and Debarment Requirements

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause or default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered

transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

CIRCULAR LETTER

Section: 105.07 Cooperation with Utilities

Number: 105.07-04

Subject: Utility Diaries and Inspection Procedures

Date: December 15, 2007

On all projects requiring utility relocations, Form DT-0667 "Project Utility Diary" is to be used to document said relocations whether the work is reimbursable or not. When a utility is relocating at its own expense or under a lumps sum reimbursement contract, the "Description of Work Performed" section will be the only notation required. The notation shall indicate if the relocation is a non reimbursable or lump sum reimbursable contract. Form DT-0667 fulfills the requirements for documentation detailed in Section 109.05 of the Department of Transportation Construction Manual and Section 18-7 of the Standard Utility Procedures Manual.

- 1 Form DT-0667 is to be completed in the field by the utility inspector.
- 2 The original or white sheet is to be transmitted to the TDOT Project Supervisor's office and bound.
- 3 The first copy or yellow sheet is to be transmitted to the utility company on reimbursable relocations.
- 4 The second copy or pink sheet is to be retained in the utility diary.

If the utility relocation is included in the state contract, the utility will be responsible for inspecting all phases of the relocation, per TCA 54-5-804, 2003 Public Chapter 86. The TDOT inspector shall document the utility work activities performed in the daily project diaries. The inspector provided by the utility company will:

- 1 Complete Form DT-0667 as described above and submit it each estimate period, as directed by the TDOT Project Supervisor. Along with the item descriptions, the inspector will include the quantities and stations of installed items.
- 2 Complete "Installed Item Certification" portion of Form DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be signed to certify that the items installed during that estimate period met all applicable specifications.
- 3 Complete and attach Form DT-1716A to DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be used to summarize, by project number, the utility items installed during that estimate period. The TDOT inspector shall sign Form DT-1716A after ensuring it is consistent with the utility diaries and daily project diaries. The completed Form DT-1716A shall be referenced in the progress pay quantity documentation.
- 4 Complete "Final Acceptance of Work" portion of Form DT-1716 and submit it to the TDOT Project Supervisor's office when the utility relocation work is complete.

PROJECT UTILITY DIARY

RECORDED BY: _____ UTILITY COMPANY

PROJECT ENGINEER

UTILITY REPRESENTATIVE:

(For Work Order Removals and Projects)

LABOR

MATERIALS REMOVED

[illegible]

Distribution of copies:

White: Reg. Eng.

White: Reg. Eng.
Yellow: Utility Co.

Pink: Field

DT-0667

Rev. 4-90

UTILITY ITEM CERTIFICATION/FINAL ACCEPTANCE

Contract Number: _____ **Utility Company:** _____

Project Number(s): _____ **Utility Inspector:** _____

Print

County(ies): _____

Instructions: Please check appropriate box (or boxes) and fill out required information. For **Installed Item Certification**, attach **Summary of Installed Utility Items** sheet(s) for each project number and submit each estimate period as directed by the TDOT Project Supervisor.

☐ **Installed Item Certification**

On behalf of the above utility company, I certify that the materials used for the item(s) listed on the following page(s) meet and were installed in accordance with all applicable specifications. Any pertinent shop drawings or engineering changes have been approved.

Estimate Period: _____ **to** _____

Utility Inspector Signature

Date

☐ **Final Acceptance of Work**

I certify that the utility relocation work is complete and is accepted by the above utility company.

Utility Inspector Signature

Date

SUMMARY OF INSTALLED UTILITY ITEMS

Contract Number: _____ **Utility Company:** _____

Project Number: _____ **Utility Inspector:** _____

Print

County: _____

Estimate Period: _____ to _____

[illegible]

Page _____ of _____



Project No: 83012-2212-14

County: Sumner

Date: January 10, 2025

****Submittal and completion of this form is required for consideration of reimbursement on this project.****

Primary Contact: Bryan Price
E-mail: bprice@cityofportlandtn.gov **Phone:** (615) 323-1437
Secondary Contact: Megan Heisler
E-mail: mheisler@cityofportlandtn.gov **Phone:** (615) 323-1437
Utility Name: City of Portland Department of Utilities
Address: 100 South Russell Street
City, State: Portland, TN **Zip:** 37148

Percent On Private: 15% Private ROW - #Poles / Length of facility: 1531
 Percent On Public: 85% Public ROW - #Poles / Length of facility: 8770
 Total Percentage: 100% Total #Poles / Length of facility: 10301

Is Utility Chapter 86 Certified (Obtained from Certification Sheet)? ☒ Y

(If project does not qualify for Chapter 86 Reimbursement, then "Percent on Private" will be used to calculate total amount due to Utility)

NO COST / NO REIMBURSEMENT (STOP HERE, REMAINDER OF FORM IS NOT REQUIRED) ☐

CHAPTER 86

REIMBURSEMENT MOVE PRIOR ☐
REQUESTED MOVE IN State Contract ☒ X
 (Please check ONE) Other ☐

NON-CHAPTER 86

% Private / Public Relocation ☐
 % Private / Public MOVE IN State Contract ☐
 Utility Replacement Easement Reimbursement ☐

ENGINEERING

Description	Amount
Pre-Construction	\$ 425,576.00
Construction	\$ 178,632.00
Construction Inspection Private	\$ 41,568.75
Construction Inspection Public	\$ 235,556.25
Reimbursable Expenses	\$ 31,989.00
ENGINEERING COST:	\$ 913,322.00

CONSTRUCTION (LABOR & MATERIAL)

Description	Amount
Installation Labor	\$ 1,473,179.00
Installation Materials	\$ 982,185.55
Removal Labor	\$ 198,450.00
Site Costs	\$ -
Material Provided to State	\$ -
Salvage Materials	\$ -
Non-Usable Materials	\$ -
ESTIMATED CONSTRUCTION COST:	\$ 2,653,814.55

BETTERMENT

Description	Amount
Installation Labor	\$ -
Installation Materials	\$ -

ESTIMATED UTILITY BETTERMENT COST: \$ -

ESTIMATED REPLACEMENT EASEMENT COST: \$ -

If cost is listed above, separate Easement Contract is needed

ESTIMATED TOTAL CONSTRUCTION COST: \$ 3,567,136.55

TDOT USE ONLY

RG Approval and Date: 1/21/2025

Consult Appr. Date: / /

Amount Approved: \$ -

HQ Approval and Date:

CH86 Y / N PIN#:

LET: / / Contract #:

Easement Contract #

UTILITY REIMBURSEMENT

CHAPTER 86 MOVE-IN CONTRACT: \$ 677,765.75

CHAPTER 86 MOVE PRIOR: \$ -

NON-CHAPTER 86 MOVE-IN CONTRACT: \$ -

NON-CHAPTER 86 % PUBLIC/PRIVATE: \$ -

Does Estimate Exceed \$1.75M Cap? - Y

Does Estimate Require 75% Cap? - N

UTILITY DEPOSIT (IF APPLICABLE)

RELOCATION EXCEEDS \$1.75M CAP: \$1,046,509.82

AMOUNT OVER 75% REIMBURSEMENT: \$0.00

ESTIMATED UTILITY BETTERMENT COST: \$0.00

NON-CHAPTER 86 MOVE-IN CONS'T COST: \$0.00

TOTAL UTILITY DEPOSIT: \$1,046,509.82

The Utility will reference the page number where designated on the form when other Detail Cost Estimate sheets are attached.

APPROVED

By Wes Henderson at 12:07 pm, Jan 16, 2025



ESTIMATE OF ENGINEERING COST

TDOT Project Number(s): NH-109(41) 83012-2212-14

Utility Name & Address:
City of Portland Department of Utilities
100 South Russell Street
Portland, TN 37148

County(ies): Sumner

Consultant Name & Address:
OHM Advisors, Inc.
209 10th Avenue South #154
Nashville, TN 37203

CONSULTANT ENGINEERING ESTIMATE

Place an "X" in the appropriate box: ☐ Standard Contract ☒ Continuing Contract (attach copy of Contract for TDOT verification)

I. ENGINEERING SERVICES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Classification	Rate/Hr	Hours	Total	Hours	Total	Hours	Total
Principal	\$ 190.00	60	\$ 11,400.00	10	\$ 1,900.00		\$ -
Project Manager	\$ 172.00	248	\$ 42,656.00	95	\$ 16,340.00		\$ -
Design Engineer	\$ 150.00	680	\$ 102,000.00	240	\$ 36,000.00		\$ -
Designer / Senior Designer	\$ 129.00	1260	\$ 162,540.00	400	\$ 51,600.00		\$ -
Techician / Draftsperson	\$ 125.00	660	\$ 82,500.00		\$ -		\$ -
Administrative	\$ 90.00	272	\$ 24,480.00	700	\$ 63,000.00		\$ -
Field Inspector	\$ 105.00		\$ -		\$ -	2500	\$ 262,500.00
Licensed Surveyor	\$ 162.00		\$ -	16	\$ 2,592.00		\$ -
Rod Person	\$ 90.00		\$ -	80	\$ 7,200.00		\$ -
	\$ -		\$ -		\$ -		\$ -
Total Engineering Services		3180	\$ 425,576.00	1541	\$ 178,632.00	2500	\$ 262,500.00

II. REIMBURSABLE EXPENSES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Cost/Unit	Quantity	Total	Quantity	Total	Quantity	Total	
Transportation / Mile:	\$ 0.59 X 1000	\$ 585.00	2400	\$ 1,404.00	25000	\$ 14,625.00	
Meals / Day:	X	\$ -		\$ -		\$ -	
Lodging / Day:	X	\$ -		\$ -		\$ -	
Printing / Shipping:							
Other (Specify):	SEWER CLEANING	\$ 18,000.00					
Other (Specify):	SEWER TELEVISION	\$ 12,000.00					
Total Reimbursable Expenses		\$ 30,585.00		\$ 1,404.00		\$ 14,625.00	

