

LETTER OF AGREEMENT

Future of Work

The parties to this Agreement are the City of Portland (City), the Professional Technical Employees Union, Local 17 (PROTEC17), and American Federation of State, County, and Municipal Employees, Local 189 (AFSCME), (collectively “the Parties”).

Background

On May 10th and May 31st, 2023, the Unions filed separate unfair labor practice (ULP) complaints with the Oregon Employment Relations Board (ERB) against the City alleging that the City violated ORS 243.672(1)(e) by refusing to bargain with the Union over its implementation of a new workplace model regarding in-person and remote work. Case Numbers UP-026-23 and UP -032-23.

The Parties wished to resolve this dispute, rather than proceed to hearing, and on October 19, 2023, signed a Settlement Agreement that provided that while the City does not agree it is obligated to bargain, the City agreed to bargain with the Unions over the subject of in-person and remote work. The parties agreed this would be mid-term bargaining under ORS 243.698, and to use the principles of Interest Based Bargaining (IBB) with the assistance of an ERB facilitator. The Settlement Agreement also provided that the cases would be in abeyance pending mediation and would be dismissed so long as the City engaged in good faith bargaining.

The Parties agreed that only two categories outlined in the ULP would be subject to the interim bargaining process:

- (i) Using defined criteria, identify and designate a small percentage of positions as fully remote.
- (iii) Maximize flexibility for fully in-person and hybrid positions, with employees and managers collaborating to set schedules and establish new telework agreements.

The Parties agreed that the following three categories outlined in the ULP would not be subject to the interim bargaining process:

- (ii) Require hybrid employees to do in-person work at least half of their total work time, with new schedules taking effect in April 2023.
- (iv) Bring a rule to City Council for adoption, requiring all employees, including those who are fully remote and hybrid, to work from either Oregon or Washington.
- (v) Create a Citywide exceptions process, providing a pathway for hybrid employees with special circumstances to modify the in-person work requirement.

In accordance with the Settlement Agreement, the Parties have been meeting to bargain in good faith the subject of in-person and remote work and have agreed to the following:

Agreement

1. Regarding the subject of identifying and designating a small percentage of positions as fully remote:
 - a. Create a Committee to Review Worksite Location Status* Requests
**Remote/hybrid/in-person assignment in accordance with City Workplace Framework and Requirements: <https://employees.portland.gov/human-resources/people-culture/workplace-framework-and-requirements>*
 - b. Scope: Current AFSCME and PROTEC17 represented and funded positions.
 - c. The term “worksite location” as used in this Letter of Agreement (LOA) does not include work location as identified under HRAR 4.045 – Employee Work Location, and this LOA does not impact the Employee Work Location HRAR.
 - d. The new window for submitting worksite location status requests is three (3) months. Upon creation of the committee, the City will communicate to Bureaus and bargaining unit members the availability of the review process and the date of that communication will be the start of the three-month window.
Intent: Three months is the window to submit requests for evaluation, not for the full process to complete.
 - e. The Committee shall be established no later than September 16, 2024.
 - f. The Committee shall include equal representation of labor and management. Suggested committee members include:
 - i. Union Representatives or designees representing the body of work¹,
 - ii. Classification and Compensation Team representative,
 - iii. BHR Labor Relations representative, and
 - iv. Designated Bureau representative that is familiar with the body of work
 - g. Submissions and requests may be submitted by either an individual employee or a bureau (funded but vacant positions may be submitted by a bureau).
 - h. Submissions falling under the same classification may be grouped and reviewed together to ensure consistent recommendations by the committee on comparable work. This doesn’t disallow different recommendations on individual positions within that same classification but provides a common review process.
 - i. The Committee will receive submissions and recommendations for positions they deem appropriate for worksite location status changes and will send the

¹ Union representative members of the Committee shall be allowed to attend committee meetings on on-duty time (Union Leave City Paid time).

recommendations to the appropriate Deputy City Administrator (DCA) for final approval or denial.

