

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**THE CITY OF WEST PALM BEACH**

**AND**

**SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU)  
FLORIDA PUBLIC SERVICES UNION (FPSU), CTW, CLC  
(Certified Unit #401)**



**October 1, 2017 to September 30, 2020**

**Printed May 3, 2017**

DEFINITIONS.....	4
1. PREAMBLE.....	5
2. RECOGNITION.....	6
3. SAFETY ACHIEVEMENT AWARD.....	7
4. MANAGEMENT RIGHTS.....	9
5. PROHIBITION OF STRIKES.....	10
6. DUES DEDUCTION.....	11
7. BULLETIN BOARDS.....	12
8. BASIC WORK WEEK AND OVERTIME.....	13
9. CHANGE OF EMPLOYMENT STATUS.....	16
10. LABOR-MANAGEMENT COMMITTEE.....	21
11. PROBATIONARY PERIOD.....	22
12. SAFETY.....	24
13. DISCIPLINE.....	25
14. EMPLOYEE RESIGNATION AND REINSTATEMENT.....	31
15. PERSONNEL RECORDS.....	32
16. UNION REPRESENTATIVES AND UNION BUSINESS.....	33
17. SENIORITY AND LAYOFF.....	35
18. TYPES OF LEAVE.....	37
19. HOLIDAYS.....	44
20. WORKERS' COMPENSATION BENEFITS.....	47
21. EDUCATIONAL BENEFITS.....	49

22.	INSURANCE BENEFITS.....	51
23.	PERFORMANCE EVALUATIONS.....	54
24.	COMPENSATION.....	55
25.	RETIREMENT.....	60
26.	ALCOHOL AND SUBSTANCE ABUSE.....	62
27.	OUTSIDE EMPLOYMENT.....	73
28.	GRIEVANCE AND ARBITRATION PROCEDURES.....	74
29.	SAVINGS CLAUSE.....	77
30.	MAINTENANCE OF CONDITIONS.....	78
31.	DURATION OF AGREEMENT.....	79
32.	SUBCONTRACTING.....	80
33.	PUBLIC SAFETY TELECOMMUNICATORS.....	81
34.	SIGNATURE PAGE.....	82

**DEFINITION OF TERMS**

<b>TERM</b>	<b>DEFINITION</b>
<b>Assignment</b>	The placement of an employee into a particular job on a temporary basis.
<b>Base Rate</b>	The hourly amount paid for a job performed. Does not include shift differentials, benefits, overtime, incentive premiums or any other pay element other than the base rate.
<b>Classification</b>	See "job".
<b>Critical Services Employee</b>	Designated by either the City's Emergency Response Plan or by an employee's Department Director at the time of an emergency.
<b>Day</b>	Work-day unless otherwise noted.
<b>Demotion</b>	When an employee: (1) voluntarily returns to a position that he/she previously occupied, or when an employee applies for and accepts the offer of a job in a lower classification, (2) or when an employee accepts the offer of a job in a lower classification in lieu of layoff, or (3) when such is the result of discipline. In all cases, compensation shall be commensurate with the job at the lower classification.
<b>Confined Space</b>	Confined space means a confined space that contains or has a potential to contain a hazardous atmosphere; contains material that has the potential for engulfing an entrant; has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller section; or contains any other recognized serious safety or health hazard.
<b>EPL</b>	Earned Personal Leave credited as a result of sick leave conversion.
<b>Furlough Days</b>	Furlough days are mandatory leaves of absence ordered by employers who are attempting to cut costs. When a furlough day is ordered, employees take the day off without pay.
<b>Job</b>	The total collection of tasks, duties and responsibilities assigned to one or more individuals as designated by title/classification.
<b>Job Series</b>	A group of jobs having the same nature of work (e.g., engineering) but requiring different levels of skill.
<b>Mayor/City Administrator/ Department Director/Division Manager/Manager/Supervisor</b>	Shall mean either an incumbent or a designee.
<b>Pay Grade</b>	The range of pay rates from minimum to maximum which is assigned to a classification.
<b>Performance Evaluation</b>	Shall mean either annual or intermittent performance review for the purpose of rating job performance or job performance improvement if in response to a work plan.
<b>Regular Part-time</b>	A budgeted position which has a normal and regular work schedule of at least twenty (20) hours but less than forty (40) hours per week.  Employees whose normal and regular work schedule is (30) or more hours per week are eligible for health insurance.  Retirement benefits are earned based on a normal and regular work schedule per week of at least twenty (20) hours.
<b>Review Date</b>	Shall be the date that is twelve (12) months subsequent to the successful completion of an initial employment probationary period or subsequent to the successful completion of a promotional probationary period.
<b>COPE</b>	Committee on Political Education

## **ARTICLE 1. PREAMBLE**

### Section 1.

This agreement is entered into by and between: the City of West Palm Beach, a municipal corporation in the State of Florida, hereinafter referred to as "City" and the Service Employees International Union (SEIU), Florida Public Services Union, CTW, CLC, hereinafter referred to as "Union".