III. INDIRECT / OVERHEAD EXPENSES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Indirect/Overhead Rate (not to exceed 145%):	125.00%	\$ -	125.00%	\$ -	125.00%	\$ -	
IV. PROFIT: (2.35x(1.2,3)x ALLOWABLE RATE)							
Allowable Rate (Maximum of 13%):	10.00%	\$ -	10.00%	\$ -	10.00%	\$ -	

(Expenses for Sections III and IV only apply to Consultant Engineering Services without a Continuing Contract agreement with the Utility)

TOTAL ENGINEERING / SURVEY COST:

Standard Consultant: (I+II+III+IV) = \$ -

Continuing Contract: (I+II) = \$ 636,197.00

APPROVED AS NOTED
DATE 04/25/2022
BY *Ram Caman*
REG. UTILITIES OFFICE

INSPECTION (Standard)

Private: \$ -

Public: \$ -

INSPECTION (Continuing)

Private: \$ 38,797.50

Public: \$ 238,327.50

TOTAL COST (Engineering and Inspection)

Standard Consultant: \$ -

Continuing Contract: \$ 913,322.00

Contingent
upon pub/pvt
percentage

IN-HOUSE ENGINEERING ESTIMATE

I. ENGINEERING SERVICES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Classification	Rate/Hr	Hours	Total	Hours	Total	Hours	Total
Project Manager			\$ -		\$ -		\$ -
Engineer			\$ -		\$ -		\$ -
Draftsperson			\$ -		\$ -		\$ -
Administrative			\$ -		\$ -		\$ -
Field Inspector			\$ -		\$ -		\$ -
Licensed Surveyor			\$ -		\$ -		\$ -
Rod Person			\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -		\$ -
Total Engineering Services		0	\$ -	0	\$ -	0	\$ -

II. REIMBURSABLE EXPENSES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Cost/Unit	Quantity	Total	Quantity	Total	Quantity	Total	
Transportation / Mile:	X	\$ -		\$ -		\$ -	
Meals / Day:	X	\$ -		\$ -		\$ -	
Lodging / Day:	X	\$ -		\$ -		\$ -	
Printing / Shipping:							
Other (Specify):							
Other (Specify):							
Total Reimbursable Expenses		\$ -		\$ -		\$ -	

III. INDIRECT / OVERHEAD EXPENSES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Indirect/Overhead Rate (not to exceed 145%):	0.00%	\$ -	0.00%	\$ -	0.00%	\$ -	
TOTAL ENGINEERING COST:		\$ -	TOTAL INSPECTION COST:		\$ -		
			Private:	\$ -			
			Public:	\$ -			

INSTALLATION LABOR AND MATERIALS; BETTERMENT; MATERIALS PROVIDED TO THE STATE

EQUIPMENT COST INCLUDED WITH INSTALLATION COST ☐

EQUIPMENT COST INCLUDED WITH INSTALLATION COST ☐			LABOR				MATERIAL			BETTERMENT		
TDOT Item No.	Item Description	Qty	In House Cost		Contract (Bid/Continuing)		Unit Cost	Provided to State	Install Extended	Labor	Material	
			Unit Cost	Extended	Unit Cost	Extended						
797-03.06	4IN PVC FORCE MAIN	3,200	\$	-	\$40.20	\$	128,640.00	\$26.80	\$	85,780.00		
797-03.08	6IN PVC FORCE MAIN	4,100	\$	-	\$64.44	\$	264,204.00	\$42.96	\$	176,136.00		
797-09.06	4IN PLUG VALVE ASSEMBLY	4	\$	-	\$2,430.00	\$	9,720.00	\$1,620.00	\$	6,480.00		
797-09.07	6IN PLUG VALVE ASSEMBLY	17	\$	-	\$1,772.10	\$	30,125.70	\$1,181.40	\$	20,083.80		
797-08.01	DI FITTINGS	3,750	\$	-	\$12.00	\$	45,000.00	\$8.00	\$	30,000.00		
797-06.87	OPEN CUT 8IN STEEL CASING PIPE	200	\$	-	\$180.00	\$	36,000.00	\$120.00	\$	24,000.00		
797-06.89	OPEN CUT 12IN STEEL CASING PIPE	725	\$	-	\$201.38	\$	146,000.50	\$134.25	\$	97,331.25		
797-09.20	2IN COMBO AIR RELEASE VALVE ASSEMBLY	1	\$	-	\$4,027.50	\$	4,027.50	\$2,685.00	\$	2,685.00		
797-08.12	2IN END OF LINE FLUSHING ASSEMBLY	3	\$	-	\$2,430.00	\$	7,290.00	\$1,620.00	\$	4,860.00		
797-10.16	CONNECT TO 4IN FORCE MAIN	2	\$	-	\$4,500.00	\$	9,000.00	\$3,000.00	\$	6,000.00		
797-10.17	CONNECT TO 6IN FORCE MAIN	12	\$	-	\$2,148.00	\$	25,776.00	\$1,432.00	\$	17,184.00		
797-05.02	8IN DIP GRAVITY SEWER 6FT-12FT DEPTH	715	\$	-	\$219.00	\$	156,585.00	\$146.00	\$	104,390.00		
797-05.22	24IN DIP GRAVITY SEWER 6FT-12FT DEPTH	490	\$	-	\$644.40	\$	315,756.00	\$429.60	\$	210,504.00		
797-07.05	48IN MANHOLE 10FT-12FT DEPTH	6	\$	-	\$7,200.00	\$	43,200.00	\$4,800.00	\$	28,800.00		
797-06.90	OPEN CUT 16IN STEEL CASING PIPE	165	\$	-	\$282.00	\$	46,530.00	\$188.00	\$	31,020.00		
797-06.96	OPEN CUT 48IN STEEL CASING PIPE	180	\$	-	\$563.85	\$	101,493.00	\$375.90	\$	67,662.00		
797-11.39	TV INSPECTION (PRE)	10,310	\$	-	\$3.22	\$	33,198.20	\$2.15	\$	22,166.50		
797-11.39	TV INSPECTION (POST)	10,280	\$	-	\$3.22	\$	33,101.60	\$2.15	\$	22,102.00		
797-10.11	CONNECT EX. >18IN SEWER TO NEW MANHOLE	2	\$	-	\$5,235.75	\$	10,471.50	\$3,490.50	\$	6,981.00		
797-10.02	CONNECT 8IN SEWER TO EXIST. MANHOLE	3	\$	-	\$5,280.00	\$	15,840.00	\$3,520.00	\$	10,560.00		
797-10.12	CONNECT TO EXISTING PUMP STATION	2	\$	-	\$3,720.00	\$	7,440.00	\$2,480.00	\$	4,960.00		
797-07.60	ADJUST EXISTING MANHOLE	3	\$	-	\$1,260.00	\$	3,780.00	\$840.00	\$	2,520.00		
TOTAL INSTALLATION COSTS			\$	-	\$	1,473,179.00	\$	-	\$	982,185.55	\$	-
			(To Page 4.1; F44)		(To Page 4.1; F44)		(To Page 4.1; F48)		(To Page 4.1; F45)		(To Page 4.1; F56) (To Page 4.1; F57)	

REMOVAL LABOR; SALVAGE AND NON-USABLE (JUNKED) MATERIALS

[illegible]

SITE COSTS

(Move Prior Only)	
Clearing & Grubbing:	
Traffic Control:	
Erosion Control:	
TOTAL SITE COST	\$ -

(To Page 4.1; F47)

Revision 10-25-2013

TDOT Utility Form 2013-16
Sheet 2.1

APPROVED

By Wes Henderson at 12:06 pm, Jan 16, 2025

Chapter 86 Certification

In accordance with Tennessee Department of Transportation policy number 340-07, the following information is provided with regards to required compliance documentation for utility relocation reimbursement in accordance with TCA 54-5-804 and TCA 54-5-854.

PROJECT #/S: 83012-2212-14 COUNTY/S: Sumner

FEDERAL: NH-109(41) PIN: 106634.02

1. The utility is seeking reimbursement under provisions of TCA 54-5-804 as amended by Public Acts 2003, Chapter number 86.
2. To the best of my knowledge the utility is in compliance with TCA § 54-5-804(a)(1) and this policy in that the utility has returned its relocation plan, schedule, and cost estimate to the Department within 120 days after receipt of the Department's project plans, or within such additional time as may be allowed in accordance with TCA § 54-5-854(b).
3. To the best of my knowledge the utility is in compliance with TCA 54-5-804(b) in that the utility has a valid permit to locate its utility facility on the public highway right-of-way.

4. The utility is eligible for reimbursement in accordance with the Limitation provisions of the TDOT Policy 340-07 in that it is:

Municipally Owned ☒ Utility District ☐ Utility Cooperative ☐

5. The utility is considered to be a specific utility category listed in accordance with the Limitation provisions of the TDOT Policy 340-07:

☐ Water

☒ Waste Water

☐ Gas ☐ Distribution ☐ Transmission

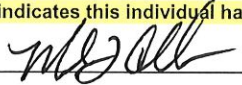
☐ Electric ☐ Distribution ☐ Transmission

☐ Communication ☐ CATV ☐ Phone ☐ Fiberoptic ☐ Broadband

☐ Street Lighting

☐ Other

Signature indicates this individual has the legal authority to sign contracts and agreements to obligate the utility.

Signature: 

Print Name: Honorable Mike Callis

Title: Portland City Mayor

Utility Name: Portland Department of Utilities

Utility Address: 100 South Russell Street

City, State, Zip: Portland, TN 37148

Phone Number: (615) 325-6776

Fax Number: _____

Email Address: mcallis@cityofportlandtn.gov

Date: 5-9-22

APPROVED

By Wes Henderson at 12:07 pm, Jan 16, 2025



Declaration of Scheduled Calendar Days

Project Number: 83012-2212-14

Date: May 6, 2022

Description: Portland Bypass, from SR-52 to existing SR-109

County: Sumner

Utility Name: City of Portland Department of Utilities

Address: 100 South Russell Street

City, State: Portland, TN

Zip Code: 37148

Phone Number: (615) 323-1437

Fax Number: _____

Type of Facilities: ☐ Water ☒ Sewer ☐ Gas ☐ Telephone ☐ Electric
☐ CATV ☐ Fiberoptic ☐ Other

Required Period services cannot be interrupted: Coordinate with City

All estimated days should be expressed in "Calendar" days to complete installation, relocation or adjustment of the utility facilities on the above referenced project. The utility can as an option submit an "On or Before" date all work will be completed. In accordance with provisions set forth in TCA 54-5-854.

