

1 **COVID -19 VACCINATION MANDATE**

2 **LETTER OF AGREEMENT**

3 The parties to this Agreement are the City of Portland (City) and the following unions
4 (collectively, “Unions”): The District Council of Trade Unions (DCTU), Laborers’ International
5 Union of North America (LiUNA) Local 483; and Professional Technical Employees, Local 17
6 (PROTEC-17).

7 **BACKGROUND**

- 8 1. On March 8, 2020, Oregon Governor Kate Brown declared a State of Emergency in response to
9 the increasing concern with Coronavirus (COVID-19) within the state.
- 10 2. On August 25, 2021, Oregon Governor Kate Brown issued a temporary order, which was later
11 adopted as an administrative rule by the Oregon Health Authority, to help prevent and slow the
12 spread of COVID-19, requiring all health care personnel and healthcare staff who work in
13 healthcare settings across the State of Oregon be vaccinated against COVID-19 or request a
14 medical or religious exception on or before October 18, 2021.
- 15 3. On August 30th, 2021, City of Portland Mayor Ted Wheeler and City Council Commissioners
16 announced a new policy requiring all City of Portland employees to be fully vaccinated for
17 COVID-19 or receive a medical or religious exception by Monday, October 18th, 2021.

18 **AGREEMENT**

19 The parties hereby agree as follows:

20 **1. Definition:**

- 21 a. “Fully vaccinated” means having received both doses of an approved two-dose COVID-
22 19 vaccine or one dose of a single-dose COVID-19 vaccine and at least 14 days have
23 passed since the individual’s final dose of COVID-19 vaccine. Approved COVID-19
24 vaccines are those authorized for use in the United States or those listed for emergency
25 use by the World Health Organization.

27 **2. Exception Requests:**

28 a) For purposes of this LOA, the terms “exemption” and “exception” are interchangeable and are
29 considered to mean an avenue by which an employee qualifies to engage in a process of
30 accommodation in lieu of being vaccinated.

31 b) Employees seeking a religious or medical exception can submit their request for exception at
32 any time prior to October 18th, 2021 but are asked to submit their initial request to their Human
33 Resources Business Partner by no later than September 17, 2021.

34 c) The City will consider medical exceptions corroborated by a document signed by a medical
35 provider as well as religious exceptions which document a sincerely held religious belief and
36 includes a statement describing the way in which the vaccination requirement conflicts with
37 the religious observance, practice, or belief of the individual. Human Resources will assess
38 exception requests and issue approvals or denials.

39 For those employees who are granted an exception, the City will make every effort to provide
40 reasonable accommodations as required by law, including a temporary accommodation where
41 necessary, for requesting employees to maintain employment without creating a direct threat
42 to the safety or health of themselves or others in the workplace.

43 Temporary accommodations may be requested where medical reasons prevent the employee
44 from getting the vaccine. The City will consider such requests on a case-by-case basis and will
45 approve reasonable temporary accommodations until the employee can become fully
46 vaccinated.

47 **3. Retention of Employment.**

48 a. **Employees on Leave of Absence.** Notifications will be sent to all employees who are out
49 on leave that they must provide documentation of compliance with the City’s vaccine
50 mandate before they are allowed to return to work. Employees on an approved or protected
51 leave of absence who return after October 18th and have expressed an intent to become fully
52 vaccinated will be given a leave up to fifty (50) calendar days, to allow for choice of the
53 vaccine. Employees may use accrued leave (excluding sick leave), and their City sponsored
54 health care coverage will continue during their allowed leave. Any required employee
55 premium contribution will be paid by the employee upon an employee’s return to paid
56 status.

57 **b.** Employees in Two-Week Waiting Period on October 18, 2021. Employees who have
58 received the final vaccination by October 18, 2021, but who have not completed the two-
59 week waiting period for full immunity, shall be provided with options similar to those
60 provided as accommodations under the ADA and First Amendment for religious
61 accommodations for the remainder of the waiting period beyond October 18, 2021. The
62 Compliance in Process section of this Agreement is also an option for these employees.
63 Employees accommodated in this article will not be restricted access to accrued leave
64 during the time period in which they are accommodated, including sick leave.
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66 4. **New Hires.** New hires will be required to submit appropriate documentation of their Covid-19
67 vaccination or request an exception in advance of their first day of employment following October 18,
68 2021.