### Section 2.

The purpose of this agreement is to promote and maintain harmonious and cooperative relationships between the employer and employees, both individually and collectively; to provide an orderly, peaceful and prompt means for resolving differences which arise concerning the interpretation or application of this agreement; and to set forth herein the basic and entire agreement between the parties in the determination of wages, hours and terms and conditions of employment.

### Section 3.

The parties recognize that the basic interest of the community will be served by assuring the public, at all times, of orderly and uninterrupted operations and functions of the municipal government and by providing in the most efficient manner superior public service to the citizens of the community.

### Section 4.

The City of West Palm Beach will not discriminate against employees covered by this agreement because of membership or non-membership in the Union or authorized activity as required in this agreement on behalf of Union eligible employees.

### Section 5.

The Union recognizes that the City of West Palm Beach is firmly committed to securing equal employment opportunities and freedom from discrimination on the basis of age, sex, race, religion, national origin, sexual orientation, marital status, disability and any other class protected by United States, Florida, Palm Beach County, or City law.

## **ARTICLE 2. RECOGNITION**

### Section 1.

The City of West Palm Beach hereby recognizes the Service Employees International Union (SEIU), Florida Public Services Union, CTW, CLC, as the exclusive representative for the purposes of collective bargaining with respect to wages, hours and terms and conditions of employment for all employees in the bargaining unit. Such employees are members of the unclassified service.

### Section 2.

The bargaining unit for which this recognition is accorded is as defined in Certificate Number 401 granted by the Public Employees Relations Commission on April 26, 1978 and amended on September 5, 2007, comprised of all regular status full-time and regular status part-time general employees employed by the City of West Palm Beach, excluding all other municipal employees, sworn police officers, certified fire fighters, supervisory employees, temporary employees, casual employees, grant-funded employees, and managerial/confidential employees.

### Section 3

The Union hereby recognizes the Mayor or his/her representative as the public employer's only representative for the purpose of collective bargaining. The Mayor, upon the Union's request, shall designate in writing his/her representative prior to the commencement of bargaining for each contract.

### Section 4.

The City, upon written request of the Union, agrees to provide the Union semi-annually, where lawful, a roster of the bargaining unit, including:

Name, address, job classification, date of hire, telephone number, if available, department and current pay rate.

### **ARTICLE 3. SAFETY ACHIEVEMENT AWARD**

#### Section 1.

- A. Safety Achievement Award criteria are set forth in this Article; award eligibility is contingent upon meeting the criteria set forth in this Article.

#### Section 2. Safety Achievement Award

- A. The award will be paid quarterly as taxable income, not subject to withholding for retirement unless otherwise required by law.

#### Section 3. Safety Achievement Award Criteria

##### A. Safety

1. There shall be no preventable accidents, personal injury or City property damage during the calendar quarter. Preventable determinations shall be made solely by the employee's department director, in collaboration with Risk Management.
2. Full compliance must be maintained by employees at all times by following all safety rules, including but not limited to:
  - a. Wearing proper safety equipment, including safety shoes;
  - b. Maintaining clean and safe equipment;
  - c. Performing daily vehicle safety checks.. Such safety checks include but may not be limited to the guidelines and requirements of the Florida Commercial Drivers Handbook.
  - d. Following posted speed limits and observing all safety regulations and state motor vehicle laws, including, but not limited to, wearing seat belts; and
  - e. Testing negative under the provisions of Article 26 (Alcohol and Substance Abuse) of the collective bargaining agreement.

#### Section 4. Safety Achievement Award Payment

- A. Engineering and Public Works Department, Sanitation Division and Parks and Recreation Department, Parks Maintenance Division (Field Staff).

1. Employees who meet the Section 3 safety achievement criteria shall be eligible to earn a quarterly incentive of one hundred and eighty-five dollars (\$185.00).
2. Employees who have been awarded the safety achievement award for all four (4) quarters from October 1 through September 30 shall be eligible to participate in an annual random drawing and five (5) employees will receive a one hundred and fifty dollar (\$150.00) achievement bonus to be issued in January of each following year.