Task	Days to Complete	Special Conditions
Stock Pile Material (Including ordering material)	120	
Mobilize Work Force (including Bidding process if Required)	30	
Complete Relocation	210	
Total Days To Complete	360	

Special Conditions:

Signature of submitting
Utility Representative

5/9/2022

Date

Signature of submitting
State Representative

1/21/2025

Date

Subject to provisions of the TDOT Utility Office Maintenance of Traffic Procedures.

APPROVED

By Wes Henderson at 12:07 pm, Jan 16, 2025



Buy America

Rev. 12-23-2013

The Tennessee Department of Transportation (TDOT) in compliance with Federal Highway Administration (FHWA) directive **Effective February 29, 2016**

All utility and railroad relocation construction must comply with
23 U.S.C. 313 and 23 CFR 635.410 **Buy America requirements**

All Utility / Railroad invoices submitted to TDOT for Payment
MUST ATTACH THIS CERTIFICATION.

Utility / Railroad Name

Street Address

City

State

Zip

Certification: All products used in the relocation construction and identified in the attached invoice that are manufactured of steel or iron for permanent installation meet or exceed the requirements set forth in 23 USC 313 and 23 CFR 635.410 Buy America requirements.

Certification documentation is available for review that includes but is not limited to, if available, the Mill Test Report (MTR) for ALL steel products that have the certification statement (or similar) that the steel/iron was "melted and manufactured in the United States." All manufacturing processes and coatings applied thereon have occurred in the United States.

Per the Utility / Railroad Relocation Contract:

The Utility / Railroad agrees to comply with all current, applicable provisions of 23 CFR 645A / 23 CFR 140 and 23 CFR 646.

The Utility acknowledges possession of 23 CFR 645A / The Railroad acknowledges possession of 23 CFR 140 and 23 CFR 646.

The Utility / Railroad is subject to audit for a period of three (3) full years after final payment has been received.

The Utility / Railroad shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility / Railroad agrees that remedies for non-compliance are set out in the applicable regulations and the Contract.

I have reviewed the material provided herein and attached and hereby certify ALL material on the attached invoice is in compliance with Buy America requirements.

Signature of representative Authorized for financial obligations

Title

Date

STATE**OF****TENNESSEE**

(Rev. 6-20-11)

January 1, 2021

SPECIAL PROVISION**REGARDING****BUY AMERICA REQUIREMENTS**

All manufacturing processes for iron and steel products, and coatings applied thereon, used in this project shall occur in the United States except that if the proposal has bid items for furnishing domestic and foreign iron and steel, the bidder will have the option of (1) submitting a bid for furnishing domestic iron and steel, or (2) submitting a bid for furnishing domestic iron and steel and a bid for furnishing foreign iron and steel. If option (2) is chosen, the bid will be tabulated on the basis of (a) the total bid price using the bid price for furnishing domestic iron and steel and, (b) the total bid price using the bid price for furnishing foreign iron and steel.

For the total bid based on furnishing foreign iron and steel to be considered for award, the lowest total bid based on furnishing domestic iron and steel must exceed the lowest total bid based on furnishing foreign iron and steel by more than 25 percent. The 25 percent differential applies to the total bid for the entire project, not just the bid prices for the steel or iron products.

Iron and steel products are defined as products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed from iron and steel made in the United States. Iron products are included, however, pig iron and processed, pelletized, and reduced iron ore may be purchased outside the United States.

Manufacturing begins with initial melting and continues through the coating stage. Any process which modifies chemical content, physical size or shape, or the final finish is considered a manufacturing process. Coatings include epoxy, galvanizing, painting or any other surface protection that enhances the value and/or durability of a material.

The contractor shall provide a certification to the Engineer with each shipment of iron and steel products to the project site that the manufacturing processes for the iron and steel products occurred in the United States. No steel shall be placed until the contractor ensures the requirements of this Special Provision are met.

The above requirements do not prevent a minimal use of foreign materials, if the cost of such materials used does not exceed 0.1 percent of the total contract cost or \$2,500.00, whichever is greater. If steel not meeting the requirements of this Special Provision is used, the contractor shall provide a written statement to the Department prior to its use indicating where the steel will be incorporated in the work,

the value of the steel, the percentage of the contract amount, and the appropriate invoices shall be submitted as documentation.

The contractor shall be responsible for all cost associated with any steel that is permanently incorporated into the project that does not meet the requirements of this Special Provision without prior written approval from the Department, up to and including removal and replacement.

STATE**OF****TENNESSEE**

December 12, 2022

January 1, 2021

SPECIAL PROVISION**REGARDING****BUILD AMERICA, BUY AMERICA ACT
REQUIREMENTS**

The Build America, Buy America Act (BABA) Public Law No. 117-58 SEC. 70914 that all of the iron, steel, manufactured products, and construction materials used are subject to Build America, Buy America requirements and are produced in the United States.

- A. Iron and steel: FHWA existing requirements SP106A Regarding Buy America.
- B. Manufactured products: FHWA Buy America Final Rule 11/25/1983, 48 FR 53099; Waiver for Manufactured Products.
- C. Construction materials includes an article, material, or supply that is or consists primarily of:
 - non-ferrous metals;
 - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
 - glass (including optic glass);
 - Lumber; or
 - drywall.

Construction materials that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials.

Consider “all manufacturing processes” for construction materials to include at least the final manufacturing process and the immediately preceding manufacturing stage for the construction material.

Provide certifications to the Engineer for the construction materials that they meet the Build America Buy America Act requirements. Assure all submittals required for Buy America are submitted to the Engineer prior to the products and or materials being incorporated in the project.

The contractor shall be responsible for all cost associated with any of the construction materials that are permanently incorporated into the project that does not meet the requirements of this Special Provision without prior written approval from the Department, up to and including removal and replacement.



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

UTILITIES DIVISION
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-3196

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

January 24, 2025

DEPOSIT REQUEST

Attention : Bryan Price
Utility Name : City of Portland
Utility address: 100 South Russell Street, Portland, TN 37148
Type : Sewer

PROJECT# : 83012-2212-14

COUNTY/S: Sumner

FEDERAL# : NH-109(41)

PIN #: 106634.02

DESCRIPTION: SR-109 PROP (Portland Bypass), From SR-52, west of Portland, to existing SR-109, north of Portland

Dear Sir/Madame:

On **1/24/2025**, utility reimbursement contract number **9502** was sent which included work in the State contract for which the utility is responsible for and is obligated to pay the State the estimated amount of **\$1,046,509.82**. The Utility must provide these funds as instructed below:

- A. A check payable to the order of "Department of Transportation".
- B. Please, write **project #** and **contract #** on the check for proper credit.
- C. Mail check to address on top of this page, to attention of "Ms. Monica Cromer".

All deposits should be finalized and received no later than 5/2/2025. Original signed utility relocation contracts, utility relocation construction plans (pdf format), electronic specifications, and excel quantities file must also be received on or prior to this date. Our records indicate that you have either not made the required deposit yet or have another previously mentioned item missing. Under State law, the deposit must be received by this date or the utility work will be removed from the State contract which may result in the utility being ineligible for reimbursement for costs under provisions of TCA 54-5-804 if applicable. Failure to submit any of these items may result in your work being excluded from the State contract and the utility being put to work at their own cost. Should you have any questions, contact me immediately.

Sincerely,

Monica Cromer | Asst. State Utility Coordinator
Right of Way Division
James K. Polk Bldg, 6th Floor
505 Deaderick Street, Nashville, TN 37243
p. 615-741-3331

CC: File

Ordinance

City of Portland, Tennessee

No. 25-17

First Reading

AN ORDINANCE FOR THE CITY OF PORTLAND TO ENTER INTO A CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR RELOCATION OF GAS UTILITIES WITHIN THE PROPOSED SR-109 (PORTLAND BYPASS), FROM SR-52, WEST OF PORTLAND, TO EXISTING SR-109, NORTH OF PORTLAND.

WHEREAS, the Tennessee Department of Transportation (TDOT) plans to construct proposed SR-109 (Portland Bypass) in Sumner County – PIN #106634.02 Contract 9503; and

WHEREAS, the City of Portland has gas utilities located on private easement along the route of the proposed SR-109 (Portland Bypass) that must be relocated prior to TDOT's construction; and

WHEREAS, the City of Portland has furnished TDOT with an estimate and plans showing the cost and manner of relocating these facilities, which estimate is in the total amount of \$3,225,800.05, including the amount of \$230,152.00 for the cost of engineering, which may be inclusive of preliminary engineering authorized on January 10, 2022; the amount of \$103,090.50 for the cost of inspection provided by the City; including the amount of \$0.00 for the cost of betterment to the City's facilities and of which 32 percent represents the pro-rata share to which the City is entitled to reimbursement for relocation of City's water utility located on easement, and 68 percent represents the pro-rata share for relocation of City's water utility located on public highway right-of-way, reimbursement being for the cost of construction, engineering, and inspection on private utility right-of-way, but excluding inspection on public highway right-of-way, betterment, and the cost over the maximum TDOT reimbursement amount; and

WHEREAS, it is in the mutual interests of TDOT and the City of Portland that this gas utility relocation work be done, and it is necessary that the City of Portland enter a contract with TDOT for this gas utility relocation; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Portland that a contract shall hereby be entered into with TDOT for water utility relocation on the proposed SR-109 (Portland Bypass) project.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Passed First Reading:

Passed Second Reading:



NH-109(41) / 83012-2212-14

Contract No. 9503

UTILITY RELOCATION CONTRACT

THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Portland (Gas)**, hereinafter called the "Utility".

WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **106634.02, SR-109 PROP (Portland Bypass), From SR-52, west of Portland, to existing SR-109, north of Portland**, located in **Sumner County**, Tennessee (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to relocate certain of its facilities, **68** percent of which are located on public highway right-of-way and **32** percent of which are located on private utility right-of-way; and

WHEREAS, TDOT is liable for the relocation of utility facilities located on private utility right-of-way and is authorized, in accordance with TCA §54-5-804, to reimburse the Utility for the relocation of utility facilities located on public highway right-of-way but is not liable for any utility betterment costs; and

WHEREAS, in accordance with TDOT policy, the reimbursement of actual allowable costs for relocating utility facilities on public highway right-of-way for municipally owned utilities, Utility Districts, or Utility Cooperatives, as defined in TDOT's Policy #340-07, shall be capped at a maximum reimbursement of \$1,750,000, and for all other utilities the reimbursement shall be limited to 75% of actual allowable costs up to a maximum reimbursement cap of \$1,750,000; and

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$3,225,800.05**, including the amount of **\$230,152.00** for the cost of engineering, which may be inclusive of preliminary engineering authorized on **January 10, 2022**; including the amount of **\$103,090.50** for the cost of inspection provided by the Utility; including the amount of **\$0** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$373,442.49** for deposit for the utility work in the State contract, and of which **32** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **68** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering, and inspection on private utility right-of-way, but excluding inspection on public highway right-of-way, betterment, and the cost over the maximum TDOT reimbursement amount; and

WHEREAS, the parties want to enter into a contract to provide for the relocation of the Utility's facilities in conjunction with this highway construction project, and the Utility has requested TDOT to undertake the hereinafter described utility relocation work in its highway construction contract as provided in TCA §54-5-804; and

WHEREAS, it is in the mutual interest of the parties that this utility relocation work be performed together with the proposed highway construction;

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

1 (a) TDOT will show the proposed relocation of the Utility's facilities on TDOT's highway construction plans as project cost items and will receive bids for same by its highway contractor as a part of the contract for construction of the above mentioned Project. TDOT will be responsible for having its contractor perform the aforesaid utility relocation work in accordance with TDOT's construction contract, including the project plans, standard specifications, special provisions, and the utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference.

(b) The Utility agrees to reimburse TDOT for the Betterment Cost and the cost over the maximum TDOT reimbursement amount. Reimbursement shall be based on the agreed percentage of the actual cost of the Betterment Cost items as shown on the project plans incorporated herein by reference. It is further agreed that the Utility will make payment to TDOT in the amount of the estimated cost of the Betterment Cost items and the estimated cost over the maximum TDOT reimbursement amount prior to advertisement for bids. The Utility may provide these funds by one of the following means:

A. A check made payable to the order of and sent to TDOT; or

B. Documentation of a deposit made only by wire or by immediate credit transfer with the Treasurer of the State.

In the event said deposit exceeds the aggregate amount of the Betterment Cost charges, the difference will be refunded to the Utility. In the event said Betterment Cost charges exceed the deposit, the Utility agrees to reimburse TDOT for such additional amount.

(c) The Utility agrees that TDOT may advertise for and receive bids for the construction of the Project, including the proposed relocation of the Utility's facilities, and award and enter into contract with the lowest responsible bidder.

(d) The Utility agrees that any memoranda or other information concerning the estimated cost of the proposed relocation of the Utility's facilities will not directly or indirectly be released or disclosed to potential bidders except to the extent that the utility may otherwise be required to do so by law.

(e) Neither the Utility nor any affiliate or subsidiary thereof shall participate directly or indirectly as a bidder for any part of the Utility's relocation work to be performed under a contract to be awarded by TDOT. The Utility further agrees that no employee, officer, or agent of the Utility shall participate in the selection or the

award or administration of a contract for the performance of any part of the Utility's relocation work if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, or any member of his or her immediate family, or his or her partner, or an organization which employs or is about to employ any of the above, has a substantial financial interest, such as five-percent (5%) or greater ownership interest, or other interest in the firm selected for a award of a contract to perform the Utility's relocation work for this Project. Neither the Utility nor any affiliate, subsidiary, employee, officer, or agent of the Utility shall solicit or accept gratuities, favors, or anything of monetary value, except an unsolicited gift having nominal monetary value, from contractors or bidders.

- (f) It is also understood and agreed that TDOT, in its sole discretion, may reject any and all bids submitted for the construction of said Project without any liability whatsoever to the Utility.
2. (a) It is further agreed that in letting the contract with respect to the proposed relocation of the Utility's facilities, TDOT is acting solely in accommodation of the Utility and shall have no liability to the Utility for any damages or claims arising out of acts or omissions on the part of TDOT's contractor. The Utility agrees that it will not hold TDOT responsible for any claims arising out of the inclusion of the Utility's items of work in TDOT's highway construction contract. Under this contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment with the State of Tennessee.
 - (b) The utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference are provided by the Utility, signed and sealed in accordance with State regulations by a licensed engineer employed by the utility, and the utility is solely responsible for said relocation plans and specifications. The utility shall be responsible for all direct or indirect costs resulting from errors and omissions of said relocation plans and specifications included in the TDOT construction contract. The utility shall be responsible to provide to TDOT any and all necessary plans, electronic files, documentation, or anything else that is deemed necessary by TDOT to include the utility work in the TDOT construction contract.
3. (a) The Utility has acquired or shall acquire all utility rights-of-way outside of the available public highway right-of-way as may be needed to relocate its utility facilities, including any betterment, and the Utility shall provide TDOT and its contractor with the rights to use these utility rights-of-way for construction purposes. The Utility further agrees that it has acquired or will acquire these rights-of-way at no cost to TDOT except insofar as TDOT may be liable to reimburse the Utility for the replacement of previously owned private utility rights-of-way as may be provided in a separate contract between the parties.
 - (b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way as needed for highway purposes.

4. The Utility agrees that:

(a) The Utility will perform the utility engineering work provided for in this Contract by its own forces and/or consultant engineering services approved by TDOT.

(b) It will develop the utility engineering costs in accordance with the current provisions of 23 CFR §645.117.

- 5.** The Utility shall have the right and responsibility to inspect and approve, prior to TDOT's release of its highway contractor's bond, all items of utility relocation work, including betterment, to be performed under the proposed highway construction contract to ensure that the relocation is completed in accordance with this Contract and all applicable specifications and safety codes. The Utility shall provide progressive inspection reports to TDOT in accordance with the current TDOT Construction Circular Letters section 105.07 "Utilities Diaries and Inspection Procedures" incorporated herein by reference. TDOT agrees that it will reimburse the Utility the pro-rata share for the inspection of utility facilities on private utility right-of-way when the utility relocation is completed in accordance with the approved relocation plans, incorporated herein by reference. The inspection of utility facilities on public highway right-of-way shall be performed at no cost to TDOT.
- 6.** To the extent that facilities are being located within public highway right-of-way, the Utility agrees to comply with all current, applicable provisions of 23 CFR Subpart 645A, which are incorporated herein by reference; provided, however, that provisions for review, approval, authorization and participation by the Federal Highway Administration set forth in 23 CFR Subpart 645A shall not apply to the extent that the Project is not a (FHWA) federal-aid project. The Utility acknowledges possession of 23 CFR Subpart 645A.
- 7.** The Utility agrees to comply with all current, applicable provisions of the Guidelines for Governmentwide Debarment and Suspension of 2 CFR §180.355 through §180.365, which are incorporated herein by reference. The Utility acknowledges possession of 2 CFR Part 180 and the requirements of the attached FHWA Form 1273, Section X – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.
- 8.** The Utility agrees to comply with all current, applicable provisions of the Buy America requirements established under 23 USC § 313 and 23 CFR § 635.410. In accordance with guidance provided by the Federal Highway Administration, the Utility agrees that all products used in the Utility's relocation work that are manufactured of steel or iron shall be manufactured in the United States. For the purposes of applying this Buy America requirement and determining whether a product is a steel or iron manufactured product, the job site includes any sites where precast concrete products that are incorporated into the Utility's relocation work are manufactured.
- 9.** Subject to the provisions of this paragraph and as otherwise provided in this Contract, TDOT agrees to reimburse the Utility for the Utility's reimbursable engineering and inspection costs associated with the relocation of the Utility's facilities, as follows:

- (a)** The Utility shall perform the engineering and inspection work in accordance with the estimate of cost and plans as approved by TDOT and incorporated herein by reference. The estimate of cost and schedule of work are attached hereto as Exhibit "A".
- (b)** The Utility may perform preliminary engineering to generate the schedule of calendar days, color coded relocation plans and estimate of cost as needed for TDOT to generate this agreement. Costs incurred for preliminary engineering prior to the execution date of this agreement are eligible for reimbursement as long as they were incurred after the preliminary authorization date. Any costs for consultant engineering shall also be eligible for reimbursement as long as they are incurred after consultant authorization.
- (c)** Any change in the approved estimate of cost or plans shall require the prior written approval of TDOT. TDOT agrees to review and, if acceptable, approve such requests for change in a timely manner, and TDOT agrees to cooperate with the Utility to resolve, if possible, any objections TDOT may have to such requested changes.
- (d)** TDOT shall reimburse the Utility for such direct and indirect costs as are allowable under the current provisions of 23 CFR Subpart 645A. Any claim for costs that would be ineligible for Federal reimbursement under 23 Subpart CFR 645A on a federal-aid project shall be ineligible for reimbursement by TDOT on this Project, whether it is or is not a federal-aid project.
- (e)** The Utility shall develop and record engineering and inspection costs in a manner consistent with the current provisions of 23 CFR §645.117 as of the effective date of this Contract and as approved by TDOT.
- (f)** The Utility shall submit all requests for payment by invoice, in form and substance acceptable to TDOT, with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amount charged for the period invoiced, and the total amount charged under the Contract to date.
- (g)** The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of cost attached hereto as Exhibit "A" to this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
- (h)** TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof, TDOT shall specifically identify those objections in writing to the Utility so as to allow the parties to address them in a prompt manner. If the invoice is

otherwise acceptable, TDOT shall only withhold payment(s) as to those cost items it has specified in its written notice of objections to the Utility. All other reimbursable cost items set out in the Utility's invoice shall be paid by TDOT.