- j. The Committee will determine appropriate options for split recommendations to the DCA.
 - k. Criteria for the Committee to use in their evaluation:
 - i. Requires in-person, face-to-face contact in a physical location.
 - ii. Requires the use of tools (technology, special equipment, materials, and/or secure systems) that are only accessible or available onsite.
 - iii. Requires in-person public interactions or customer service.
 - iv. Requires in-person interaction with stakeholder groups including, but not limited to businesses, contractors, coworkers, elected officials, organizations, vendors, etc. and enhances the internal and/or external customer experience.
 - v. There is a recurring recruitment or retention challenge associated with this position that could be resolved with remote work.
 - l. While the committee will consider the percentage of time in-person work is helpful, it is not the sole factor for decision making. Additional characteristics of remote work, including but not limited to the following examples below, may be considered in the totality of the review:
 - i. The body of work has a primary focus on the analysis, maintenance, implementation, or improvement of electronic data and/or data systems.
 - ii. The body of work performs work that requires collaboration or problem solving with others that is more effectively performed remotely due to the nature of the work (e.g., requires screen sharing, etc.)
2. Regarding the subject of maximizing flexibility for fully in-person and hybrid positions, with employees and managers collaborating to set schedules and establish new telework agreements:
- a. Subject to the terms as stated in this LOA below, the Parties agree to implement a twelve-month pilot program to provide a full days' pay to employees impacted by a power or internet outage during City closures when they would otherwise be expected to use individual leave accruals to make up lost work time.
 - b. In the event the Mayor makes the decision to close City offices and buildings and fully remote or hybrid employees are directed to work from home, and an employee experiences a power and/or internet outage that prevents the employee from teleworking, and there is no City facility where the employee may perform work, then:
 - o The employee will provide proof of the power or internet outage to their supervisor or manager and will remain in a paid status for their regularly scheduled shift during the duration of the outage. If an employee's power or internet is restored during their workday, the employee is

- expected to continue working remotely for the remainder of their regularly scheduled shift.
- Employees are required to provide proof of outage from the utility or service provider and the employee must communicate the start and stop time of the outage.
- c. During the pilot period, the City agrees to allow paid time in qualifying circumstances for a maximum of forty (40) hours, regardless of how many events of outage occur.
 - d. The pilot program will be effective July 1, 2024, through June 30, 2025.
 - e. The Parties shall endeavor to meet within two pay periods following a severe weather event that results in the use of this program during the pilot to evaluate data collected during its term.
 - f. If a Human Resources Administrative Rule is adopted prior to the conclusion of this pilot and the rule satisfies the interests of both parties, then this pilot may sunset earlier with mutual agreement.
3. Providing clean restroom facilities for all employees is a requirement under OSHA. The Parties have identified a mutual interest in ensuring access to all employees, including those who work outside and, in the field, and have limited access to a public restroom. To that end, the Parties will jointly identify and analyze barriers to restroom access and evaluate options to improve policy and such that all affected employees may use facilities as needed. In the interim, the City will communicate with managers and supervisors to reiterate the need to be flexible around restroom access.
 4. This LOA is non-precedent setting and applies only to the issue set forth herein. Except as specifically stated in this LOA, all terms and conditions of the parties' collective bargaining agreement shall remain in full force.
 5. The Parties agree that this LOA resolves ULP complaint numbers UP-026-23 and UP-032-23 and the complainant Unions for each complaint will withdraw such complaint, with prejudice. The parties agree that neither will be deemed the "prevailing party," and that each party will bear its own costs and fees.
 6. This LOA will expire on June 30, 2025.
 7. This LOA is effective upon full execution by all signatories provided it is authorized by City Council.

For AFSCME, Local 189:

DocuSigned by:

ROB MARTINEAU

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Rob Martineau, AFSCME President

7/11/2024

Date

For PROTEC-17:

DocuSigned by:

Karen Estevin

E67C1500EF16456
Karen Estevin, Executive Director

7/3/2024

Date

For the City:

DocuSigned by:



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Tracy Warren, Human Resources Director

7/11/2024

Date

Approved as to Form:

DocuSigned by:

Heidi K. Brown

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Heidi Brown

Chief Deputy City Attorney

7/2/2024

Date