Addendum C
Washington State Employees

Because some bargaining unit employees are performing work for the County remotely from locations in the State of Washington, the parties recognize that these employees may be subject to Washington law rather than Oregon law. The parties agree that for those employees, the following provisions will apply, and that to the extent there is any conflict between a specific provision in this Addendum and any specific provision elsewhere in the parties’ Agreement, the specific provision in this Addendum will apply:

SICK LEAVE (COVERED IN ARTICLE 9):

Employees working remotely (50% or more time) in the State of Washington may be entitled to Washington Paid Sick Leave. For those employees, the following provisions apply:

1.  Washington Paid Sick Leave
    A.  Definition and Allowable Use
        Sick leave is a leave of absence with pay which may be used when the employee is directly affected by any of the health conditions listed below, or when specified others are affected by the conditions listed, and require the employee’s care. As used in this Addendum, “protected sick time” refers to sick leave protected under the Washington State Sick Leave Act, RCW 49.46.210, et seq. All accrued sick leave taken for authorized purposes listed at CRW 49.46.210(1)(b) and (c) as further described below and in the Washington Sick Leave Bank is protected under the Washington Sick Leave Law. Accrued sick leave taken in excess of the hours in the Washington Paid Sick Leave bank is not covered or protected under the Washington Sick Leave Law, but may be considered protected leave under
other state and federal laws.

1. **Specified others**
   a. Members of the employee’s immediate household where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care; or
   b. The employee’s spouse, parents, or children as defined in the federal Family and Medical Leave Act (hereafter referred to as the “FMLA”); or
   c. The employee’s grandparents, grandchildren, parents-in-law, or sibling as defined in the Washington Family and Medical Leave Act (hereafter referred to as “PFML”), RCW Title 50A; or
   d. The employee’s domestic partner as designated in an Affidavit of Domestic Partnership submitted to the Employee Benefits Office; or
   e. The children and parents of such domestic partner, defined as if the domestic partner was the employee’s spouse.

2. **Covered health conditions**
   a. Mental or physical illness, injury, or health condition; need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, or time off needed for preventative care; or
   b. Any qualified condition covered by FMLA or PFML, regardless of whether the employee meets statutory eligibility requirements; or
   c. Any other illness, injury, or quarantine based on exposure to contagious disease; or
   d. Medical, dental, and employee assistance program appointments; or
   e. Any qualified purpose allowed under Washington’s Domestic Violence Leave Act, RCW 49.76.010, et seq.; or
   f. When the employee’s place of business has been closed by order of a public official for any health-related reasons, or when an employee’s
child’s school or place of care has been closed for such a reason.

3. **Parental leave**
   
   Sick leave may be used by employees during Parental Leave as defined by FMLA and/or PFML, except that the amount of leave taken by the other parent of the employee's child will not affect the amount of Parental Leave available to the employee.

4. **Occupationally related conditions**
   
   Use of sick leave for occupationally related conditions is limited to the applicable Workers Compensation provisions.

**B. Accrual**

1. Employees shall accrue sick leave at the rate of .0461 hours for each hour worked. For purposes of this Addendum, “Hours worked” includes paid holidays and leaves with pay taken during the workweek.

2. Sick leave may be accrued on an unlimited basis. Only hours accrued and available in the employee’s Washington Sick Leave Bank are protected under Washington Sick Leave Law.

**C. Reporting of Sick Leave**

1. An employee who must be absent for any reason listed in Section 1.A. of this article must follow the call-in procedures for their program/clinic (i.e. notify the supervisor on duty or the supervisor’s designee(s), leave a message on the designated call-in phone number, etc.) at least three (3) hours for employees in Corrections Health and one (1) hour for employees in all other programs/clinics, before the beginning of their shift, that they will be out of office, so that coverage options can be identified.

2. Employees who fail to report may be subject to discipline and result in loss of pay for the work time missed.

3. The provisions of this section do not apply if the employee is unable to follow the call-in procedures for their program/clinic, due to incapacitation or is on an approved leave of absence.
D. **Use of Sick Leave During Leave**

Sick leave may not be used during vacation except when the employee notifies the supervisor of the interruption of the employee’s scheduled vacation and presents reasonable evidence of a bona fide illness or injury upon returning to work.