B. Public Utilities Department, Field Customer Service Division Meter Service Technicians I, II, and III.

1. A city motor vehicle will be assigned for an employee's use.
2. An employee who meets Section 3.A.1 and 3.A.2., safety achievement criteria shall be eligible to earn a quarterly incentive in the amount of fifty dollars (\$50.00).



## **ARTICLE 4. MANAGEMENT RIGHTS**

### Section 1.

The Union recognizes the City's right to operate and manage its affairs in all respects. Except as expressly abridged, delegated or modified by this agreement, all statutory and inherent management rights, prerogatives, and functions are retained and invested exclusively in the City, including but not limited to the rights in its sole and exclusive judgment and discretion:

1. To manage and direct the employees of the City.
2. To hire, promote, transfer, schedule, assign and retain employees in positions with the City.
3. To reprimand, suspend, demote, terminate employment or take other disciplinary action against employees for just cause.
4. To relieve employees from duties because of lack of work, funds or other legitimate reasons.
5. To maintain the efficiency of the operations of the City and to set standards of service to be offered to the public.
6. To determine the methods, means and personnel by which such operations are to be conducted, including, the right to contract and subcontract existing and future work.
7. To determine the organization of City government.
8. To determine the number of employees to be employed by the City.
9. To determine the number, types, classifications and grades of positions of employees assigned to an organizational unit, department or project.
10. To implement internal security practices.
11. To require employees to be in a physical and mental condition that allows them to effectively perform their normal duties and to require medical examinations to determine their continuing fitness for duty.
12. To establish reasonable departmental rules and regulations not in conflict with the provisions of this agreement. Copies of rules and regulations, changes and/or revisions will be provided to the Union simultaneously with announcement or posting thereof.
13. To take whatever action is either necessary or advisable to determine, manage and fulfill the mission of the City and direct the City's employees.

The City's failure to exercise any one or more of its Management Rights from time to time will not be deemed a waiver of the City's right to exercise any one or more of its Management Rights at a later time.

### Section 2.

Nothing in this Article shall be construed as a waiver of the Union's right to demand bargaining over the impact of any rule change that affects employee's terms and conditions of employment.

### Section 3.

The City Commission has the sole authority to determine the purpose and mission of the City and the amount of budget to be adopted.

## **ARTICLE 5. PROHIBITION OF STRIKES**

### Section 1.

Neither the Union, nor any of its officers, agents, nor any bargaining unit employee covered by this agreement will instigate, promote, sponsor, engage in, or condone any strike, sympathy strike, slow down, sick out, concerted work stoppage, illegal picketing, or any other interruption of the operations of the City. The term "strike" shall include any overt preparation, including, but not limited to, the establishment of strike funds.

### Section 2.

Each employee who holds a position with the Union occupies a position of special trust and responsibility in maintaining and bringing about compliance with this Article and the strike prohibition in Section 447.505, Florida Statutes and the Constitution of the State of Florida, Article I, Section 6.

Accordingly, the Union, its officers, stewards and other representatives agree that it is their continuing obligation and responsibility to maintain compliance with this Article and the law, including their responsibility to abide by the provisions of this Article and the law by remaining at work during any interruption which may be initiated by others; and their responsibility, in the event of breach of this Article or the law by other employees and upon the request of the Employer, to encourage and direct employees violating this Article or the law to return to work, and to disavow the strike publicly.

## **ARTICLE 6. DUES DEDUCTION**

### Section 1.

Commencing with the start of the first pay period following receipt of a lawfully executed written authorization from an employee, the City agrees to deduct an employee's Union dues in equal installments once each pay period. The City shall remit such deduction to the duly elected treasurer of the Union monthly within five (5) working days from the last pay period of the month in which the deduction was made. The Union will notify the City, in writing, thirty (30) days prior to any change in the regular Union dues structure. The employer is expressly prohibited from any involvement in the collection of fines, penalties or special assessments and shall not honor any request of this nature other than for union dues and COPE.

### Section 2.

An employee may revoke his/her dues deduction by submitting such revocation form to the City's payroll division with a copy to the Union upon thirty (30) days written notice to the City and the Union. The revocation of dues deductions shall commence at the start of the first pay period of the first month following receipt of such request.

### Section 3.

Regular monthly dues deductions will be made by the City when other payroll deductions are made and will begin with the first full pay period following receipt of the employee authorization form by the City.

