

LETTER OF AGREEMENT
Transition to Worksites

I. PARTIES

The parties to this agreement are Marion County (hereinafter, "the County") and SEIU, Local 503 OPEU/MCEA Local 294 (hereinafter, "the Union").

II. PURPOSE OF THIS AGREEMENT

The parties both agree that there is value in returning to work in-office and serving the public and that not everyone is similarly situated to do so fully and safely during the COVID-19 global pandemic. Both parties also agree that the use of remote work options has proven to promote the health and safety of employees and the public we serve; ensures high-quality work and optimal use of resources; ensures cultural, equity, medical and accessibility issues are addressed in a meaningful way; and supports flexibility and work-life balance for employees. Remote work also offers the opportunity to be more flexible in interactions with the Marion County residents we serve; decreases the rate of potential exposure during the pandemic and decreases the impacts on the environment.

The purpose of this agreement is to ensure a safe transition back to working in-person at a primary worksite during the COVID-19 global pandemic, and to ensure telecommuting remains a viable option where appropriate, and to provide a make-whole remedy per the Employment Relations Board (ERB) Order in ERB Case No. UP-037-21. The Parties hereby agree to the following:

III. AGREEMENT

Section 1. Definitions.

- (a) "Novel Coronavirus" or "COVID-19" refers to a respiratory disease caused by a novel (new) coronavirus. The virus has been named "SARS-CoV-2" and the disease it causes has been named "coronavirus disease 2019" (abbreviated "COVID-19").
- (b) "Telecommuting" or "telework" refers to a work arrangement in which the employee works outside the normal work site, often working from home.
- (c) "Telecommuter" refers to an employee who has been authorized to telecommute pursuant to this Letter of Agreement, subject to a fully executed COVID-19 Telecommuting Agreement.
- (d) "Primary worksite" refers to the physical location where an employee would ordinarily work absent authorization to telecommute (*e.g.*, a County office facility).
- (e) "Telecommute site" refers to the physical location where a telecommuter performs their work (*e.g.*, a home office).

Section 2. Onsite Work. The County will take reasonable efforts to minimize the risk that employees will contract and/or spread COVID-19 while on the job, including but not limited to:

- (a) Requiring all employees to wear facemasks or face coverings while inside County facilities or in other locations (*e.g.*, while traveling in a vehicle with others) when required by Oregon Health Authority rule or by other rule (*e.g.*, Oregon OSHA). An employee may continue to wear a facemask or face covering even if facemasks or face coverings are not required by administrative rule if the employee desires to do so.
- (b) Notifying employees of potential COVID-19 exposures in the workplace pursuant to the County's COVID-19 Infection Control Plan Physical Distancing and Infection Notification Policy and Procedure and in compliance with Oregon OSHA's temporary rule for COVID-19 (OAR 437-001-0744).
- (c) Installing "sneeze guards" in areas that interface with the public, where practicable, if no sneeze guard is installed in that location and an employee working in that location desires that a sneeze guard be installed.
- (d) Reducing capacity within County facilities by allowing telecommuting where viable while this Letter of Agreement is in effect.

Section 3. Telecommuting.

- (a) **Eligibility.** Employees whose work may be performed remotely are eligible to apply to telecommute under this Letter of Agreement. To be eligible for telecommuting under this Letter of Agreement, an employee's work shall be of a nature wherein face-to-face interaction is minimal or may be scheduled to permit telecommuting. Not all employees will qualify or be eligible to telecommute under this Letter of Agreement. While management has the right to approve or deny these requests, the County agrees to not deny requests arbitrarily
- (b) **Application.**
 - 1. Employees who desire to telecommute on specified days shall complete the MCEA COVID-19 Telecommuting Agreement and submit it their supervisor or department head. If an employee was previously authorized to telecommute pursuant to a fully executed COVID-19 Telecommuting Agreement under the County's prior COVID-19 Pandemic Temporary Addendum to Marion County Personnel Rules Regarding Telecommuting, which was rescinded on June 30, 2021, the employee may submit a copy of that fully executed COVID-19 Telecommuting Agreement and need not submit an MCEA COVID-19 Telecommuting Agreement, to apply to telecommute under this Letter of Agreement.
 - 2. An employee's telecommuting schedule must allow adequate time at the primary worksite for meetings, access to facilities, supplies, and communication with other employees and customers. Telecommuting must not adversely affect customer service delivery, employee productivity, or progress of an individual or team assignment. Any requirement that an employee work at their primary worksite will consider employee health and safety as a primary factor.