2. **Use and Misuse of Leave for Sick Leave Purposes**

   A. **Counting Against FMLA Entitlement**

   Sick leave and any other forms of paid or unpaid leave used for FMLA qualifying conditions, or absence due to a deferred or approved Workers Compensation claim based on such conditions, will be counted against an employee’s annual FMLA entitlement.

   B. **Legitimate Use**

   For employees working remotely (50% or more time) in the State of Washington, all hours accrued and available in the employee’s Washington sick leave bank are protected. Sick time is accrued at the same rate for all bargaining unit employees. Sick leave taken in excess of the hours in the Washington Sick Leave Bank each calendar year is not considered protected sick time. Reliable and consistent attendance is an expectation of all county employees. Employees must only use sick leave for legitimate purposes as defined in Section 1.A. of this article.

   1. **Verification of use**

      a. Pursuant to Multnomah County policy, Management must require the completion of a certification form by the employee’s health care provider and any other verifications required for under the provisions of the FMLA or its successor.

      b. The County may require an employee to submit written medical verification from a health care provider due to non-FMLA covered illness or injury under the following conditions:
i. The employee has been absent for more than three (3) consecutive work days; or

ii. The employee has requested leave that is scheduled to last more than three (3) scheduled work days; or

iii. The employee has exhausted all sick leave; or

iv. The employee commences sick time without providing prior notice required by the County, unless medical circumstances prevent the employee from providing notice prior to commencing sick time and the employee provides notice to the County as soon as is practicable; or

v. When the employee has had five (5) or more events with less than twenty-four (24) hours’ notice in a six (6) month period; or

vi. Management suspects that an employee is abusing sick time, including engaging in a pattern of sick leave abuse. “Pattern of sick leave abuse” includes, but is not limited to, repeated use of unscheduled sick time on or adjacent to weekends, holidays, vacation days, or paydays. An employee may be required to submit written medical verification when management reasonably believes that the absence may not be bona fide.

If medical verification is requested, the County will pay any and all reasonable costs, including lost wages, associated with obtaining medical verification that are not covered under the employee’s health benefit plan in which the employee is enrolled.

2. **Discipline**

   Subject to the limitations of law, including but not limited to those of the FMLA, discipline may be imposed under the following conditions:

   a. **Abuse of sick leave**

      Misuse of leave, violation of orders, directives, or contractual requirements concerning the use of sick leave and other forms of leave used in lieu of sick leave are cause for disciplinary action.

   b. **Use of accrued sick leave**
i. Use of accrued sick leave, without abuse of such leave, will not be cause for discipline.

ii. When the intermittent use of accrued sick leave or other paid or unpaid leave used in lieu of sick leave interferes significantly with an employee’s ability to perform the duties of the employee’s job, management may do the following (subject to the requirements of law, including, but not limited to, the FMLA, the Washington State Sick Leave Act, and the Washington State Paid Family and Medical Leave program):

(a) Require the employee to take continuous leave; or

(b) Change the employee’s work assignment for six (6) months or until use of intermittent leave ends, whichever comes sooner.

c. Excessive absenteeism

The parties recognize that every employee has a duty to be reliably present at work, and that failure to confine sick leave usage to accrued and available sick leave raises the possibility of discipline for excessive absenteeism. Such cases, however, are subject to just cause review and require systematic examination of relevant factors, including but not limited to:

i. Any legal requirements, including, but not limited to those of the FMLA, PFML, Washington State Sick Leave Act or the ADA;

ii. The tenure and work history of the employee, specifically to include whether there have been previous instances of this pattern of absenteeism;

iii. Whether there is a likelihood of improvement within a reasonable period of time based on credible medical evidence;

iv. The particular attendance requirements of the employee’s job;

v. The pattern of use, and whether the absences are clearly for bona fide sick leave purposes.
C. **Sequencing of Leaves**

The use of vacation leave, saved holiday time, compensatory time, and leave without pay is subject to approval by management according to the requirements of Articles 7, 8, 10, and 16, respectively. However, unless otherwise required by law, forms of leave shall be used and exhausted in the following sequences:

1. Leave for illness or injury, that does not qualify for FMLA and/or PFML will be taken in the following order:
   a. Sick leave until it is exhausted (unless the employee is on Washington protected leave (ie. disability accommodation leave for Washington employees or Washington Paid Family and Medical Leave);
   b. Vacation leave, saved holiday time, or compensatory time, sequenced at the employee’s option, until they are exhausted;
   c. Leave without pay.

