

OFFICE OF THE INSPECTOR GENERAL
CITY OF BALTIMORE



Isabel Mercedes Cumming
Inspector General

Investigative
Report Synopsis

OIG Case #24-0784-C

Issued: July 10, 2024



OFFICE OF THE INSPECTOR GENERAL
Isabel Mercedes Cumming, Inspector General
City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202



July 10, 2024

Dear Citizens of Baltimore City,

The mission of the Office of the Inspector General (OIG) is to promote accountability, efficiency, and integrity in City government, as well as to investigate complaints of fraud, financial waste, and abuse.

The OIG received a complaint on June 5, 2024, alleging that Department of Public Works (DPW) does not provide adequate water, ice, and fans to DPW employees specifically those who working on routes. According to the complainant, the ice machines at the DPW Cherry Hill (Cherry Hill) yard at 701 Reedbird Avenue, Baltimore, MD 21225, have been inoperable for over one year, and employees must purchase bags of ice each day.

On June 6, 2024, the OIG completed a site visit to the Cherry Hill yard, where the OIG observed an inoperable ice machine located in the employee breakroom. According to a DPW employee, the ice machine located in the office breakroom has been broken since summer 2023. The OIG observed that the employee locker room did not have air conditioning or fans, which witnesses also stated.

On June 14, 2024, The OIG conducted a site visit to a recycling route with employees from the Cherry Hill yard. The employees stated they had not been provided any water, ice, or Gatorade at the start of their shift. The OIG noted the outside temperature at the time was 80 degrees, with a high of 90 degrees anticipated later in the day. The employees said the trash truck had no air conditioning and no lights on the dashboard to show mechanical errors.

The Memorandum of Understanding between the City of Baltimore and the Local 44 states that the employer shall provide to all members of the Union's bargaining unit a safe and healthful workplace.

This matter was referred to DPW management's attention and the OIG received DPW's response on June 26, 2024 (Exhibit 1). After receiving the response, the OIG received further complaints from employees as temperatures had reached danger zones and a health advisory was implemented.

Today, as a result of the complaints received, the OIG performed an emergency follow-up visit at 6 a.m. The health and welfare of our employees is paramount to City government and the attached findings support immediate remedy.

Sincerely,

Isabel Mercedes Cumming
Inspector General

REPORT FRAUD, WASTE AND ABUSE

HOTLINE: 443-984-3476/800-417-0430 EMAIL: OIG@BALTIMORECITY.GOV WEBSITE: OIG.BALTIMORECITY.GOV

This public synopsis is only a summary of a more comprehensive report of investigation submitted to the appropriate City management official

CC: Hon. Brandon M. Scott, Mayor of Baltimore City
Hon. Nick Mosby, Baltimore City Council President
Hon. Bill Henry, Baltimore City Comptroller
Honorable Members of the Baltimore City Council
Hon. Ebony Thompson, Baltimore City Solicitor
Khalil Zaied, Director of Department of Public Works
Faith Leach, Chief Administrative Officer
Simone Johnson, Deputy City Administrative Officer
Marvin James, Mayor's Chief of Staff
Shonkaye Stanley, Deputy Chief of Risk Management