- (i) Subject to the Utility's right to bill on an interim basis as described above, the Utility shall by invoice provide one final and complete billing of all costs incurred within one year following the completion of the Utility relocation work in its entirety. Otherwise, any previous payments to the Utility may be considered final, and the Utility may be deemed to have waived any claim for additional payments, except as TDOT and Utility may have agreed otherwise in writing before the end of that year.
 - (j) The Utility's invoice(s) shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by TDOT, on the basis of audits or monitoring conducted in accordance with the terms of this Contract, not to constitute allowable costs. The payment of an invoice shall not prejudice TDOT's right to object to or question any invoice or matter in relation thereto. Such payment by TDOT shall neither be construed as acceptance of the work nor as final approval of any of the costs invoiced therein.
 - (k) The Utility's invoice(s) shall include a Buy America certification attesting that all products used in the Utility's relocation work that are manufactured of steel or iron comply with the Buy America requirements set forth in 23 USC § 313 and 23 CFR § 635.410 and as further described in paragraph 8 of this Contract.
- 10.** The Utility agrees that its cost records will be subject to inspection at any reasonable time by representatives of TDOT before or after final payment for reimbursable work. In the event any costs are determined not to be allowable under provisions of this Contract, the Utility agrees to repay TDOT such amount of ineligible costs included within payments made by TDOT.
- 11.** The Utility shall keep and maintain accurate records by which all invoices can be verified. The books, records, and documents of the Utility, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years after final payment has been received by the Utility and shall be subject to audit at any reasonable time and upon reasonable notice by TDOT, the Comptroller of the Treasury, or their duly appointed representatives during this three year period. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- 12.** In the event that funds are not appropriated or are otherwise unavailable, TDOT reserves the right to terminate this Contract upon written notice to the Utility. Said termination shall not be deemed a breach of Contract by TDOT. Upon receipt of the written notice, the Utility shall cease all work associated with the Contract, except as may be reasonably necessary to return the Utility's facilities to safe operation. Should such an event occur, the Utility shall be entitled to compensation for all costs of relocation reimbursable under 23 CFR Subpart 645A (in accordance with paragraph 9 of this Contract) for work completed as of the termination date or in accordance with this provision. Upon such termination, the Utility shall have no right

to recover from TDOT any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- 13.** The Utility agrees, to the extent provided by law, that it will be solely responsible for any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Utility, its employees, its contractors, or any person acting for or on its or their behalf in the performance of the Utility's engineering and inspection work relating to this Contract. The Utility further agrees that it will not hold TDOT responsible for any such claims. Under this Contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment..

In the event that TDOT is sued for damages arising from acts, omissions, or negligence by the Utility or its employees, the Utility shall cooperate in TDOT's defense. TDOT shall give the Utility written notice of any such claim or suit, and the Utility shall have full right and obligation to conduct the Utility's own defense thereof. Nothing contained herein shall be deemed to accord to the Utility, through its attorney(s), the right to represent TDOT in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

- 14.** TDOT shall have no liability except as specifically provided in this Contract.
- 15.** This Contract may be modified only by a written amendment executed by the parties hereto.
- 16.** Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term, covenant, condition or provision of this Contract shall be held to be waived, modified, or deleted except by written amendment signed by the parties hereto.
- 17.** The Utility hereby agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Utility on the grounds of disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- 18.** The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended under this Contract.
- 19.** This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.

- 20.** The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- 21.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Utility acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.
- 22.** If any terms, covenants, conditions or provisions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms, covenants, conditions and provisions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- 23.** TDOT and the Utility agree that any notice provided for in this Contract or concerning this Contract shall be in writing and shall be made by personal delivery, by certified mail (return receipt requested), by nationally recognized overnight delivery service (such as FedEx or UPS), or by facsimile transmission (provided that notice shall also be given in one of the other methods prescribed herein) addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

To TDOT:

Tennessee Department of Transportation
Attention: State Utility Coordinator
Suite 600, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0329
Facsimile Number: (615) 532-1548

With a copy if requested by TDOT to:

Leslie South, General Counsel
Suite 300, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0326
Facsimile Number: (615) 532-5988

To the Utility:

Attention: _____

Facsimile Number: _____

With a copy if requested by Utility to:

Attention: _____

Facsimile Number: _____

IN WITNESS WHEREOF, the parties have executed this contract.

UTILITY

City of Portland (Gas)

STATE OF TENNESSEE
DEPARTMENT OF
TRANSPORTATION

BY: _____

TITLE: _____

DATE: _____

BY: _____
Howard H. Eley
Commissioner

DATE: _____

APPROVED AS TO FORM AND
LEGALITY:

BY: _____
Leslie South
General Counsel

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- X. Compliance with Governmentwide Suspension and Debarment Requirements

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause or default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered

transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

CIRCULAR LETTER

Section: 105.07 Cooperation with Utilities

Number: 105.07-04

Subject: Utility Diaries and Inspection Procedures

Date: December 15, 2007

On all projects requiring utility relocations, Form DT-0667 "Project Utility Diary" is to be used to document said relocations whether the work is reimbursable or not. When a utility is relocating at its own expense or under a lumps sum reimbursement contract, the "Description of Work Performed" section will be the only notation required. The notation shall indicate if the relocation is a non reimbursable or lump sum reimbursable contract. Form DT-0667 fulfills the requirements for documentation detailed in Section 109.05 of the Department of Transportation Construction Manual and Section 18-7 of the Standard Utility Procedures Manual.

- 1 Form DT-0667 is to be completed in the field by the utility inspector.
- 2 The original or white sheet is to be transmitted to the TDOT Project Supervisor's office and bound.
- 3 The first copy or yellow sheet is to be transmitted to the utility company on reimbursable relocations.
- 4 The second copy or pink sheet is to be retained in the utility diary.

If the utility relocation is included in the state contract, the utility will be responsible for inspecting all phases of the relocation, per TCA 54-5-804, 2003 Public Chapter 86. The TDOT inspector shall document the utility work activities performed in the daily project diaries. The inspector provided by the utility company will:

- 1 Complete Form DT-0667 as described above and submit it each estimate period, as directed by the TDOT Project Supervisor. Along with the item descriptions, the inspector will include the quantities and stations of installed items.
- 2 Complete "Installed Item Certification" portion of Form DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be signed to certify that the items installed during that estimate period met all applicable specifications.
- 3 Complete and attach Form DT-1716A to DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be used to summarize, by project number, the utility items installed during that estimate period. The TDOT inspector shall sign Form DT-1716A after ensuring it is consistent with the utility diaries and daily project diaries. The completed Form DT-1716A shall be referenced in the progress pay quantity documentation.
- 4 Complete "Final Acceptance of Work" portion of Form DT-1716 and submit it to the TDOT Project Supervisor's office when the utility relocation work is complete.

PROJECT UTILITY DIARY

UTILITY COMPANY

RECORDED BY: _____

CONTRACT NO: _____

UTILITY CONTRACT NO.

PROJECT ENGINEER

PROJECT NO:

UTILITY REPRESENTATIVE:

REF. NO: _____

DATE: _____
(For Work Order Reimbursable Projects)

LABOR

[illegible]

LABOR USED TO RESTORE RECOVERED MATERIAL TO
SUITABLE CONDITION FOR REUSE SHOULD BE INCLUDED
ON THIS REPORT.

MATERIALS USED

[illegible]

MATERIALS REMOVED

[illegible]

IF BOTH PARTIES AGREE THAT MATERIAL IS NOT SALVAGEABLE, A CHECK IS TO BE ENTERED IN THE U.S. COLUMN

TRANSPORTATION AND EQUIPMENT

[illegible]

Distribution of copies:

White: Reg. Eng.

White: Reg. Eng.
Yellow: Utility Co.

Yellow: Churny
Pink: Field

DT-0667

Rev. 4-90

UTILITY ITEM CERTIFICATION/FINAL ACCEPTANCE

Contract Number: _____ **Utility Company:** _____

Project Number(s): _____ **Utility Inspector:** _____

Print

County(ies): _____

Instructions: Please check appropriate box (or boxes) and fill out required information. For **Installed Item Certification**, attach **Summary of Installed Utility Items** sheet(s) for each project number and submit each estimate period as directed by the TDOT Project Supervisor.

☐ **Installed Item Certification**

On behalf of the above utility company, I certify that the materials used for the item(s) listed on the following page(s) meet and were installed in accordance with all applicable specifications. Any pertinent shop drawings or engineering changes have been approved.

Estimate Period: _____ **to** _____

Utility Inspector Signature

Date

☐ **Final Acceptance of Work**

I certify that the utility relocation work is complete and is accepted by the above utility company.