69 5. **Hiring In Process.** Employees in the process of being hired will be provided at least fifty (50) days to
70 come into compliance with the vaccine mandate from the date of first being informed of said
71 mandate.

72 6. **Compliance, Incentives, Immunization Impacts and COVID Impacts.**

73 **a.** Employees who are vaccinated through a City sponsored-vaccination location or through
74 other locations or providers during their regularly scheduled work hours, operations
75 permitting, will receive up to two (2) hours paid time off, including travel time and time to
76 get vaccinated. For COVID-19 vaccinations that require two doses, each employee may be
77 granted up to two (2) hours paid time off for each dose.

78 **b. Compliance In Process.** Any employee that has received at least one dose of a vaccination
79 as of October 18, 2021 and has expressed an intent to become fully vaccinated by
80 November 30th, 2021 will be placed on a leave of absence. The employee can choose to
81 take this leave unpaid or to use their accrued leave banks (excluding sick leave) through
82 November 30, 2021 to become fully vaccinated and retain the right to return to their
83 previous position or a vacant position in the same job class at their work location, provided
84 the employee has become fully vaccinated and the City has not permanently filled their
85 previous position. This provision expires on December 1, 2021.

86 Any employee who has submitted their attestation and/or exception request by September
87 30th, and through no fault of the employee, their employment status has not been

88 determined by the City by October 18, 2021, the City will place the employee on a paid
89 leave of absence until the employee's employment status is determined. Employees whose
90 exception requests are denied after October 18th, 2021, but who have expressed an intent
91 to become fully vaccinated after the denial will be given an appropriate leave extension to
92 allow for choice of the vaccine and to become fully vaccinated, up to fifty (50) calendar
93 days. Employees may use accrued leave (excluding sick leave).

94 **c. Side Effects of Immunization.** Any employee who experiences an adverse or allergic
95 reaction from the vaccine that requires medical treatment may file a workers' compensation
96 claim. If the claim meets statutory requirements, sick time will be restored in accordance
97 with the procedures for processing workers compensation claims. The City will not contest
98 workers' compensation claims once validated to be due to vaccine side-effects, as long as
99 all other baseline requirements for a valid workers' compensation claim are met.

100 **d. COVID Emergency Paid Sick Leave Bank:** All employees will be eligible for eighty
101 (80) hours of leave for COVID-19 related absences that would have otherwise met the
102 requirement of the Family First Coronavirus Response Act (FFCRA). At the employee's
103 request, this leave can be made retroactive to July 1, 2021. Use of COVID Emergency Paid
104 Sick Leave during any period of authorized leave shall be considered under FFCRA
105 qualifying event requirements only. The parties shall meet and confer prior to June 30,
106 2022 on any extension of this benefit.

107 **7. The Separation Process.**

108 **a.** Employees that do not become fully vaccinated for COVID-19 or approved for a religious
109 or medical exception by or before October 18, 2021 will be deemed to no longer meet the
110 minimum requirements for employment at the City of Portland and will be separated.

111 **b. Separation Notification and Hearing.** The City must issue a Pre-Separation Notice
112 ("Notice") at least seven (7) days in advance of separation to any employee that it intends
113 to separate from employment as a result of not meeting a vaccination mandate requirement.
114 The Notice will be provided to the employee and the employee's Union by email and
115 regular mail. The Notice will provide the employee information as to how they may request
116 a separation hearing prior to separation.

145 Employees returning to the City cannot bump or displace other employees. Employees returning
146 to the City within three (3) years of separation will retain all previous rights as outlined in HRAR
147 7.07 and all other applicable rights and benefits required by a recall from the employee's CBA.

148 Employees who are eligible for priority consideration for rehire under Section 7.k. of this
149 Agreement shall be subject to those terms for rehire, and not the terms of HRAR 7.07.

150 In the event the City ends the vaccine mandate, this clause of the LOA will remain in effect until
151 November 30th, 2024.