3. In reviewing and determining whether to approve an employee's application to telecommute, the supervisor/department head will consider several factors, including but not limited to:
 - (i) Whether the work of the employee's position can be performed remotely.
 - (ii) Whether the employee's proposed telecommuting arrangement will meet the County's business or operational needs and the needs of the County's customers. If the County cites business or operational needs or the needs of County's customers as the basis for a denial, the County will explain the reason of the denial. The employee may request a written explanation and the County will provide a written response within two (2) business days.
 - (iii) Whether the employee consistently demonstrates work habits that are well-suited to telecommuting, including but not limited to self-motivation, self-discipline, the ability to work independently with minimal face-to-face daily supervision, the ability to manage distractions, the ability to meet deadlines, and a demonstrated record of meeting established performance expectations.
 - (iv) Whether the employee's proposed telecommuting arrangement will require the employee to work remotely from an out-of-state location. Because such a telecommuting arrangement has tax consequences and benefits consequences, this Letter of Agreement does not authorize telecommuting from an out-of-state location. Exceptions may be considered by the Personnel Officer or designee.
 4. All employee requests to telecommute are subject to approval by the appropriate department head or their designee.
 5. Applications to telecommute shall be responded to within fourteen (14) calendar days of the date the employee's application is received by the supervisor or department head. Responses to employees who were previously authorized to telework pursuant to the County's prior COVID-19 Pandemic Temporary Addendum to Marion County Personnel Rules Regarding Telecommuting will receive priority consideration. However, the fact that such an employee was previously authorized to telecommute does not guarantee that their request to telecommute pursuant to this letter of agreement will be granted. All other requests to telecommute pursuant to this Letter of Agreement will be responded to in order of application. If a request is denied or rescinded, management shall specify the reason for denial or rescission in writing. If the Parties agree there is an urgent need for consideration of an employee's application, timelines in this section may be shortened by mutual agreement of the Parties.
- (c) **Approval.** Employees who are approved for temporary telework shall sign and abide by an MCEA COVID-19 Telecommuting Agreement; the Telecommuting Agreement may require modification to fit individual telecommute-site circumstances. Employees who were previously authorized to telework pursuant to the County's prior COVID-19 Pandemic Temporary Addendum to Marion County Personnel Rules Regarding Telecommuting will still need to memorialize and abide by an MCEA COVID-19 Telecommuting Agreement. No employee is authorized to telecommute under this Letter of Agreement absent prior written approval of their respective supervisor, as evidenced by a fully executed MCEA COVID-19 Telecommuting Agreement. A copy of the fully executed MCEA COVID-19 Telecommuting Agreement shall be retained in the employee's personnel file.