REPORT FRAUD, WASTE AND ABUSE

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OIG Case # 24-0784-C



The Office of the Inspector General's Emergency Follow-up

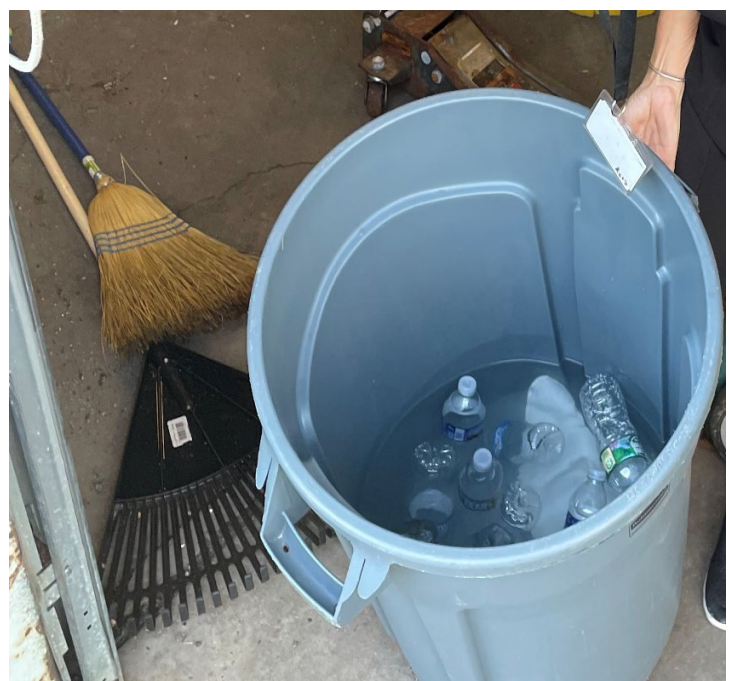
The Office of the Inspector General issued a referral for case 24-0784-C (Exhibit 1) to the Department of Public Works (DPW) on June 21, 2024. On June 26, 2024, the OIG received a response to the report from DPW Director Khalil Zaied (Exhibit 2).

The OIG received additional complaints from employees on July 9, 2024, after receiving DPW's response. On July 10, 2024, the OIG completed an emergency follow-up visit at 6 a.m. to the Cherry Hill yard at 701 Reedbird Avenue, Baltimore, MD 21225. The OIG found critical conditions that require immediate attention and remedy due to the extreme heat warnings that have been issued for the region. Due to high temperatures and the heat index expected to reach more than 100 degrees Fahrenheit (°F), the Baltimore City Health Department has issued a Code Red Extreme Heat Alert for the City of Baltimore through Thursday, July 11th (Exhibit 3).

Lack of Ice and Inoperable Water Fountains

During the July 10th site visit, the OIG did not find evidence that any ice or water bottles were delivered to the yard for the early shift employees. Employees reported that water bottles were delivered to the yard in a trash can full of ice the day before on July 9th. The OIG observed the trash can with no plastic lining during the site visit where the ice was melted and the water bottles were warm (Figures 1-3).

Figures 1, 2&3: Trash Can Observed with melted ice and warm water bottles





The OIG also viewed two inoperable ice machines, which had been reported to have not been working since summer 2023 (Figure 4). An employee reported the parts for the ice machine repair were delivered on July 9th and were located inside a box (Figure 5). Additionally, numerous water fountains throughout the building did not work and did not observe a working water fountain (Figure 6).

Figure 4: Broken Ice Machine

Figure 5: Parts for Ice Machine

Figure 6: Inoperable Water Fountains



Lack of Air-Conditioning and Proper Temperature Control

During the site visit, the employee locker room thermostat screen was found to be missing (Figure 7).

Figure 7: Locker Room Thermostat Screen Missing



While it was not possible to obtain an exact temperature, the room was hot, humid and no cool airflow was present. The heating, ventilation, and air conditioning (HVAC) system was not functioning. The door to the locker room was open, and the temporary indoor air-conditioning unit installed was not blowing any air (Figure 8). Additionally, the locker room area sink's cold-water faucet was running hot water. An industrial fan was present but appeared to be blowing air at a low speed.

Figure 8: HVAC System not functioning, temporary A/C unit, industrial fan, and sink





According to DPW’s response, DPW employees would be instructed to go inside the main trailer to use it as a cooling station. During the site visit, the OIG learned that the main trailer air conditioner stopped working three weeks ago and three temporary air-conditioning units had been installed (Figure 9). However, only two could be plugged in at one time, otherwise the electrical power would be blown.