Utility Inspector Signature

Date

SUMMARY OF INSTALLED UTILITY ITEMS

Contract Number: _____ **Utility Company:** _____

Project Number: _____ **Utility Inspector:** _____

Print

County: _____

Estimate Period: _____ to _____

[illegible]

Page _____ of _____



Project No: 83012-2212-14
 County: Sumner
 Date: January 10, 2025

****Submittal and completion of this form is required for consideration of reimbursement on this project.****

Primary Contact: Bryan Price
 E-mail: bprice@cityofportlandtn.gov Phone: (615) 323-1437
 Secondary Contact: Megan Heisler RG Approval and Date:
 E-mail: mheisler@cityofportlandtn.gov Phone: (615) 323-1437
 Utility Name: City of Portland Department of Utilities
 Address: 100 South Russell Street
 City, State: Portland, TN Zip: 37148
 Percent On Private: 32% Private ROW - #Poles / Length of facility: 3081
 Percent On Public: 68% Public ROW - #Poles / Length of facility: 6574
 Total Percentage: 100% Total #Poles / Length of facility: 9655

Is Utility Chapter 86 Certified (Obtained from Certification Sheet)? ☒ Y

(If project does not qualify for Chapter 86 Reimbursement, then "Percent on Private" will be used to calculate total amount due to Utility)

NO COST / NO REIMBURSEMENT (STOP HERE, REMAINDER OF FORM IS NOT REQUIRED) ☐

CHAPTER 86

REIMBURSEMENT MOVE PRIOR ☐
 REQUESTED MOVE IN State Contract ☒ X
 (Please check ONE) Other ☐

NON-CHAPTER 86

% Private / Public Relocation ☐
 % Private / Public MOVE IN State Contract ☐
 Utility Replacement Easement Reimbursement ☐

ENGINEERING

Description	Amount
Pre-Construction	\$ 162,108.00
Construction	\$ 66,874.00
Construction Inspection Private	\$ 32,988.96
Construction Inspection Public	\$ 70,101.54
Reimbursable Expenses	\$ 1,170.00
ENGINEERING COST:	\$ 333,242.50

CONSTRUCTION (LABOR & MATERIAL)

Description	Amount
Installation Labor	\$ 1,657,855.05
Installation Materials	\$ 1,105,237.30
Removal Labor	\$ 129,465.20
Site Costs	\$ -
Material Provided to State	\$ -
Salvage Materials	\$ -
Non-Usable Materials	\$ -

ESTIMATED CONSTRUCTION COST: \$ 2,892,557.55

BETTERMENT

Description	Amount
Installation Labor	\$ -
Installation Materials	\$ -

ESTIMATED UTILITY BETTERMENT COST: \$ -

ESTIMATED REPLACEMENT EASEMENT COST: \$ -

If cost is listed above, separate Easement Contract is needed

ESTIMATED TOTAL CONSTRUCTION COST: \$ 3,225,800.05

TDOT USE ONLY

and Date: 1/21/2025
 Consult Appr. Date: / /
 Amount Approved: \$ -
 HQ Approval and Date: 1/21/25
 CH86 Y / N PIN#: 106634.02
 LET: 8 / 15 / 2025 Contract #: 9503
 Easement Contract #

UTILITY REIMBURSEMENT

CHAPTER 86 MOVE-IN CONTRACT: \$ 263,140.96

CHAPTER 86 MOVE PRIOR: \$ -

NON-CHAPTER 86 MOVE-IN CONTRACT: \$ -

NON-CHAPTER 86 % PUBLIC/PRIVATE: \$ -

Does Estimate Exceed \$1.75M Cap? - Y

Does Estimate Require 75% Cap? - N

UTILITY DEPOSIT (IF APPLICABLE)

RELOCATION EXCEEDS \$1.75M CAP: \$373,442.49

AMOUNT OVER 75% REIMBURSEMENT: \$0.00

ESTIMATED UTILITY BETTERMENT COST: \$0.00

NON-CHAPTER 86 MOVE-IN CONS'T COST: \$0.00

TOTAL UTILITY DEPOSIT: \$373,442.49

The Utility will reference the page number where designated on the form when other Detail Cost Estimate sheets are attached.

APPROVED

By Wes Henderson at 9:57 am, Jan 16, 2025



ESTIMATE OF ENGINEERING COST

TDOT Project Number(s): NH-109(41) 83012-2212-14
Utility Name & Address:
 City of Portland Department of Utilities
 100 South Russell Street
 Portland, TN 37148

County(ies): Sumner
Consultant Name & Address:
 OHM Advisors, Inc.
 209 10th Avenue South #154
 Nashville, TN 37203

CONSULTANT ENGINEERING ESTIMATE

Place an "X" in the appropriate box: ☐ Standard Contract ☒ Continuing Contract (attach copy of Contract for TDOT verification)

I. ENGINEERING SERVICES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Classification	Rate/Hr	Hours	Total	Hours	Total	Hours	Total
Principal	\$ 190.00	26	\$ 4,940.00	4	\$ 760.00		\$ -
Project Manager	\$ 172.00	98	\$ 16,856.00	36	\$ 6,192.00		\$ -
Design Engineer	\$ 150.00	256	\$ 38,400.00	90	\$ 13,500.00		\$ -
Designer / Senior Designer	\$ 129.00	478	\$ 61,662.00	150	\$ 19,350.00		\$ -
Techician / Draftsperson	\$ 125.00	250	\$ 31,250.00		\$ -		\$ -
Administrative	\$ 90.00	100	\$ 9,000.00	260	\$ 23,400.00		\$ -
Field Inspector	\$ 105.00		\$ -		\$ -	930	\$ 97,650.00
Licensed Surveyor	\$ 162.00		\$ -	6	\$ 972.00		\$ -
Rod Person	\$ 90.00		\$ -	30	\$ 2,700.00		\$ -
	\$ -		\$ -		\$ -		\$ -
Total Engineering Services		1208	\$ 162,108.00	576	\$ 66,874.00	930	\$ 97,650.00
II. REIMBURSABLE EXPENSES							
Cost/Unit	Quantity	Total		Quantity	Total	Quantity	Total
Transportation / Mile:	\$ 0.59 X	1000	\$ 585.00	1000	\$ 585.00	9300	\$ 5,440.50
Meals / Day:	X		\$ -		\$ -		\$ -
Lodging / Day:	X		\$ -		\$ -		\$ -
Printing / Shipping:							
Other (Specify):							
Other (Specify):							
Total Reimbursable Expenses			\$ 585.00		\$ 585.00		\$ 5,440.50
III. INDIRECT / OVERHEAD EXPENSES							
Indirect/Overhead Rate (not to exceed 145%):	125.00%		\$ -	125.00%	\$ -	125.00%	\$ -
IV. PROFIT: (2.35x(1,2,3)x ALLOWABLE RATE)							
Allowable Rate (Maximum of 13%):	10.00%		\$ -	10.00%	\$ -	10.00%	\$ -

(Expenses for Sections III and IV only apply to Consultant Engineering Services without a Continuing Contract agreement with the Utility)

TOTAL ENGINEERING / SURVEY COST:		INSPECTION (Standard)		INSPECTION (Continuing)	
Standard Consultant: (I+II+III+IV) =	\$ -	Private:	\$ -	Private:	\$ 59,792.49
Continuing Contract: (I+II) =	\$ 230,152.00	Public:	\$ -	Public:	\$ 43,298.01
		TOTAL COST (Engineering and Inspection)			
		Standard Consultant:		\$ -	
		Continuing Contract:		\$ 333,242.50	

Contingent upon pub/pvt percentage

IN-HOUSE ENGINEERING ESTIMATE

I. ENGINEERING SERVICES		PRE-CONSTRUCTION		CONSTRUCTION		CONSTRUCTION INSPECTION	
Classification	Rate/Hr	Hours	Total	Hours	Total	Hours	Total
Project Manager			\$ -		\$ -		\$ -
Engineer			\$ -		\$ -		\$ -
Draftsperson			\$ -		\$ -		\$ -
Administrative			\$ -		\$ -		\$ -
Field Inspector			\$ -		\$ -		\$ -
Licensed Surveyor			\$ -		\$ -		\$ -
Rod Person			\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -		\$ -
Total Engineering Services		0	\$ -	0	\$ -	0	\$ -
II. REIMBURSABLE EXPENSES							
Cost/Unit	Quantity	Total		Quantity	Total	Quantity	Total
Transportation / Mile:	X		\$ -		\$ -		\$ -
Meals / Day:	X		\$ -		\$ -		\$ -
Lodging / Day:	X		\$ -		\$ -		\$ -
Printing / Shipping:							
Other (Specify):							
Other (Specify):							
Total Reimbursable Expenses			\$ -		\$ -		\$ -
III. INDIRECT / OVERHEAD EXPENSES							
Indirect/Overhead Rate (not to exceed 145%):	0.00%		\$ -	0.00%	\$ -	0.00%	\$ -
TOTAL ENGINEERING COST:						TOTAL INSPECTION COST:	
				\$ -		Private: \$ -	
						Public: \$ -	

INSTALLATION LABOR AND MATERIALS; BETTERMENT; MATERIALS PROVIDED TO THE STATE

EQUIPMENT COST INCLUDED WITH INSTALLATION COST ☐

EQUIPMENT COST INCLUDED WITH INSTALLATION COST ☐			LABOR				MATERIAL			BETTERMENT		
TDOT Item No.	Item Description	Qty	In House Cost		Contract (Bid/Continuing)		Unit Cost	Provided to State	Install Extended	Labor	Material	
			Unit Cost	Extended	Unit Cost	Extended						
791-03.02	2IN HDPE GAS MAIN	1,760	\$	-	\$42.00	\$	73,920.00	\$28.00	\$	49,280.00		
791-03.05	6IN HDPE GAS MAIN	3,270	\$	-	\$51.00	\$	166,770.00	\$34.00	\$	111,180.00		
791-01.05	6IN STEEL GAS MAIN	4,370	\$	-	\$198.00	\$	865,260.00	\$132.00	\$	576,840.00		
791-01.08	12IN STEEL GAS MAIN	1,140	\$	-	\$258.00	\$	294,120.00	\$172.00	\$	196,080.00		
791-04.02	HDD 2IN PE PIPE - UNCONSOLIDATED	190	\$	-	\$96.00	\$	18,240.00	\$64.00	\$	12,160.00		
791-07.01	2IN PE GAS VALVE ASSEMBLY	8	\$	-	\$756.00	\$	6,048.00	\$504.00	\$	4,032.00		
791-07.03	6IN PE GAS VALVE ASSEMBLY	7	\$	-	\$900.00	\$	6,300.00	\$600.00	\$	4,200.00		
791-07.11	6IN STEEL GAS VALVE ASSEMBLY	11	\$	-	\$6,041.25	\$	66,453.75	\$4,027.50	\$	44,302.50		
791-07.13	12IN STEEL GAS VALVE ASSEMBLY	4	\$	-	\$8,055.00	\$	32,220.00	\$5,370.00	\$	21,480.00		
791-07.40	PE GAS FITTINGS	90	\$	-	\$7.26	\$	653.40	\$4.84	\$	435.60		
791-07.19	STEEL GAS FITTINGS	180	\$	-	\$11.68	\$	2,102.40	\$7.79	\$	1,402.20		
791-06.02	CONNECT TO 2IN EX. PE MAIN	5	\$	-	\$1,800.00	\$	9,000.00	\$1,200.00	\$	6,000.00		
791-06.04	CONNECT TO 6IN EX. PE MAIN	4	\$	-	\$4,020.00	\$	16,080.00	\$2,680.00	\$	10,720.00		
791-06.12	CONNECT TO 6IN EX. STEEL MAIN	6	\$	-	\$12,082.50	\$	72,495.00	\$8,055.00	\$	48,330.00		
791-06.14	CONNECT TO 12IN EX. STEEL MAIN	2	\$	-	\$14,096.25	\$	28,192.50	\$9,397.50	\$	18,795.00		
					\$ -		\$ -		\$ -			
					\$ -		\$ -		\$ -			
					\$ -		\$ -		\$ -			
					\$ -		\$ -		\$ -			
					\$ -		\$ -		\$ -			
TOTAL INSTALLATION COSTS			\$	-	\$	1,657,855.05	\$	-	\$	1,105,237.30	\$	-
			(To Page 4.1; F44)		(To Page 4.1; F44)		(To Page 4.1; F48)		(To Page 4.1; F45)		(To Page 4.1; F56)	
											(To Page 4.1; F57)	