### Section 4.

The Union agrees to provide necessary Dues/COPE Deduction authorization forms and Notice to Stop Dues/COPE Deduction forms for its members.

### Section 5.

The Union agrees to indemnify and hold the City harmless against any and all claims, suits, orders and judgments brought and issued against the City as a result of any action taken or not taken by the City connection with the payroll deduction of Union dues.

## **ARTICLE 7. BULLETIN BOARDS**

### Section 1.

Each department, division, or office agrees to provide a bulletin board or reasonable space at a work location, which may be used by the Union for the following purposes:

1. Notice of Union meetings.
2. Notice of Union elections and their results.
3. Notice of Union recreational and social events.
4. Notices of official Union business.

### Section 2.

Any material not included in Section 1, must be signed by the Department of Human Resources Director or his/her designee and an authorized Union official prior to posting. If the material is posted without proper authorization, it shall be removed by the City.

### Section 3.

All costs incident to preparing and posting of Union material will be borne by the Union and in no way shall City facilities other than the approved bulletin boards be utilized for the dissemination of Union material.

### Section 4.

Notices as described in Section 1, above, may be sent through City inter-departmental mail or e-mail for posting by the affected department, when so approved by the Department of Human Resources Director or his/her designee. Notices described in Section 1 above, may be posted on the City's Lotus Notes Bulletin Board by an SEIU Union Representative or his/her designee, in compliance with Section 2 above.

## **ARTICLE 8. BASIC WORK WEEK AND OVERTIME**

### Section 1.

- A. The basic workweek shall consist of forty (40) hours unless otherwise specified. Department management will establish the basic workweek and hours of work best suited to meet the needs of the department and provide superior service to the community. Nothing in this agreement shall be construed as a guarantee or limitation of the number of hours to be worked per week.
- B. The normal workweek of forty (40) hours shall be from Monday through Friday of each week. However, where management deems it necessary, work schedules shall be established other than the normal Monday through Friday schedule.
- C. Whenever feasible, employees will be notified at least two (2) weeks in advance of a transfer, reassignment or change of shift.

### Section 2.

- A. Employees covered by this agreement must be compensated at one and one-half (1½) times their regular hourly rate of pay for all hours worked in excess of the 40 hours in a workweek. Overtime must be authorized by the Department Director or Assistant Department Director, if designated, in advance. Sick leave and holidays hours are not to be included as "time worked" in computing the forty (40) hour workweek for the purposes of overtime. All employees are required to punch in and out to accurately record all hours worked, consistent with the City's Time and Attendance Policy 4-11.

Time off due to sick leave or leave not requested and approved forty-eight (48) hours (two (2) working days) in advance shall not be included as "time worked" in computing the forty (40) hours workweek. No employee shall suffer any reduction in his/her normal scheduled hours of work to preclude the payment of overtime. However, an employee's hours of work may be changed upon required contractual notice of the change.

- B. The City shall offer overtime on a rotating basis first to qualified employees within the same division.

### Section 3.

An employee shall be paid for a minimum of two and one-half (2½) hours for scheduled overtime that is not a continuation of his/her regular workday or is not standby or call out as set forth in Article 24, Section 4 of this agreement.

### Section 4.

- A. In lieu of overtime pay, an employee, at his/her request shall be permitted to accumulate compensatory time at a rate of time and one-half for each hour of overtime worked. The accumulation of compensatory time shall be limited to a maximum balance of eighty (80) hours. Use of compensatory time shall be granted within a reasonable period after making such request unless it unduly disrupts the City's ability to provide services of acceptable quality and quantity for the public during the time requested; department considerations shall include but may not be limited to the (a) the normal schedule of work, (b) anticipated peak workloads based on past experience, (c) emergency requirements for staff and services, and (d) the availability of qualified substitute staff.

- B. An employee must notify their immediate supervisor in accordance with time keeping policy 4-11 for use of compensatory time at least two (2) work days prior to use. Leave will not be denied without just cause. If the leave request cannot be granted due to minimum staffing requirements, the employee may request payment in lieu of the requested time off. Payment shall be received in the regular pay check for the pay period in which the time off would have been granted.
- C. During the calendar year (January 1 - December 31) of each year, employees will not exceed 80 hours of compensatory time usage.