Figure 9: Temporary air-conditioning unit installed



While the temporary unit was set to 65°F, the trailer’s thermostat within the trailer read 83°F and 85°F (Figures 10-13). It is important to note that these temperatures were observed between 6 a.m. and 7 a.m., before the daily rise of temperatures.

Figures 10-13: Thermostat Readings of Main Trailer Office and Interior of Trailer Office



Additionally, multiple employees reported that they had not received the appropriate uniform attire.

Potential OSHA and MOU Issues

The OIG’s observations in the above areas confirmed the DPW employees’ concerns. While a water cooler was observed in the main trailer, the inoperable water fountains and lack of ice and water for employees

working the routes gives concern that these conditions potentially violate Occupational Health and Safety Administration (OSHA) regulations and Memorandums of Understanding (MOUs) the City has with its labor unions. OSHA regulation §1915.88 states that the employer shall provide potable drinking water in amounts that are adequate to meet the health and personal needs of each employee (Exhibit 4).

The Cherry Hill yard is staffed by City employees who are members of American Federation of State, County, and Municipal Employees Local 44 (AFSCME 44) and other unions. The City's MOU with AFSCME 44 states the employer shall provide employees with a safe and healthy workplace (Exhibit 5).

Conclusion

As of today, July 10th, the anticipated temperature will be 95°F with a real feel of 103°F.¹ Without adequate and safe working conditions, the City is not only potentially violating OSHA regulations, but DPW workers' health and safety are currently at risk. The OIG requests for swift and immediate action to be taken to prevent further risk and explore alternatives, including a possible alternate work site.


Exhibits

1. OIG Referral 24-0784-C
2. DPW Response to OIG Referral 24-0784-C
3. BCHD Heat Alert
4. OSHA Regulations §1915.88
5. AFSCME 44 MOU

¹ <https://www.accuweather.com/en/us/baltimore/21202/weather-today/348707>

Exhibit 1

Case # 24-0784-C

| | | | | |
|----------------------------|-----------------------|---|---|---|
| F R O M | Name & Title | Isabel Mercedes Cumming Inspector General | OFFICE OF THE INSPECTOR GENERAL REFERRAL |  |
| | Agency Name & Address | Office of the Inspector General 100 N. Holliday Street, Suite 635 Baltimore, MD 21202 | | |
| | Subject: | OIG Case # 24-0784-C | | |

TO: Latoya Curtis, Chief of Staff
Department of Public Works
Abel Wolman Municipal Building
200 Holliday Steet, Baltimore MD 21202

Date: June 20, 2024

Subject: Employee Safety Referral

The Office of the Inspector General (OIG) received a complaint alleging that DPW does not provide adequate water, ice, and fans to DPW employees specifically those who working on routes. According to the complainant, the ice machines at the DPW Cherry Hill (Cherry Hill) yard at 701 Reedbird Avenue, Baltimore, MD 21225, have been inoperable for over one year, and employees must purchase bags of ice each day.

Upon conducting a site visit to the Cherry Hill yard, the OIG observed an inoperable ice machine located in the employee breakroom. According to a DPW employee, the ice machine located in the office breakroom has been broken since summer 2023. The OIG observed that the employee locker room did not have air conditioning or fans, which witnesses also stated.

The OIG conducted a site visit to a recycling route with employees from the Cherry Hill yard. The employees stated they had not been provided any water, ice, or Gatorade at the start of their shift. The OIG noted the outside temperature at the time was 80 degrees, with a high of 90 degrees anticipated later in the day. The employees said the trash truck had no air conditioning and no lights on the dashboard to show mechanical errors.

The Memorandum of Understanding between the City of Baltimore and the Local 44 states that the employer shall provide to all members of the Union's bargaining unit a safe and healthful workplace.

This matter is referred to you as the appropriate management official to take whatever action you deem necessary. Please respond in writing by July 5, 2024, indicating your actions to address this complaint. Should you have any questions or concerns or need further assistance from the OIG, I can be reached via telephone at 443-800-3854 or email Deputy Inspector General Matt Neil at matthew.neil@baltimorecity.gov.