(d) **General Provisions.**

1. **Americans with Disabilities Act.** Nothing in this Letter of Agreement is intended to preclude an employee from seeking reasonable accommodation, including telecommuting, an alternate work location, or flexible work schedules under the Americans with Disabilities Act.
2. **Business Meetings.** The telecommuter may be required to attend onsite business meetings at their primary worksite as reasonably necessary.
3. **Communication.** While telecommuting, the employee shall be reachable by telephone, instant messenger, or e-mail during agreed-upon work hours. The employee and supervisor shall agree on expected turnaround time and the medium for responses.
4. **Conditions of Employment.** The telecommuter's conditions of employment shall remain the same as for non-telecommuting employees; wages, benefits and leave accrual will remain unchanged.
5. **Equipment.** Home worksite furniture and equipment shall generally be provided by the telecommuter. Employees will not be required to use their own personal computers. In the event that equipment and software is provided by Marion County at the telecommute-site, such equipment and software shall be used exclusively by the telecommuter and solely for the purposes of conducting County business. Software shall not be duplicated. The parties shall consult with the support manager regarding the availability of equipment to loan. If the County provides equipment, the telecommuter is responsible for safe transportation and set-up of such equipment.
6. **Equipment Liability.** The telecommuter will be responsible for: any intentional damage to the equipment; damage resulting from gross negligence by the telecommuter or any member or guest of the telecommuter's household; damage resulting from a power surge if no surge protector is used; maintaining the current virus protection for software. The County may pursue recovery from the telecommuter for County property that is deliberately, or through gross negligence, damaged, destroyed, or lost while in the telecommuter's care, custody or control. Damage or theft of County equipment that occurs outside the telecommuter's control will be covered by the County. Telecommuters should check their homeowner's/renter's insurance policy for incidental office coverage. The County does not assume liability for loss, damage, or wear of telecommuter owned equipment.
7. **Dependent Care.** Telecommuting is not a substitute for childcare or other dependent care. Telecommuters shall make or maintain arrangements for dependent care to permit concentration on work assignments.
8. **Telecommute Site.** The telecommuter must establish and maintain a dedicated workspace that is quiet and safe, with adequate lighting and ventilation. The telecommuter will not hold business visits or meetings with professional colleagues, customers, or the public at the telecommute site.
9. **Hours of Work.** The telecommuter will have regularly scheduled work hours agreed upon with the supervisor, including specific core hours and telephone accessibility. The agreed upon work

schedule shall comply with Fair Labor Standards Act ("FLSA") regulations. Overtime work for a non-exempt employee must be pre-approved by the supervisor. The telecommuter will attend job-related meetings, training sessions and conferences, as requested by supervisors. In addition, the telecommuter may be requested to attend "short-notice" meetings. The telecommuter's supervisor will use telephone conference calling or video meeting whenever possible as an alternative to requesting attendance at "short-notice" meetings.

10. **Incidental Costs.** Unless otherwise stated in the Telecommuting Agreement, all incidental costs at the telecommute site, such as residential utility costs and cleaning services, are the responsibility of the telecommuter.
11. **Injuries.** The telecommuter will be covered by workers' compensation for job related injuries that occur at the telecommute site during the defined work period. In the case of injury occurring during the defined work period, the telecommuter shall immediately report the injury to the telecommuter's supervisor. Workers' compensation will not apply to non-job-related injuries that might occur in the home. The County does not assume responsibility for injury to any persons other than the telecommuter at the telecommute-site.
12. **Intellectual Property.** Products, documents, and records developed while telecommuting are the property of the County.
13. **Leave.** The telecommute employee must obtain supervisory approval before taking leave in accordance with the County policy.
14. **Network Access.** Network access is not guaranteed. Employees should plan for offline work when possible.
15. **Office Supplies.** Marion County shall provide necessary office supplies. Out-of-pocket expenses for supplies normally available in the office will not be reimbursed.
16. **Performance & Evaluations.** The telecommuter and their supervisor will develop and put into writing a clear set of expectations and goals for the work to be performed while working remotely, if this has not already been done. The supervisor will monitor and evaluate performance by relying more heavily on work results rather than direct observation. The supervisor and telecommuting employee will meet at regular intervals to review the employee's work performance.
17. **Personal Business.** Telecommute employees shall not perform personal business during hours agreed upon as work hours.
18. **Policies.** Marion County Administrative Policies, rules, and practices shall apply at the telecommute site, including those governing communicating internally and with the public, employee rights and responsibilities, facilities and equipment management, financial management, information resource management, purchasing of property and services, and safety. Failure to follow policies, rules and procedures may result in termination of the telecommute arrangement and/or disciplinary action.

