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4/20/24


**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF NORTH PORT, FLORIDA AND AFSCME LOCAL 3432
REGARDING PESTICIDE APPLICATOR CERTIFICATION SPECIALTY PAY**

This Memorandum of Understanding (“MOU”) is entered into between the City of North Port, Florida, a municipal corporation (hereinafter “City”), located at 4970 City Hall Blvd., North Port, Florida 34286 and Local 3432 of the American Federation of State, County and Municipal Employees, AFL-CIO, (hereinafter “Union”) to clarify the application of specialty pay provisions contained in Article 32, Section 1(E) of the Collective Bargaining Agreement (“CBA”) as they relate to pesticide applicator certifications.

WHEREAS, the City and Union are parties to a Collective Bargaining Agreement (“CBA”) that governs terms and conditions of employment; and

WHEREAS, Article 32, Section 1(E) of the CBA provides for specialty pay for certain certifications and licenses held by employees; and

WHEREAS, the parties recognize that pesticide applicator certifications are valuable to the City’s operations and require specialized knowledge and skill; and

WHEREAS, the CORE certification serves as a prerequisite for certain pesticide applicator licenses, including the Limited Lawn & Ornamental (LLO) license, and its proper application should be clarified; and

WHEREAS, the parties desire to provide guidance on the application of specialty pay for pesticide applicator certifications to ensure consistent and fair compensation; and

WHEREAS, the parties wish to memorialize their understanding in this Memorandum of Understanding (“MOU”) without altering any other provisions of the CBA; and

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

I. PURPOSE.

The parties acknowledge that Article 32 identifies certain pesticide applicator licenses as eligible for specialty pay. The parties further acknowledge that the CORE certification serves as a prerequisite examination for certain licenses, including but not limited to the Limited Lawn & Ornamental (LLO) license.

This MOU is intended to clarify the parties’ mutual understanding regarding compensation for such certifications and shall govern for the duration of the current agreement unless otherwise modified.

II. PESTICIDE APPLICATOR CERTIFICATION SPECIALTY PAY.

- A. The City recognizes the following pesticide applicator licenses as being of value to the City's operations. Based on operational need, as determined by the City, employees may be eligible for specialty pay for the following certifications:

CORE Certification – \$0.10 per hour

Right-of-Way License – \$0.15 per hour

Aquatic License – \$0.15 per hour

Ornamental & Turf License – \$0.15 per hour

Limited Lawn & Ornamental (LLO) License (CORE included) – \$0.25 per hour

- B. The CORE certification shall be compensated only once, regardless of the number of licenses for which it serves as a prerequisite.
- C. An employee shall be eligible for specialty pay for each qualifying certification held, subject to verification of current and valid licensure.
- D. New employees and employees transferring into positions requiring such certifications shall be eligible for specialty pay upon submission of proof of certification.
- E. Specialty pay provided under this section shall be paid as additional compensation and shall not be incorporated into the employee's base rate of pay.
- F. Eligibility for specialty pay remains subject to the City's determination of operational need consistent with the CBA.

III. RESERVATION OF RIGHTS / NON-PRECEDENT

Nothing in this MOU shall be construed to waive, limit, or modify any rights of the City or the Union under the Collective Bargaining Agreement, except as expressly set forth herein.

This MOU is intended solely to clarify the application of Article 32, Section 1(E) as it relates to pesticide applicator certifications and shall not be considered a precedent for any other matter or for future negotiations unless expressly agreed to by both parties.

IV. ENTIRE AGREEMENT AND PRIOR UNDERSTANDINGS.

This MOU contains the entire memorialization of mutual assent between the parties and is intended as a final expression of the parties' agreement with respect to all terms included in this MOU. This MOU supersedes any and all prior agreements, negotiations, stipulations, understandings, or representations.

V. CONSTRUCTION AND APPLICATION.

The section headings or titles in this MOU are for convenience only and not a part hereof and shall have no effect upon the construction or interpretation of the MOU. This MOU shall not be construed against either party as the “drafter” of this MOU, as the intent of the parties and resulting MOU is a collaborative effort of both parties.

VI. SEVERABILITY.

Each provision of this MOU is intended to be severable. If any court of competent jurisdiction determines that any provision of this MOU is invalid, illegal, or unenforceable in any respect, the rest of the MOU will remain in force.

VII. AMENDMENT.

Any alterations, amendments, deletions, or waiver of any provisions of this MOU shall be done in writing and signed by both parties. No alteration, amendment, deletion, or waiver of any provision shall become valid or effective until executed in conformity with this paragraph.

VIII. TERM AND TERMINATION.

This MOU shall be effective as of October 1, 2024 (“Effective Date”) and shall remain in effect through September 30, 2027. The Parties acknowledge that this MOU is executed after the Effective Date and agree that its terms, including certification pay, apply retroactively to October 1, 2024.

Termination Without Cause. Either party may terminate this MOU, without cause, by providing fifteen (15) days’ written notice to the other party. For the City, the City Manager or their designee is authorized to exercise this right when termination is deemed in the City’s best interest.

Termination For Cause. Either party may terminate this MOU immediately for cause upon written notice. For purposes of this section, “cause” includes, but is not limited to, failure to perform agreed-upon responsibilities, violation of applicable laws or regulations, or conduct that compromises the integrity, safety, or effectiveness of the collaboration. Prior to termination for cause, the non-breaching party shall provide written notice describing the alleged breach and allow a reasonable opportunity to cure, if appropriate. If the breach is not cured within the specified time, or if the breach is not curable, termination shall be effective immediately upon written notice.

IX. GOVERNING LAW AND DISPUTE RESOLUTION.

In the event of any disagreement or misunderstanding arising under this Memorandum of Understanding, the parties agree to engage in good faith discussions to resolve the matter collaboratively. If a resolution cannot be reached, the parties may pursue resolution consistent with the grievance procedure set forth in the CBA.

The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this MOU. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this MOU are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida.

X. NOTICES.

Except as specified elsewhere in this MOU, all notices provided for in the MOU must be in writing and transmitted by FedEx, UPS, or by certified mail, return receipt requested to the following. A party may update its notice information by providing written notice to the other party.

For City of North Port, Florida:
City of North Port, Florida
Attn: City Manager
4970 City Hall Blvd.
North Port, Florida 34286

with a copy to:
City of North Port, Florida
Attn: City Attorney
4970 City Hall Blvd.
North Port, Florida 34286

XI. GENERAL CONDITIONS GOVERNING THIS MOU.

- A. No Agency. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that no provision contained herein, or any acts of the Parties shall be deemed to create any relationship between them other than that as detailed herein.
- B. Waiver. One or more waivers by either party of any breach of any provision, term, condition or covenant shall not be construed as a waiver of a subsequent breach by the other party.
- C. Assignment. Union shall not assign this MOU or any right or responsibility herein unless with the written consent of the City.
- D. Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. Union shall not administer this MOU in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the dates set forth below:

FOR THE UNION:


PRESIDENT, AFSCME LOCAL 3432

CITY OF NORTH PORT, FLORIDA

A. JEROME FLETCHER II, ICMA-CM, MPA
CITY MANAGER

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

MICHAEL FUINO, B.C.S.
CITY ATTORNEY