Exhibit 2

Case # 24-0784-C

CITY OF BALTIMORE

BRANDON M. SCOTT, Mayor



DEPARTMENT OF PUBLIC WORKS

Khalil Zaied, Acting Director
Abel Wolman Municipal Building, 6th Floor.
200 N. Holliday Street
Baltimore, Maryland 21202

June 26, 2024

Ms. Isabel Mercedes Cumming, Inspector General
Office of the Inspector General
City Hall, Room 635
100 North Holliday Street
Baltimore, MD 21202

RE: DPW Response to OIG Case #24-0784-C Referral, dated 6/20/2024

Dear Inspector General Cumming:

I am writing to confirm receipt of and provide feedback on Office of the Inspector General (OIG) Referral 24-0784-C, dated June 20, 2024 (the "Referral"). The Referral references a complaint regarding the inoperable ice machines and failure to provide adequate water, fans, or air conditioning for employees at the Department of Public Works ("DPW") Cherry Hill yard at 701 Reedbird Avenue, Baltimore, MD 21225.

DPW is committed to ensuring the well-being of employees in all our facilities throughout the Baltimore Metropolitan area. Furthermore, providing work environments for the employees that are free from each recognized hazard that is causing or likely to cause death or serious physical harm is one of the DPW's primary goals under the Federal Occupational Safety and Health Act (OSHA) and Maryland Occupational Safety and Health Act (MOSH). Please note that DPW shall implement strict operational scrutiny to make changes and improvements to provide an optimal work environment for our employees, as well as shall task DPW's Office of Environmental Regulatory and Safety Compliance (ERCS) to oversee the implementation and changes. This letter is to outline the steps DPW staff have taken to address the issues raised in the Referral.

We recognize the importance of hydration, especially during the high temperatures. To ensure all employees have access to safe and clean drinking water, we have implemented the following measures:

1. All ice machines will be put on a regular maintenance schedule to minimize breakdowns. I signed a temporary justification for ice that can be handed out daily until the machines are operating.
2. All load packers without A/C are being taken to DGS for the repair of two vehicles at a time until all the A/C are functioning.
3. The staff at Reedbird have been instructed to go inside the main trailer to use it as a cooling station. The parts were purchased to power the attendant booth, and we hope that the work will be completed within 10 working days. The locker room in question is being evaluated for repairing the A/C. Please note that the A/C unit is an outdated model with parts difficult to obtain. We will install a temporary A/C unit if the old unit cannot be repaired.
4. 4,800 bottles of Gatorade that were purchased earlier this month have arrived and have been handed out to staff.
5. 744 Class 3 High-Vis moisture wear T-shirts were ordered to wear in place of uniforms on extreme heat days. This is for all sites of DPW Solid Waste Bureau.

Thank you for your continued partnership and attention to this matter. Please feel free to contact Craig Jeter, Bureau Head of Solid Waste, at Craig.Jeter@baltimorecity.gov, if you need further information.

Sincerely,

Khalil Zaied

Khalil Zaied
Acting Director

Cc: Richard Luna, Deputy Director
Craig Jeter, Bureau Head, Solid Waste
LaToya Cutris, Chief of Staff

Exhibit 3

Case # 24-0784-C



(<http://www.baltimorecity.gov>).

Baltimore City Health Department (/)

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Baltimore City Health Department Announces Extension of Code Red Extreme Heat Alert Through Thursday, July 11th

Baltimore City Health Department Announces Extension of Code Red Extreme Heat Alert Through Thursday, July 11th

Monday Jul 8th, 2024

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FOR IMMEDIATE RELEASE

PRESS RELEASE

For Immediate Release:

Monday, July 8, 2024

Contact:

Blair Adams

Director of Communications

(443) 690-4396 (Cell)

BlairK.Adams@BaltimoreCity.gov

(<mailto:BlairK.Adams@BaltimoreCity.gov>).