Section 5. State of Emergency

- A. When normal operations of City departments are suspended or interrupted due to a declaration by the Mayor that a state of emergency exists, all employees will be deemed critical by the City. For the preparation and/or continuation of emergency operations or for special work detail, employees deemed necessary shall be required to work. Employees deemed critical by the City but not needed for the initial preparation and/or continuation of emergency operations or for special work detail may be directed not to report to work, and given paid administrative leave or they may be reassigned to another location that best meet the needs of the City. The Mayor's state of emergency declaration shall be the only basis as to when such a period of a state of emergency has commenced and when it has ended.

Paid emergency leave will continue until such time that the employee is required to return to work. Paid emergency leave hours shall not count as hours worked for the purpose of computing overtime.

- B. An employee who does not work during a state of emergency and is on pre-approved personal, sick, or any other pre-approved leave shall be charged the leave for which they were approved and will not receive paid emergency leave for the declared state of emergency period. Pre-approved leave is any leave approved prior to declaration of a state of emergency. An employee who is on a regularly scheduled day off shall not receive paid emergency leave .
- C. Employees who are required to work when City work operations are closed due to a declaration of a state of emergency by the Mayor shall be compensated as follows:

Employees who are required to report for their regular shift or who are required to work during a state of emergency shall receive an hour of pay at their regular rate of pay for each hour worked on that shift during the state of emergency and any paid emergency leave approved by the City.

Any special pay provisions provided by the City including but not limited to on-call pay are suspended during such period of emergency in favor of the provisions set forth under this "State of Emergency" section.

No employee shall earn more than two times (2) their regular rate of pay during a declared emergency. No employee shall earn emergency paid leave in excess of their regular scheduled work hours for each day that there is a declared emergency.

- D. Any employee who has been notified and does not report to work during a State of Emergency will be considered AWOL from work and shall be subject to disciplinary action up to and including termination of employment unless extenuating circumstances for their absence are, in the sole discretion of the Department Director and City Administration, demonstrated.

Following the end of the State of Emergency any employee who has been notified and does not report back to work when the State of Emergency is over as a result of an extenuating circumstance and approved by the Department Director or his/her designee will be carried on the payroll system utilizing their accrued time balances in the following order: Annual, Compensatory, and EPL time. In the event that the employee runs out of time they will then be carried in a non-pay status until such time that the employee can return to work. In no event will this time be for longer than ten (10) working days. No reasonable request will be denied.

## **ARTICLE 9. CHANGE OF EMPLOYMENT STATUS**

### Section 1. General Provisions

- A. The placement of an employee within any department employing a bargaining unit eligible employee shall be the responsibility of the Department Director or his/her designee. In transferring an employee, the sending and receiving department head will, insofar as feasible, consider experience, qualifications, special skills, seniority, job performance history and other job-related criteria when making such transfer or reassignment.
- B. The City agrees to mail and/or e-mail a copy to the SEIU office any changes in job classifications prior to the changes becoming effective.

### Section 2. Working Out of Classification

#### A. Vacancy Assignment

A vacancy assignment is a temporary assignment to ensure the continued delivery of City services while a recruitment process is underway to fill a job vacancy. The vacancy assignment may include an employee being assigned to work out of their job classification, with the approval of the Human Resources Director and in collaboration with the sending and receiving department directors. Such vacancy assignment is subject to the consent of the employee being considered for such assignment. The vacancy assignment process is as outlined below:

- 1. Request for assignment of an employee shall be made in writing to the Human Resources Director stating reasons and approximate length of time for which assignment is to be made by the department director. No assignment shall be made without the approval of the Human Resources Director or his or her designee, and no employee shall be assigned to a position involving duties for which he/she is not qualified as indicated by his/her experience, training and record of service.
- 2. An assignment to a higher classification:
  - a. Shall be limited to a maximum of three (3) consecutive months .
  - b. Assignment shall cease after three (3) months by the City Administrator, unless extended at his/her discretion for up to an additional three (3) months. Employee shall be paid an additional five percent (5%) per hour or the minimum of the higher pay grade, whichever is greater.
- 3. The time an employee spends under such assignment shall not be used for computing any rights in the higher classification to which he/she may be so assigned, but may count toward completion of a probationary period in the lower classification from which assigned.
- 4. Upon release from assignment, the employee shall revert to the classification, status and pay rate which the employee would have been entitled if he/she had remained in his/her prior position. The length of time spent in the higher classification shall be applied to the service time of the lower classification.



**B. Step-Up Assignment**

An employee may be assigned in writing by a Department Director or designee to a higher classification in excess of four (4) hours per day and shall be paid an additional five percent (5%) or the minimum of the higher pay grade per day, whichever is greater. Any Step-Up Assignment lasting longer than two (2) pay periods requires a Status Change Form to be completed and submitted to Human Resources.