2. Leave that qualifies under FMLA and/or PFML will be taken in the following order:
   a. Paid leave until it is exhausted; employees will determine what order paid leave is used;

3. Leave for other purposes will be taken in the following order:
   a. Vacation leave, saved holiday time, or compensatory time, sequenced at the employee’s option (to the extent allowed by vacation sign-up provisions) until they are exhausted;
   b. Leave without pay

4. Leave that also qualifies under Washington Paid Family and Medical Leave can be taken unpaid or sequenced at the employee’s option.

D. **Reinstatement of Sick Leave Accruals**

1. Any employee who leaves County employment and is subsequently re-employed as a regular status employee within 12 months is entitled to credit for all sick leave accrued up to the last day of prior employment. Sick leave
shall not accrue during the period between leaving County employment and re-employment.

2. Any employee who is re-employed after more than 12 months is not entitled to credit for sick leave that accrued during prior County service. Sick leave will begin accruing anew in accordance with Section 1.B. of this article.

3. Employees who are laid off and recalled from a recall list, will have their sick leave balance restored at the time they are recalled.

E. Limitations on the Use of Leave Without Pay in Lieu of Sick Leave

Use of leave without pay in lieu of sick leave for non-FMLA and non-PFML qualifying conditions is subject to the approval of management and further subject to the following provisions:

1. Continuous leave

In the event of a continuous leave of absence without pay in excess of any legal requirement of the FMLA or PFML, the County may require from the employee’s physician, and/or arrange for the employee to see a physician selected by the County to examine the employee and provide a statement of the disability, current condition, and the anticipated length of current absence. If the County requires the employee to see a physician it has selected, it will pay the costs. If deemed necessary by the County, such an examination shall be repeated every thirty days. If management determines that continued leave would not be in the best interest of the County, then any resulting termination would be subject to review under the just cause standard as to the reasonableness of this determination. Following six months of leave without pay, to include time spent on unpaid FMLA and/or PFML leave, any extension of the leave shall be deemed permissive on the part of the County and if the employee’s leave is not extended, and the employee does not return to work, the employee will be deemed to have resigned.

2. Intermittent Leave
Intermittent leave without pay used in lieu of sick leave is not subject to the six-month entitlement provided for above. When such leave significantly affects an employee’s job performance and is not subject to the requirements of law (including but not limited to the FMLA and/or PFML), management may evaluate the employee’s use of leave according to the criteria of “Section B.2.c” above. Medical information as provided for in “Section D.1” above may be required for the evaluation. After completing the evaluation management may do one of the following:

a. Approve a similar pattern of intermittent use of unpaid leave for a specified period followed by another evaluation; or

b. Put the employee on a work plan to manage the use of leave without pay, followed by disciplinary action if the plan is not successfully completed; or

c. Proceed with the disciplinary process.

3. **Fitness for Duty**

   The parties recognize that employees have the responsibility to report to work fit for duty. To ensure such fitness, management may send employees for medical or psychological examination when the supervisor reasonably believes that the employee is not fit for duty or may be a danger to themselves or others. Any such examinations will be at County expense.

4. **Occupational Exposure**

   Due to the occupational exposure to communicable disease, new employees shall be allowed to use up to five (5) days of their first year's sick leave immediately upon employment. If the employee terminates prior to accruing adequate sick leave to cover that used, the County shall deduct from the final settlement check one (1) hour’s gross pay for each hour of sick leave used beyond that earned.