REMOVAL LABOR; SALVAGE AND NON-USABLE (JUNKED) MATERIALS

TDOT Item No.	Item Description	Qty	LABOR				MATERIAL	
			In House Cost		Contract (Bid/Continuing)		Salvage / Reused	Junked / Scrapped
			Unit Cost	Extended	Unit Cost	Extended		
791-10.20	RETIRE GAS MAIN	9,640		\$ -	\$13.43	\$ 129,465.20		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
				\$ -		\$ -		
TOTAL REMOVAL COSTS				\$ -		\$ 129,465.20		\$ -

(To Page 4.1; F46)

(To Page 4.1; F49)

(To Page 4.1; F50)

SITE COSTS

(Move Prior Only)	
Grading & Grubbing:	
Traffic Control:	
Erosion Control:	
TOTAL SITE COST	\$ -

(To Page 4.1; F47)

Revision 10-25-2013

TDOT Utility Form 2013-16
Sheet 2.1

APPROVED

By Wes Henderson at 9:57 am, Jan 16, 2025

Chapter 86 Certification

In accordance with Tennessee Department of Transportation policy number 340-07, the following information is provided with regards to required compliance documentation for utility relocation reimbursement in accordance with TCA 54-5-804 and TCA 54-5-854.

PROJECT #/S: 83012-2212-14 COUNTY/S: Sumner

FEDERAL: NH-109(41) PIN: 106634.02

1. The utility is seeking reimbursement under provisions of TCA 54-5-804 as amended by Public Acts 2003, Chapter number 86.
2. To the best of my knowledge the utility is in compliance with TCA § 54-5-804(a)(1) and this policy in that the utility has returned its relocation plan, schedule, and cost estimate to the Department within 120 days after receipt of the Department's project plans, or within such additional time as may be allowed in accordance with TCA § 54-5-854(b).
3. To the best of my knowledge the utility is in compliance with TCA 54-5-804(b) in that the utility has a valid permit to locate its utility facility on the public highway right-of-way.

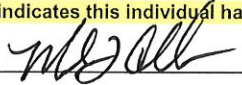
4. The utility is eligible for reimbursement in accordance with the Limitation provisions of the TDOT Policy 340-07 in that it is:

Municipally Owned ☒ Utility District ☐ Utility Cooperative ☐

5. The utility is considered to be a specific utility category listed in accordance with the Limitation provisions of the TDOT Policy 340-07:

- ☐ Water
- ☐ Waste Water
- ☒ Gas ☒ Distribution ☒ Transmission
- ☐ Electric ☐ Distribution ☐ Transmission
- ☐ Communication ☐ CATV ☐ Phone ☐ Fiberoptic ☐ Broadband
- ☐ Street Lighting
- ☐ Other _____

Signature indicates this individual has the legal authority to sign contracts and agreements to obligate the utility.

Signature: 

Print Name: Honorable Mike Callis

Title: Portland City Mayor

Utility Name: Portland Department of Utilities

Utility Address: 100 South Russell Street

City, State, Zip: Portland, TN 37148

Phone Number: (615) 325-6776

Fax Number: _____

Email Address: mcallis@cityofportlandtn.gov

Date: 5-9-22

APPROVED

By Wes Henderson at 10:00 am, Jan 16, 2025



Declaration of Scheduled Calendar Days

Project Number: 83012-2212-14

Date: May 6, 2022

Description: Portland Bypass, from SR-52 to existing SR-109

County: Sumner

Utility Name: City of Portland Department of Utilities

Address: 100 South Russell Street

City, State: Portland, TN

Zip Code: 37148

Phone Number: (615) 323-1437

Fax Number:

Type of Facilities: ☐ Water ☐ Sewer ☒ Gas ☐ Telephone ☐ Electric
☐ CATV ☐ Fiberoptic ☐ Other

Required Period services cannot be interrupted: Coordinate with City

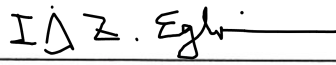
All estimated days should be expressed in "Calendar" days to complete installation, relocation or adjustment of the utility facilities on the above referenced project. The utility can as an option submit an "On or Before" date all work will be completed. In accordance with provisions set forth in TCA 54-5-854.

Task	Days to Complete	Special Conditions
Stock Pile Material (Including ordering material)	120	
Mobilize Work Force (including Bidding process if Required)	30	
Complete Relocation	210	
Total Days To Complete	360	

Special Conditions:


Signature of submitting
Utility Representative

5/9/2022
Date


Signature of submitting
State Representative

1/21/2025
Date

Subject to provisions of the TDOT Utility Office Maintenance of Traffic Procedures.

APPROVED
By Wes Henderson at 10:00 am, Jan 16, 2025



Buy America

Rev. 12-23-2013

The Tennessee Department of Transportation (TDOT) in compliance with Federal Highway Administration (FHWA) directive **Effective February 29, 2016**

All utility and railroad relocation construction must comply with 23 U.S.C. 313 and 23 CFR 635.410 **Buy America requirements**

All Utility / Railroad invoices submitted to TDOT for Payment
MUST ATTACH THIS CERTIFICATION.

Utility / Railroad Name

Street Address

City

State

Zip

Certification: All products used in the relocation construction and identified in the attached invoice that are manufactured of steel or iron for permanent installation meet or exceed the requirements set forth in 23 USC 313 and 23 CFR 635.410 Buy America requirements.

Certification documentation is available for review that includes but is not limited to, if available, the Mill Test Report (MTR) for ALL steel products that have the certification statement (or similar) that the steel/iron was "melted and manufactured in the United States." All manufacturing processes and coatings applied thereon have occurred in the United States.

Per the Utility / Railroad Relocation Contract:

The Utility / Railroad agrees to comply with all current, applicable provisions of 23 CFR 645A / 23 CFR 140 and 23 CFR 646.

The Utility acknowledges possession of 23 CFR 645A / The Railroad acknowledges possession of 23 CFR 140 and 23 CFR 646.

The Utility / Railroad is subject to audit for a period of three (3) full years after final payment has been received.

The Utility / Railroad shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility / Railroad agrees that remedies for non-compliance are set out in the applicable regulations and the Contract.

I have reviewed the material provided herein and attached and hereby certify ALL material on the attached invoice is in compliance with Buy America requirements.

Signature of representative Authorized for financial obligations

Title

Date

STATE**OF****TENNESSEE**

(Rev. 6-20-11)

January 1, 2021

SPECIAL PROVISION**REGARDING****BUY AMERICA REQUIREMENTS**

All manufacturing processes for iron and steel products, and coatings applied thereon, used in this project shall occur in the United States except that if the proposal has bid items for furnishing domestic and foreign iron and steel, the bidder will have the option of (1) submitting a bid for furnishing domestic iron and steel, or (2) submitting a bid for furnishing domestic iron and steel and a bid for furnishing foreign iron and steel. If option (2) is chosen, the bid will be tabulated on the basis of (a) the total bid price using the bid price for furnishing domestic iron and steel and, (b) the total bid price using the bid price for furnishing foreign iron and steel.

For the total bid based on furnishing foreign iron and steel to be considered for award, the lowest total bid based on furnishing domestic iron and steel must exceed the lowest total bid based on furnishing foreign iron and steel by more than 25 percent. The 25 percent differential applies to the total bid for the entire project, not just the bid prices for the steel or iron products.

Iron and steel products are defined as products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed from iron and steel made in the United States. Iron products are included, however, pig iron and processed, pelletized, and reduced iron ore may be purchased outside the United States.

Manufacturing begins with initial melting and continues through the coating stage. Any process which modifies chemical content, physical size or shape, or the final finish is considered a manufacturing process. Coatings include epoxy, galvanizing, painting or any other surface protection that enhances the value and/or durability of a material.

The contractor shall provide a certification to the Engineer with each shipment of iron and steel products to the project site that the manufacturing processes for the iron and steel products occurred in the United States. No steel shall be placed until the contractor ensures the requirements of this Special Provision are met.

The above requirements do not prevent a minimal use of foreign materials, if the cost of such materials used does not exceed 0.1 percent of the total contract cost or \$2,500.00, whichever is greater. If steel not meeting the requirements of this Special Provision is used, the contractor shall provide a written statement to the Department prior to its use indicating where the steel will be incorporated in the work,

the value of the steel, the percentage of the contract amount, and the appropriate invoices shall be submitted as documentation.

The contractor shall be responsible for all cost associated with any steel that is permanently incorporated into the project that does not meet the requirements of this Special Provision without prior written approval from the Department, up to and including removal and replacement.

STATE**OF****TENNESSEE**

December 12, 2022

January 1, 2021

SPECIAL PROVISION**REGARDING****BUILD AMERICA, BUY AMERICA ACT
REQUIREMENTS**

The Build America, Buy America Act (BABA) Public Law No. 117-58 SEC. 70914 that all of the iron, steel, manufactured products, and construction materials used are subject to Build America, Buy America requirements and are produced in the United States.