Overtime eligibility shall be retained for an employee on a step-up assignment.

**C. Training Assignment**

1. A training assignment is made to an employee assigned out of classification to meet cross-training goals as determined by an operating department. Such assignment may be to a classification that is higher, lower, or lateral and may be assigned for up to three (3) months.
2. An employee may be assigned for training purposes to a higher classification for no more than six (6) consecutive weeks without receiving assignment pay. An employee may accept or decline a training opportunity in a higher level classification.

**Section 3. Transfer**

**A. Organizational Transfer**

The transfer of an employee under the jurisdiction of one Department Director to a position in the same pay range under the jurisdiction of another Department Director shall be called an organizational transfer and may be made with the consent of the Department Directors involved and the Human Resources Director, or in any event where the City Administrator deems such action to be for the good of the City.

**B. Lateral Transfer**

1. The transfer of an employee under the same Department Director from a position in one classification to another classification for which the employee is qualified and for which no higher maximum rate of pay has been established is called a lateral transfer and may be made by the Department Director and the Human Resources Director, or in any event where the City Administrator deems such action to be for the good of the City.
2. An employee based on departmental needs may be temporarily required to report to work at a different location under the same Department Director in the same classification with no changes to pay and benefits.

**Section 4. Promotion**

**A. General**

An appointment from one job classification to a job classification with a higher pay grade as a result of a competitive process shall be deemed a promotion. No promotion shall be made except as a result of a bona fide promotional process as established by the Human Resources Department.

1. The City will post promotional announcements and will use only job-related promotional criteria and processes. Promotional announcements may be posted internally in the City’s recruitment system.
2. All persons applying for a promotion shall complete a standard application form as directed by Human Resources.
2. In promoting employees, the City may consider, insofar as feasible, experience, qualifications, special skills, job performance history and other job-related criteria when making promotions.
4. Seniority points will be awarded to eligible candidates as outlined below
  - a. Seniority points will be awarded to eligible employees for all promotional processes.
  - b. Seniority points shall be awarded during the interview process to those employees earning a score of 4.00 or higher, before seniority points will be applied.
  - c. Seniority points will be calculated as follows:
    - (1) .25 points shall be awarded for each completed year of service with the City up to the maximum of twenty (20) years of service.
    - (2) The maximum number of seniority points that an employee may receive will be 5.00 points.
4. Points will be added to the total interview score for eligible candidates, an example is as follows:

<b>Factor</b>	<b>Rater #1</b>	<b>Rater #2</b>	<b>Rater #3</b>	<b>Total score</b>
Communication skills	4.00	4.00	4.00	12.00
Knowledge	4.00	4.00	4.00	12.00
Initiative	4.00	4.00	4.00	12.00
Total score	12.00	12.00	12.00	36.00
Seniority points				1.25
Total points				37.25
<b>Consensus/average (Total score/3 factors)/# of raters</b>				<b>4.18</b>

5. The Human Resources Director or his/her designee may conduct promotional processes as deemed necessary in order to fill existing or anticipated vacancies. Such promotional processes may be limited to City employees (advertised within the City) as determined by the Human Resources Director.
  6. The Human Resources Director shall determine the content of any examination or selection process and the order of weights to be assigned to any portion of the examination or selection process.
- B. Eligibility for Examination**

1. The Human Resources Director or his/her designee shall make such investigation as is deemed necessary in determining that the applicant meets the established requirements for the classification and for admission to the examination or selection process and may make an investigation of the

employment record, education record, criminal history, or character of the applicant as may be deemed pertinent.

2. An employee who is on an initial probationary period may apply only for an open competitive process. An open competitive process is to fill a vacancy that is advertised to the public and for which applicants undergo an evaluation methodology as part of the selection process.
3. The Human Resources Director or his/her designee may reject any application or applicant when it has been determined:
  - a. That the application was not filed within the period specified in the promotional announcement or was not filed on the prescribed form.
  - b. That the applicant, as determined by an authorized physician, is physically unfit to perform effectively the duties of the position in which employment is sought.
  - c. That the applicant lacks any of the required qualifications set forth in the promotional announcement.
  - d. That the applicant had been convicted of a misdemeanor involving moral turpitude or of a felony, the sentence has not been completed, or the parole period has been violated.
  - e. That the applicant has made a false statement of a fact, or practices or attempted to practice any fraud or deception on his/her application or evaluation methodology or in attempting to secure appointment, or, if appointed, may cancel the certification and in effect cancel the appointment.
  - f. That an applicant, after notification, did not timely report or failed to report to the location of the examination.
  - g. That the applicant's employment history is inconsistent with the code of conduct or performance evaluation standards expected of a City employee.