5. **Other Sick Leave Provisions**

   Sick leave shall be charged in one-quarter hour increments in accordance with the uniform time charging provisions of Article 15.6.
6. **Interactions between Paid Sick Leave and WA Paid Family & Medical Leave**

Employees having worked enough hours to qualify for PFML (generally 820 hours of employment in Washington in the first 4 of the last 5 completed calendar quarters) are eligible for state-provided paid leave for certain “qualifying events” which include serious illnesses or injuries that prevent someone from working, a new baby or child joining a family, and certain military events.

**PAID FAMILY AND MEDICAL LEAVE (COVERED IN ARTICLE 9):**

Employees working in Washington may be entitled to Washington Paid Family and Medical Leave (WA PFML). For those employees, the following provisions apply:

1. **Washington Paid Family and Medical Leave (WA PFML):**

   A. **Overview**

   WA PFML is a mandatory statewide insurance program that provides paid family and medical leave to eligible employees who work in Washington state. The program is administered by the State of Washington’s Employment Security Department (ESD), not the County, and is subject to change.

   B. **Eligibility**

   Employee eligibility for leave and benefits (including on-call, temporary and limited duration employees), is established by Washington law and is therefore independent of this Agreement. WA PFML may be run currently with FMLA. Employees may receive WA PFML benefits if they meet ESD’s eligibility criteria and experience a qualifying event. It is understood by the
parties that the eligibility requirements at the time of this agreement, subject to change by the state program, are as follows:

1. Hours Worked:
   a. Employees must have worked at least eight hundred twenty (820) hours in the State of Washington (for either the County or other employers) and be “localized employees” working more than fifty percent (50%) time based in the State of Washington during the “qualifying period.” The “qualifying period” is the first four (4) of the last five (5) completed calendar quarters or the last four (4) completed calendar quarters immediately preceding the application for leave. Prior employment in the State of Washington may qualify employees for this benefit. ESD will issue approvals if employees meet the below criteria.

b. Qualifying Event(s): Leave events can be either medical or family-related.
   i. Medical Leave: Medical leave is any leave taken by an employee from work due to the employee’s own serious health condition. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or continuing treatment by a healthcare provider for:
      (a.) An illness or injury that incapacitated the employee for three (3) or more consecutive days.
      (b.) A chronic serious health condition. The healthcare provider will determine whether the illness or injury meets the definition of a “serious health condition.”
(c.) Incapacity during pregnancy or for prenatal care.

(d.) Treatment for substance abuse.

(e.) Any period of absence from work to receive treatments and recover, like for radiation, chemotherapy or dialysis.

(f.) Certain military-connected events.

ii. Parental Leave: To care for and bond with a child during the first year after the child’s birth or during the first year after the placement of the child through foster care or adoption younger than 18.

iii. Family Leave: To care for any of the following family members with a serious health condition:

   (a.) Any family member outlined in Article 9 Section I.A.1, excluding Section I.A.1.f (close association),

   (b.) Siblings,

   (c.) Child’s spouse/domestic partner

   (d.) Someone who has an expectation to rely on the employee for care, whether they live together or not (employees may be required to provide documentation about relationship to the person or certification of their medical need).

iv. Military Leave: Because of any qualifying exigency arising from the foreign deployment of the employee’s spouse, son, daughter, or parent with the Armed Forces, or to care for a service member with a serious injury or illness if the employee is the service member’s spouse, son,
daughter, parent or next of kin, as permitted under the federal Family and Medical Leave Act.

C. Payments During Qualified Leaves

1. WA PFML - Weekly Benefits

   a. Beginning November 1, 2021, WA PFML will be available to eligible employees. The weekly WA PFML benefit amount is calculated by ESD and will depend on how much the employee earned during their base period. Payable benefits will be provided by ESD.

   b. Minimum WA PFML Claim Duration: The minimum claim duration payment is for eight (8) consecutive hours of leave.

   c. Maximum WA PFML Claim Duration: Qualified Washington workers are eligible for:

      i. Up to 12 weeks of continuous or intermittent paid family or medical leave.

      ii. Up to 16 weeks of continuous or intermittent leave when family and medical leave are used in combination (e.g., birth parent pregnancy and parental leave).

      iii. An additional two (2) weeks of continuous or intermittent leave is available as a result of pregnancy complications.