PRESS RELEASE

BALTIMORE, MD (Monday, July 8, 2024) — With high temperatures expected to continue in the Baltimore region and the heat index forecasted to reach over 100 degrees Fahrenheit through Thursday, the Baltimore City Commissioner of Health, Dr. Ihuoma Emenuga, has extended the existing Code Red Extreme Heat Alert through Thursday, July 11th. The heat index is a measure of air temperature and relative humidity and indicates how hot it feels to the human body.

“With the continuation of the current heat wave, an extension to the Code Red Extreme Heat Alert is vital for the safety and well-being of our residents and community,” **said Commissioner of Health Dr. Ihuoma Emenuga.** “With temperatures and humidity levels expected to remain dangerously high, it’s crucial that we take extra precautions by drinking plenty of water, limiting outdoor activities, and remaining indoors with a working fan or air conditioner during this prolonged heat wave. Please take care of yourselves and check on your vulnerable neighbors.”

The Health Commissioner may declare a Code Red Extreme Heat Alert during periods of heat that are severe enough to present a substantial threat to life or health risks. Once a Code Red Extreme Heat declaration is made, activities are undertaken to encourage safety. Even on warm days when a Code Red Extreme Heat Alert is not declared, it is important to take precautions.

The following **Baltimore City Health Department’s Division of Aging and Community Support** sites will serve as cooling centers on **Tuesday, July 9th through Thursday, July 11th from 9:00 a.m. - 7:00 p.m.**

- **Waxter Center for Senior Citizens** | 1000 Cathedral St. (410) 396-1324
- **Oliver Senior Center** | 1700 N Gay St. (410) 396-3861
- **Zeta Center for Healthy & Active Aging** | 4501 Reisterstown Rd. (410) 396-3535
- **Hatton Senior Center** | 2825 Fait Ave. (410) 396-902
- **Sandtown-Winchester Senior Center** | 1601 Baker St. (410) 396-7725

The following **Mayor’s Office of Homeless Services (MOHS)** sites will serve as cooling centers **Tuesday, July 9th through Thursday, July 11th** (hours vary by location):

- **My Sisters Place Women’s Center** (women and children only)
17 W. Franklin St. | 10:30 a.m. - 5:30 p.m.
- **Weinberg Housing & Resource Center (WHRC)**
620 Fallsway | 11:00 a.m. – 5:00 p.m.
- **Franciscan Center** | 101 W. 23rd St. | 10:00 a.m. – 1:00 p.m.
- **Beans & Bread** | 400 S. Bond St. | 9:00 a.m.- 1:00 p.m.
- **Manna House** | 435 E. 25th St. | 11:30 a.m. – 3:00 p.m.

The following **Housing Authority of Baltimore City (HABC)** sites will serve as cooling centers **Tuesday through Thursday from 8:00 a.m. to 4:00 p.m.:**

- **Cherry Hill Homes** | 2700 Spelman Road
- **Brooklyn Homes** | 4140 10th Street

Zion Lutheran Church (400 E. Lexington Street) will serve as a community cooling center on **Tuesday, July 9th and Wednesday, July 10th from 11:00 a.m. to 5:00 p.m.**

ShopRite Howard Park (4601 Liberty Heights Ave.) will serve as a community cooling center during their regular hours on **Tuesday through Thursday**. Residents seeking relief from the heat can also visit open [Pratt Library locations \(https://www.prattlibrary.org/locations\)](https://www.prattlibrary.org/locations).