152 **k. Right To Priority Consideration for Rehire.** Any employee separated due to choosing not to be
153 vaccinated shall retain a limited right to be rehired as described in this section. If the employee
154 becomes fully vaccinated within six months of separation, the separated employee may be placed
155 on a priority consideration list to be rehired. The process for the priority consideration list is as
156 follows:

- 157 • Once a separated employee becomes fully vaccinated, they may contact BHR's
158 designated representative to notify the City of their interest in returning to employment
159 with the City and provide documentation of vaccination and request to be placed on the
160 priority consideration list. Separated employees will not be placed on the priority
161 consideration list until the City has received verification of the separated employee's
162 fully vaccinated status.
- 163 • Separated employees on the priority consideration list may be considered for a vacant
164 position comparable with the position in which the employee held status prior to
165 separation before to the position is posted for a competitive recruitment. A separated
166 employee who held status in multiples positions can be considered for any of the
167 positions in which they have held status. Employees on the priority consideration list who
168 are eligible for the vacant position shall be contacted by the Bureau Director (or
169 designee) or BHR to inquire as to whether the employee would like to be considered for
170 the vacant position. The Bureau Director (or designee) may request an updated resume
171 from the separated employee(s).
- 172 • If only one employee on the priority consideration list who is eligible for the vacant
173 position expresses interest, the Bureau Director (or designee) may choose to conduct an

174 interview limited in scope to inquiring about the separated employee's knowledge, skill,
175 and abilities to perform the job.

176 • If multiple employees on the priority consideration list who are eligible for the vacant
177 position express interest, the Bureau Director (or designee) will conduct interviews
178 limited in scope to inquiring about the separated employee's knowledge, skill, and
179 abilities to perform the job with each interested separated employee and shall apply
180 veterans' preference in accordance with HRAR 3.07.

181 • When considering separated employees for rehire under this process, the Bureau Director
182 shall have sole discretion as to whether or not to hire a separated employee.

183 • If no separated employee is selected for rehire, the vacant position will then go through
184 the normal recruitment process. Employees on the priority consideration list, including
185 any who expressed interest in the position but were not selected for rehire, may apply.

186 • Should a separated employee who expressed interest in a vacant position not be selected
187 for rehire, they will remain on the priority consideration list for other vacant positions
188 until the list closes.

189 • The priority consideration list and the process for selection for rehire off that list
190 described herein shall remain in place until May 31, 2022. Thereafter, the separated
191 employee retains a right to reinstatement as outlined in Section 7.J. of this Agreement.

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193 In the event the City ends the vaccine mandate, this clause of the LOA will remain in effect until
194 November 30th, 2024.

195 8. **Vaccine Records.** Information provided is maintained in a confidential and secure repository and is
196 not generally subject to release without the employee's authorization. All information is processed
197 and maintained by authorized personnel in the Bureau of Human Resources. This information will be
198 reasonably protected from theft and cyber theft through cyber security measures and maintenance of
199 records in a safe, secure area. In keeping with City compliance standards and safeguards, stringent
200 efforts will be made to limit the number of individuals who have access to this information and to
201 avoid sharing this information with bureau management except on a need-to-know basis.

202 9. **Grievance Procedure.** Any dispute related to enforcement of terms of this Agreement is subject to
203 the grievance procedure as described in the applicable Union's collective bargaining agreements.

204 10. If any provision of this agreement, or the application of any provision within this Agreement, is
205 found to be invalid by court order, administrative ruling or existing or subsequent legislation, the
206 remaining parts of this Agreement shall remain in full force and effect.

207 11. The provisions of this LOA shall expire on June 30, 2022, unless otherwise specifically stated in
208 this Agreement, and may be renewed upon mutual agreement of the parties.

209 For AFSCME, Local 189:

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Bao Nguyen, Council Representative

September 17, 2021


Date

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214 For IBEW Local 48:

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Mark Hinkle, Business Representative

September 17, 2021

Date

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219 For PROTEC-17:

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221



Rachel Whiteside, Union Representative

September 20, 2021

Date

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225 For LIUNA Laborers' Local 483:

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227 

SEPTEMBER 17, 2021

228 Farrell Richartz, Business Manager

Date

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230 For the District Council of Trade Unions:

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9/17/2021

233 Rob Martineau

Date

234 Council President

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236 For the City:

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238 Cathy L. Bless

9/20/21

239 Cathy Bless

Date

240 Director of the Bureau of Human Resources

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242 Approved as to Form:

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9/20/2021

245 City Attorney Office

Date