2. Supplemental County Benefits

   a. Leave Accruals

      i. Employees can choose to use accrued paid time off as described below to supplement or “top up” the money they receive as
partial wage replacement from the WA ESD while on a WA PFML-eligible leave. The County will require verification that the employee has been approved to receive benefits for WA PFML before approving leave as a supplemental benefit. Supplementation will be based on an employee's regular rate of pay, including any allowance premiums that are part of an employee's regular rate of pay.

   ii. Allowance premiums that are considered as part of the employee’s regular rate of pay will be accounted for in the supplementation calculations.

      (a.) Sick Leave, Vacation (all types), Compensatory, Holiday (all types), Paid Military Training Leave, Professional Recognition Leave, Paid Parental Leave or Compensatory Time.

      (b.) Time may be sequenced at the employee’s option, until accruals are exhausted.

      (c.) Under no circumstance, will the employee receive more than 100% of their regular rate of pay (aggregate from the County and the State).

      (d.) Short-Term Disability benefits will NOT be authorized for use as supplemental benefits in conjunction with WA PFML or with County Paid Parental Leave (PPL). Both Paid Parental Leave and Sick Leave will be offsets to Short-term Disability benefits.

      (e.) The employee must complete the necessary forms and provide all documentation as required by the Human Resources Department to process the supplemental benefits request. Failure to submit the necessary documentation in a timely manner, may result in delay or denial of supplemental benefit payments.
D. Payment of WA PFML Benefit

Premiums (payroll taxes) for benefits are established by law and are subject to adjustment up or down by the State of Washington.

1. Premium Amounts: Total premium charged and the split between employee and employer will be in accordance with Washington State law.

2. Deductions: Employees will pay their share of premium through payroll deduction effective November 1, 2021. The County shall pay any remaining share as required by law.

3. Timing of Payments

   a. The parties understand that payments from the State of Washington to County employees are not controlled by Multnomah County, and that there may be waiting periods during which the employee may not receive pay, or receive delayed (retroactive) payment.

   b. The County is committed to making every reasonable effort to ensure supplemental pay is issued within 60 days of the employee providing a copy of their approved WA PFML notice and completing the required documentation for supplemental pay. In the event of a delay, the supplemental pay will be issued on a retroactive basis.

E. Notification to County

If the need for leave is foreseeable, the employee will provide the County with not less than thirty (30) days’ notice before WA PFML is to begin. If the need for the leave is unforeseeable thirty (30) days in advance, then the employee will provide such notice as is reasonable and practicable.
F. Program Administration and Coordination with Other Policies

1. WA PFML may run concurrently with leave under FMLA if the leave is FMLA qualifying.

2. All supplemental benefits provided by the County shall run concurrently with FMLA, if they fall under FMLA covered events.

3. County employees localized in Washington do not qualify for OFLA benefits.

4. County employees who are co-parents with another County employee, will each have an individual right to WA PFML and use of supplemental benefits for this purpose.

5. If a County holiday occurs while the employee is on WA PFML, an employee may use accrued holiday pay instead of the employee’s WA PFML and any supplemental benefits.

6. The County retains the right to communicate statutory changes to the program as needed to employees. The parties agree to only meet and discuss modifications to the program when there is a need to address unforeseen fiscal and/or operational impacts.

WASHINGTON WORKERS’ COMPENSATION (COVERED IN ARTICLE 12):

1. Washington Workers’ Compensation

Employees working in Washington may be entitled to Washington Compensation benefits. For those employees, the following provisions apply:
A. If an employee seeks medical treatment for an injury or illness while teleworking in Washington, they may be covered by Washington's workers' compensation rules.

B. Washington State teleworkers are covered by the Washington Labor & Industries rules may have coverage through Multnomah County's Other States insurance policy, depending on the requirements of Washington.

C. If a teleworking employee in Washington seeks medical treatment for an occupational injury or illness, the day the employee seeks medical treatment will be compensated as a fully scheduled work day, if treatment was during that day's scheduled work time.

D. All other state specific workers’ compensation requirements including Washington, are handled by the insurance carrier and Oregon workers' compensation benefits do not apply.