- A. Iron and steel: FHWA existing requirements SP106A Regarding Buy America.
- B. Manufactured products: FHWA Buy America Final Rule 11/25/1983, 48 FR 53099; Waiver for Manufactured Products.
- C. Construction materials includes an article, material, or supply that is or consists primarily of:
 - non-ferrous metals;
 - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
 - glass (including optic glass);
 - Lumber; or
 - drywall.

Construction materials that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials.

Consider “all manufacturing processes” for construction materials to include at least the final manufacturing process and the immediately preceding manufacturing stage for the construction material.

Provide certifications to the Engineer for the construction materials that they meet the Build America Buy America Act requirements. Assure all submittals required for Buy America are submitted to the Engineer prior to the products and or materials being incorporated in the project.

The contractor shall be responsible for all cost associated with any of the construction materials that are permanently incorporated into the project that does not meet the requirements of this Special Provision without prior written approval from the Department, up to and including removal and replacement.



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

UTILITIES DIVISION
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-3196

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

January 27, 2025

DEPOSIT REQUEST

Attention : Bryan Price
Utility Name : City of Portland
Utility address: 100 South Russell Street, Portland, TN 37148
Type : Gas

PROJECT# : 83012-2212-14

COUNTY/S: Sumner

FEDERAL# : NH-109(41)

PIN #: 106634.02

DESCRIPTION: SR-109 PROP (Portland Bypass), From SR-52, west of Portland, to existing SR-109, north of Portland

Dear Sir/Madame:

On **1/27/2025**, utility reimbursement contract number **9503** was sent which included work in the State contract for which the utility is responsible for and is obligated to pay the State the estimated amount of **\$373,442.49**. The Utility must provide these funds as instructed below:

- A. A check payable to the order of "Department of Transportation".
- B. Please, write **project #** and **contract #** on the check for proper credit.
- C. Mail check to address on top of this page, to attention of "Ms. Monica Cromer".

All deposits should be finalized and received no later than 5/2/2025. Original signed utility relocation contracts, utility relocation construction plans (pdf format), electronic specifications, and excel quantities file must also be received on or prior to this date. Our records indicate that you have either not made the required deposit yet or have another previously mentioned item missing. Under State law, the deposit must be received by this date or the utility work will be removed from the State contract which may result in the utility being ineligible for reimbursement for costs under provisions of TCA 54-5-804 if applicable. Failure to submit any of these items may result in your work being excluded from the State contract and the utility being put to work at their own cost. Should you have any questions, contact me immediately.

Sincerely,

Monica Cromer | Asst. State Utility Coordinator
Right of Way Division
James K. Polk Bldg, 6th Floor
505 Deaderick Street, Nashville, TN 37243
p. 615-741-3331

CC: File

RESOLUTION

City of Portland, Tennessee

No. 25 – 30

A RESOLUTION AUTHORIZING CHANGE ORDER #6 EXTENDING THE CONTRACT TIME ONE HUNDRED AND TWENTY (120) ADDITIONAL DAYS WITH CUMBERLAND PIPELINE, LLC FOR THE MASONS TANK 12-INCH CONNECTOR AMERICAN RESCUE PLAN (ARP) PROJECT

WHEREAS, the City of Portland is currently contracted with Cumberland Pipeline, LLC for the Masons Tank 12-inch Connector Project and final completion is five hundred ninety-two (592) consecutive calendar days, making the date for final completion April 25, 2025; and

WHEREAS, additional time is needed for the final completion due to the Oak Hill Tank contractor not meeting the project calendar days causing delays in the tie-in points of this project; and

WHEREAS, the City of Portland, Tennessee, is hereby approving Change Order #6 extending the contract time for an additional one hundred twenty (120) consecutive calendar days for final completion to the current contract. The revised contract time for final completion shall be seven hundred twelve (712) consecutive calendar days, making the date for final completion August 23, 2025; and

NOW THEREFORE BE IT RESOLVED, by the Mayor and Board of Aldermen of the City of Portland to approve Change Order #6 for the additional one hundred twenty (120) consecutive calendar days to the current contract time for the final completion with Cumberland Pipeline, LLC for the Masons Tank 12-inch Connector Project; and

BE IT FURTHER RESOLVED that the Resolution shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracey Kizer, City Recorder

Approved this day of

CHANGE ORDER NO. 6

Owner: **City of Portland** Owner's Project No.: 101-130
Engineer: OHM Advisors Engineer's Project No.: 0585-21-0070
Contractor: **Cumberland Pipeline, LLC** Contractor's Project No.: 23-07
Project:
Contract Name: **City of Portland Masons Tank 12-Inch Connector**
Date Issued: March 25, 2025 Effective Date of Change Order: _____, 2025

The Contract is modified as follows upon execution of this Change Order:

Description: This change order reflects the Owner's desire to increase the contract time by 120 days for the Final Completion Date. No change is being made to the substantial completion date.

Attachments: n/a

Change in Contract Price		Change in Contract Times	
		[State Contract Times as either a specific date or a number of days]	
Original Contract Price:	Original Contract Times:		
\$ 3,086,221.00	Substantial Completion:	270 days 6/07/24	
	Ready for final payment:	300 days 7/07/24	
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 5:	[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 5:		
\$ 610,877.00	Substantial Completion:	52 days	
	Ready for final payment:	172 days	
Contract Price prior to this Change Order:	Contract Times prior to this Change Order:		
\$ 2,475,344.00	Substantial Completion:	322 days 7/29/24	
	Ready for final payment:	592 days 4/25/25	
[Increase] [Decrease] this Change Order:	[Increase] [Decrease] this Change Order:		
\$ n/a	Substantial Completion:	0 days	
	Ready for final payment:	120 days	
Contract Price incorporating this Change Order:	Contract Times with all approved Change Orders:		
\$ 2,475,344.00	Substantial Completion:	322 days 7/29/24	
	Ready for final payment:	712 days 8/23/25	

Recommended by Engineer:

By: Harrison Hilt
Name/Title: Harrison Hilt, Project Manager
Date: 03 / 25 / 2025

Accepted by Contractor:

By: Michael Ellison
Name/Title: Michael Ellison, President
Date: 03 / 25 / 2025

Authorized by Owner/City of Portland:

By: _____
Name/Title: Mike Callis, Mayor
Date: / / 2025

Approved by Owner/Sumner County, TN:

By: _____
Name/Title: John C. Isbell, Mayor
Date: / / 2025

RESOLUTION

City of Portland, Tennessee

No. 25 – 31

A RESOLUTION AUTHORIZING CHANGE ORDER #6 EXTENDING THE CONTRACT TIME ONE HUNDRED TWENTY (120) ADDITIONAL DAYS WITH CUMBERLAND PIPELINE, LLC FOR THE OAK HILL WATER SYSTEM IMPROVEMENTS AMERICAN RESCUE PLAN (ARP) PROJECT

WHEREAS, the City of Portland is currently contracted with Cumberland Pipeline, LLC for the Oak Hill Water System Improvements Project and final completion is five hundred thirty-two (532) consecutive calendar days, making the date for final completion April 21, 2025; and

WHEREAS, additional time is needed for the final completion due to the Oak Hill Tank contractor not meeting the project calendar days causing delays in the tie-in points of the project; and

WHEREAS, the City of Portland, Tennessee, is hereby approving Change Order #6 extending the contract time for an additional one hundred twenty (120) consecutive calendar days for final completion to the current contract. The revised contract time for final completion shall be six hundred fifty-two (652) consecutive calendar days, making the date for final completion August 19, 2025; and

NOW THEREFORE BE IT RESOLVED, by the Mayor and Board of Aldermen of the City of Portland to approve Change Order #6 for the additional one hundred twenty (120) consecutive calendar days to the current contract time for the final completion with Cumberland Pipeline, LLC for the Oak Hill Water System Improvements Project; and

BE IT FURTHER RESOLVED that the Resolution shall become effective upon its passage, the public welfare requiring it.

Mike Callis, Mayor

Attest: Tracy Kizer, City Recorder

Approved this day of

CHANGE ORDER NO.: 6

Owner: **City of Portland** Owner's Project No.: n/a
Engineer: OHM Advisors Engineer's Project No.: 0585-21-0080
Contractor: **Cumberland Pipeline, LLC** Contractor's Project No.: 23-08

Project:

Contract Name: **City of Portland Oak Hill Water System Improvements**

Date Issued: March 25, 2025 Effective Date of Change Order: _____, 2025

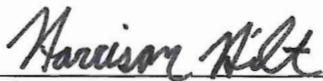
The Contract is modified as follows upon execution of this Change Order:

Description: This change order reflects the Owner's desire to increase the contract time by 120 days for the Final Completion Date. No change is being made to the substantial completion date.

Attachments: n/a

Change in Contract Price		Change in Contract Times	
		[State Contract Times as either a specific date or a number of days]	
Original Contract Price:		Original Contract Times:	
\$ _____	\$2,718,423.00	Substantial Completion:	210 days 6/04/24
		Ready for final payment:	240 days 7/03/24
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 5:		[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 5:	
\$ _____	\$581,097.50	Substantial Completion:	142 days
		Ready for final payment:	202 days
Contract Price prior to this Change Order:		Contract Times prior to this Change Order:	
\$ _____	\$2,137,325.50	Substantial Completion:	352 days 10/23/24
		Ready for final payment:	532 days 4/21/25
[Increase] [Decrease] this Change Order:		[Increase] [Decrease] this Change Order:	
\$ _____	n/a	Substantial Completion:	0 days
		Ready for final payment:	120 days
Contract Price incorporating this Change Order:		Contract Times with all approved Change Orders:	
\$ _____	\$2,137,325.50	Substantial Completion:	352 days 10/23/24
		Ready for final payment:	652 days 8/19/25

Recommended by Engineer:

By: 
Name/Title: Harrison Hilt, Project Manager
Date: 03 / 25 / 2025

Accepted by Contractor:

By: 
Name/Title: Michael Ellison, President
Date: 03 / 25 / 2025

Authorized by Owner/City of Portland:

By: _____
Name/Title: Mike Callis, Mayor
Date: _____ / _____ / 2025

Approved by Owner/Sumner County, TN:

By: _____
Name/Title: John C. Isbell, Mayor
Date: _____ / _____ / 2025