19. **Quality of Work.** All telecommute work shall be performed according to the same high standards as would normally be expected at the primary worksite.
 20. **Record Retention.** Record retention policies apply. Products, documents, and records that are used, developed, or revised while telecommuting shall be copied or restored to the County's computerized record system. Whenever possible, all telecommute related information shall be stored in a directory designated for telecommute and this information shall be backed up on a disk or on a server or an approved flash drive. Security and confidentiality shall be maintained by the telecommuter at the same level as expected at all work sites.
 21. **Security.** Security and confidentiality shall be maintained by the telecommuter at the same level as expected at all worksites. Restricted access or confidential material shall not be taken out of the primary worksite or accessed through a computer unless approved in advance by the supervisor. The telecommuter is responsible to ensure that non-employees do not access County data, either in print or electronic form.
 22. **Taxes.** A home office is not an automatic tax deduction. Telecommuters should consult with a tax expert to examine the tax implications of a home office.
 23. **Telephone/Internet Expenses.** The telecommuter will be responsible for their own internet and phone access at the telecommute site.
 24. **Travel.** The telecommuter will not be paid for time or mileage involved in travel between the telecommute site and the primary worksite. An employee who is required to travel to their primary work location for a "short notice" meeting shall be paid for the time spent traveling to and from the meeting if travel time occurs during the employee's regular working hours.
- (e) **Termination or Suspension of Telecommuting Agreement.** Unless otherwise stated in the Telecommuting Agreement, the supervisor or department head may discontinue a telecommuting arrangement for reasons of business or operational needs, with fifteen (15) calendar days advance notice. The County has the right to temporarily suspend a Telecommuting Agreement due to the County's operational needs. No telecommuting agreement may be arbitrarily rescinded or suspended. If the County suspends or terminates a Telecommuting Agreement, they will provide the affected employee with an explanation. The employee may request a written explanation and the County will provide a written response within two (2) business days.
- (f) **CBA and MCPRs.** Any situation or circumstance not covered in this Letter of Agreement shall be governed by the Collective Bargaining Agreement (CBA) between the Parties or, to the extent the CBA is silent regarding the situation or circumstance, by existing Marion County Personnel Rules (MCPRs) or other county administrative policies and procedures.

Section 4. Additional Measures to Make Employees Whole

- a) Any current employee who experienced a health risk or unusual hardship as a result of COVID-19 and was unable to return to work by July 19, 2021, and who needed to use their own accrued leave or leave without pay up through their initial return to work date will have and that leave or pay restored. The County will restore such employee's leave or leave without pay described herein if:

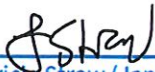
- i. The current employee submits a written request to Human Resources specifying the amount of leave and demonstrating that they meet the qualifications described above; and
- ii. Human Resources confirms that the leave amount specified by the current employee in the current employee's written request was taken.

IV. CONCLUSION

This Letter of Agreement expires upon the expiration of the Oregon Governor's Statewide COVID-19 State of Emergency. Employees who are telecommuting pursuant to this Letter of Agreement on the date this Letter of Agreement expires will have an additional fifteen (15) calendar days to return to in-person work at their primary jobsite.

The chief administrative officer, appropriate elected official or department head, human resources, and the designated representatives of the Union, to be valid, must sign any letters of agreement. Such letters of agreement shall be attached and made part of the collective bargaining agreement. This agreement is made without precedent to either party in current or future negotiations.


For the Union:


LaTricia Straw (Jan 20, 2022 10:14 PST)

LaTricia Straw Date
President, MCEA/Local 294

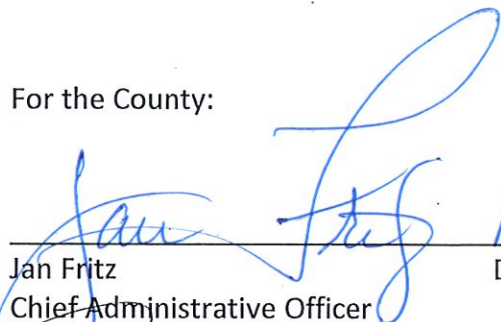

Aaron Giesa (Jan 20, 2022 10:17 PST)

Aaron Giesa Date
Bargaining Organizer, SEIU Local 503, OPEU


DocuSigned by:

Melissa Unger
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Melissa Unger Date
Executive Director, SEIU Local 503, OPEU

For the County:



Jan Fritz Date
Chief Administrative Officer 1/20/2022



Brian Kernan Date
Legal Counsel 01-20-2022



Michelle Shelton Date
Chief Human Resources Officer 1/20/2022