C. Promotional Probationary Period and Pay Increases

1. An employee promoted to a higher position shall receive, effective at the start of the first payroll period following such promotion, an increase of five percent (5%) above the employee's then existing base rate of pay up to the maximum for the pay grade, or the minimum rate for the new position, whichever is greater on the date of promotion.
2. For the length of this contract all Merit Pay increases are suspended.
3. The employee will receive an additional five percent (5%) increase up to the maximum for the rate of pay for the new position at the start of the first payroll period following satisfactory completion of the six (6) month probationary period. Thereafter, such promoted employee's review date shall be one year from the date of satisfactory completion of the probationary period. In no event shall promoted employees receive a rate of pay greater than the maximum for the position nor shall an employee be entitled to an over maximum lump sum for a probationary increase.
4. An employee who fails to complete the probationary period following a promotional appointment because of failure to meet the required work standards of the Department Director, shall revert into

the position, classification and at the pay rate or nearest step in the case of a step plan, from which he/she was promoted. The employee's salary shall be adjusted for pay increases which the employee would have received had s/he not been promoted and the review date shall revert to the employee's review date prior to the promotion.

Section 5. Demotion

- A. An appointment from a position in one classification to a position in a classification with a lower pay grade shall be deemed a demotion.
- B. An employee may be demoted to a lower job classification for which s/he is qualified for any of the following reasons:
  - 1. employee's voluntary request
  - 2. reorganization
  - 3. layoff
  - 4. disciplinary action

Such demotion may be granted with the approval of the Human Resources Director provided a vacancy exists in the classification to which the employee is demoted. An employee who takes a voluntary demotion or is demoted due to disciplinary action shall have a reduction in pay equal to their most recent promotional increase or ten (10%), whichever amount is greater. Notwithstanding anything in this agreement to the contrary the new pay rate for an employee being demoted shall not exceed the maximum pay range for the position they are being demoted to. Employees subject to disciplinary demotion shall not be eligible for any promotional opportunities to the classification from which they were disciplinarily demoted for two (2) years.

- C. Any employee holding a regular full-time status position if demoted for reasons of reorganization, shall not incur a pay reduction if their pre-demotion pay is within the pay range of the lower classification. If the employee's pay is above the maximum of the pay range of the lower classification, then the employees pay shall be reduced to the maximum of the pay range of the lower classification.
- D. Subject to approval of the Human Resources Director, a Department Director may demote for disciplinary purposes an employee whose performance falls below standard. Intended demotion shall be reported to the Human Resources Director in sufficient time so that the Human Resources Director may evaluate the cause and approve or deny the demotion prior to the effective date.

**ARTICLE 10. LABOR MANAGEMENT COMMITTEE**

Section 1.

A Labor-Management Committee may be established consisting of not more than three (3) members who shall be designated, in writing, by the Union and three (3) members designated by the City Administrator and/or the Human Resources Director. The Union designees shall consist of individuals from within the position classifications covered by this agreement, and the management designees shall consist of persons outside of the bargaining unit as herein defined.

Section 2.

Such committee may meet on a monthly basis by mutual consent, and the meeting may be held during working hours, if so approved by the City Administrator.

Section 3.

The purpose of meeting will be to discuss problems and objectives of mutual concern and to make the findings of said meetings available to the City Administrator for his/her review and appropriate disposition.

Section 4.

It is further understood, however, that any recommendations made by this committee shall not be binding upon management, and final action regarding any such recommendation shall be in the sole discretion of the City Administrator.

## **ARTICLE 11. PROBATIONARY PERIOD**

### Section 1. Initial Probationary Period

Supervisors shall have seven (7) calendar days after the last day of the employee's probationary period to complete their review of the probationary employee's performance and determine if they have successfully passed their probationary period. Should a supervisor fail to send the employee their probationary performance evaluation by the deadline set above then that employee shall be deemed to have passed their initial probationary period.

- A. Upon initial hire, no employee shall gain regular status who has not successfully completed a six (6) month probationary period. Upon satisfactory obtaining regular employment status they will be granted a five percent (5%) increase in their base rate of pay. Such end of probation increase shall be effective at the beginning of the payroll period subsequent to obtaining regular employment status.