During the Code Red Extreme Heat season, the Baltimore City Health Department recommends that City residents:

- Drink plenty of water
 - Avoid alcohol and caffeine
 - Reduce outside activities
- (A) Stay inside during the hottest time of day (11:00 a.m. to 4:00 p.m.)
- Seek relief from the heat in air-conditioned locations
 - Check on older adults and the sick in your community who may need help in the heat
 - Never leave children alone in closed vehicles, even for short periods of time

Ensure that babies are sleeping safely. The risk for sleep-related infant death increases when babies overheat

- People should place their infants alone, on their back, in a crib, and with no blankets, pillows, or sheets (a flat sheet covering the crib mattress is fine)
- No head coverings
- Co-sleeping (sharing a sleeping surface with a caregiver or another child) is especially dangerous

Watch out for signs of heat exhaustion and heat stroke. Seek medical help immediately if these symptoms occur:

- Confusion
- Nausea
- Lightheadedness
- High body temperature with cool and clammy skin
- Hot, dry, flushed skin
- Rapid or slowed heartbeat

To keep pets safe, BCHD also recommends:



- Never leave your pets in a parked car. Keep them safe and leave them at home. Temperatures inside a vehicle can rise extremely quickly. Even on a 70-degree day, the inside of a car can rise to a deadly 110 degrees
- Provide ample shade and water. Anytime your pet is outside, make sure he or she has protection from heat and sun and plenty of fresh, cold water
- Limit exercise on hot days. On very hot days, limit exercise to early morning or evening hours. Asphalt gets very hot and can burn your pet's paws, so walk your dog on grass if possible
- Watch for signs of heatstroke. These include heavy panting, difficulty breathing, excessive thirst, vomiting, unable to get up, and a deep red or purple tongue. If you see signs of heatstroke, take your pet to a veterinarian immediately

City residents who want cooling center information on Code Red Extreme Heat Alert days can call **311**. Individuals having a heat-related medical emergency or who are experiencing signs of heat exhaustion or heat stroke should call **911**.

For more information on Code Red Extreme Heat, visit the [Baltimore City Health Department's website \(https://health.baltimorecity.gov/coderedinfo\)](https://health.baltimorecity.gov/coderedinfo) and on social media Facebook @BaltimoreHealth and Instagram @Bmore_healthy. Additional information may also be found via the Baltimore City 311 line, and with local news media.

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Related Stories

[Code Red Extreme Heat Alert Extended through Monday, July 8th \(/news/press-releases/2024-07-05-code-red-extreme-heat-alert-extended-through-monday-july-8th\)](/news/press-releases/2024-07-05-code-red-extreme-heat-alert-extended-through-monday-july-8th)

BALTIMORE, MD (Friday, July 5, 2024) — With high temperatures expected to continue in the Baltimore region and the heat index forecasted to reach over 100 degrees Fahrenheit into early next week, the Baltimore City Commissioner of Health, Dr. Ihuoma Emenuga, has extended the existing Code Red Extreme Heat Alert through Monday, July 8th. The heat index is a measure of air temperature and relative humidity and indicates how hot it feels to the human body.

[Health Commissioner Declares Code Red Extreme Heat Alert for Friday, June 21st through Monday, June 24th; First of the Season \(/news/press-releases/2022-03-11-health-commissioner-declares-code-blue-extreme-cold-alert-baltimore\)](#)

BALTIMORE, MD (Thursday, June 20, 2024)— With temperatures expected to rise in the Baltimore region and the heat index forecasted to reach over 100 degrees Fahrenheit the next few days, the Baltimore City Commissioner of Health Dr. Ihuoma Emenuga has declared a Code Red Extreme Heat Alert for Friday, June 21st through Monday, June 24th. The heat index is a measure of air temperature and relative humidity and indicates how hot it feels to the human body. This is Baltimore City's first Code Red Extreme Heat Alert of the season.

[Sanitary Sewer Overflow Notification \(/news/announcements/2023-11-27-sanitary-sewer-overflow-notification\)](#)

Department of Public Works sewer overflow map at the link

([https://gcc02.safelinks.protection.outlook/?](https://gcc02.safelinks.protection.outlook/?url=https%3A%2F%2Fpublicworks.baltimorecity.gov%2Finteractive-maps&)

[url=https%3A%2F%2Fpublicworks.baltimorecity.gov%2Finteractive-maps&](https://gcc02.safelinks.protection.outlook/?url=https%3A%2F%2Fpublicworks.baltimorecity.gov%2Finteractive-maps&)

[Visit the Newsroom \(/news/25299/41/3\)](#)

Exhibit 4

Case # 24-0784-C

Occupational Safety and Health Administration

- **Part Number:** 1915
Part Number
 - **Title:** Occupational Safety and Health Standards for Shipyard Employment
 - **Subpart:** 1915 Subpart F
 - **Subpart Title:** General Working Conditions
Standard
 - **Number:** 1915.88
 - **Title:** Sanitation.
 - **GPO Source:** e-CFR
-

1915.88(a)

General requirements.

1915.88(a)(1)

The employer shall provide adequate and readily accessible sanitation facilities.

1915.88(a)(2)

The employer shall establish and implement a schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary, and serviceable condition.

1915.88(b)

Potable water.

1915.88(b)(1)

The employer shall provide potable water for all employee health and personal needs and ensure that only potable water is used for these purposes.

1915.88(b)(2)

The employer shall provide potable drinking water in amounts that are adequate to meet the health and personal needs of each employee.

1915.88(b)(3)

Exhibit 5

Case # 24-0784-C

regularly scheduled days during said fourteen (14) day period except that for all hours worked in excess of twelve (12) days during said fourteen (14) day period, the employee shall be paid two (2) times his hourly rate.

- E. The Employer shall not vary or rearrange work schedules to avoid the payment of overtime.
- F. When an employee in a single work week works at two or more different types of work for which different straight-time rates have been established, the employee will receive paid overtime for the type of work that is performed during the overtime hours at the higher rate for all hours over forty (40) in a work week.

ARTICLE 16

SAFETY AND HEALTH

A. The Employer shall provide to all members of the Union's bargaining unit a safe and healthful work place. The Employer and the Union shall cooperate in the enforcement of safety. Should an employee feel that his work requires him to be in unsafe or unhealthy situations, the matter shall be considered immediately by the Employer.

If the matter is not adjusted satisfactorily, it may become the subject of a grievance and will be processed according to the grievance procedure. If an employee feels that a piece of motor vehicle equipment he must operate is unsafe, he shall immediately report it to his supervisor who shall make an immediate inspection. No employee shall be required to operate an unsafe piece of motor vehicle equipment.

B. The parties shall reconstitute the Joint Labor/Management Committee on Safety (the "Joint Safety Committee"). The Joint Safety Committee shall consist of three (3) members appointed and replaced by the City and the Union, respectively, for a total of six (6) members. Beginning with the month of August 2017,

The Joint Safety Committee shall regularly meet one time each calendar month at the Office of the Labor Commissioner. The Joint Safety Committee shall address and examine, jointly, any and all issues brought to it. The Office of the Labor Commissioner shall work with the Union to calendar the monthly meetings in advance. The Union's committee members shall be released from their usual job duties and they shall be permitted to attend the committee's meeting without loss of pay. The Union shall prepare a proposed agenda of the topics to be discussed for each monthly committee meeting and it shall forward the proposed agenda to the Office of the Labor Commissioner by email at least ten (10) calendar days in advance of each monthly meeting. The purpose of the Joint Committee shall be to identify for the City how to afford all members of the bargaining unit a safe and secure work place, without exposure to undue or avoidable hazards.

C. To enable the City to safeguard the safety, health and well-being of all bargaining unit employees, the City shall, within thirty (30) days after the demand of either the Joint Committee or the Union, furnish to the Joint Committee, or to the Union, or to both, either (i) copies any work site inspections or statements of clinical findings which may concern the work or place(s) of employment of members of the Union's bargaining unit; or (ii) any information that is within the City's possession, custody or control about specific pathogens, contagions, environmental hazards, toxic chemicals, health or accident risks that are under active study by the Joint Committee under this Article 16.