Telecommunicators shall serve a twelve (12) month probationary period and must successfully complete the Emergency Communications Operator training program to achieve regular employment status. An interim performance evaluation will be prepared at the end of the first three (3) month period of employment and then again at the end of six (6) months of employment.

- B. A Building Inspector or a Plans Examiner, who has not yet attained a State of Florida license shall be paid at 5% below minimum for his/her job classification and shall be considered probationary until s/he has achieved a State of Florida license. Failure to obtain the license within twelve (12) months from the original date of hire shall be cause for rejection of probation and termination of employment. Upon achieving a State of Florida license, such employee shall be brought to the minimum for his/her job classification but shall not be eligible for any merit increases or across-the-board increases until the first pay period following completion of his or her one (1) year of employment.
- D. An initial hire probationary employee shall not receive any across-the-board increases.
- E. Except as set forth in C. above, an initial hire probationary employee shall be brought to the minimum of the pay range if pay range increases are implemented during the probationary period.
- F. Except as set forth in C. above, a probationary employee whose job classification is allocated to a higher pay grade and whose current rate of pay is below the higher pay grade minimum, shall, be brought to the minimum of the new pay grade.
- G. Other than the provisions set forth in C. above, an initial hire probationary employee will not be eligible to advance in pay, until the start of the first pay period subsequent to his/her anniversary date of hire.
- H. Notwithstanding anything in this agreement to the contrary no merit increases shall be provided under this contract.

Section 2. Effect of Temporary Status

The beginning of the probationary period shall start only after appointment from an eligibility list. Service in temporary status shall not be considered as part of the probationary period.

Section 3. Absences during Probationary Period

Absences of more than one (1) consecutive work week during a probationary period shall extend the date of completion of the probationary period by an amount of time equal to the amount of time absent, or the length of the position's probationary period, whichever is shorter.

Section 4. Rights of Regular Status Employees Promoted to a Higher Classification

Whenever any regular status employee receives a promotion and does not attain regular status in the classification for which he/she was serving a probationary period, he/she shall, as set forth in Article 17, bump back into the classification at the previous pay rate adjusted for any applicable increase to which the employee would have been entitled had they not been promoted.

Section 5 Probationary Performance Appraisals

All employees on probation, whether initial or promotional, shall receive a written performance appraisal after three (3) months in order to provide the employee with feedback on his/her performance. Building Inspectors Building Plans Examiners who have not yet attained a State of Florida License(s) and Emergency Communications Operators shall receive a written performance appraisal every three (3) months until completion of probation or rejection of probation.

**ARTICLE 12. SAFETY**

- A. The City will make every reasonable effort to provide and maintain safe working conditions. To this end, the Union will cooperate and encourage employees to work in a safe manner as prescribed in the City's Environmental Health and Safety Manual. Management will receive and consider, pursuant to Article 10, written recommendations with respect to correcting unsafe conditions or other safety-related ideas from the Union.
- B. The Union endorses the City's Safety Awards Program as provided in Chapter 21 of the Environmental Health and Safety (EHS) Manual. Employees will comply with all pertinent sections of the (EHS) Manual.
- C. The City shall provide safety shoes for employees required to wear such shoes on an annualized basis. Employees shall be offered the opportunity to select required safety shoes from the vendors under terms and conditions established by the Purchasing and Risk Management Divisions of the Finance Department. The limit for safety shoes shall be one hundred and sixty dollars (\$160.00).

Safety Footwear must meet and be labeled accordingly ASTM F2412-2011 Standard Test Methods for Foot Protection and ASTM F2413-2011 Standard Specification for Performance Requirements for Protective (Safety) Toe Cap Footwear, formerly ANSI Z41-1999.

Reimbursement shall occur upon the employee submitting proof of purchase of safety shoes necessary to perform their assigned tasks. Proof of purchase must be submitted to the department director for final approval and reimbursement. In the event that during the year an employee's shoes are destroyed while in the performance of their work, they must bring the shoes to their immediate supervisor for inspection and then, upon approval of the supervisor, the employee will be allowed to purchase a replacement pair of shoes and will be entitled to reimbursement of that purchase.

- D. Full compliance must be maintained with regard to City safety rules including but not limited to:
  - a. Wearing proper safety equipment at all times, including but not limited to safety shoes as provided by the City;
  - b. Maintaining clean and safe equipment at all times;
  - c. Maintaining vehicles and making sure vehicles pass inspection as evaluated by a member of the Fleet Maintenance Division and the supervisor.
- E. An employee shall perform daily vehicle safety checks or as required by their respective Safety Committee. Safety checks shall be based on the guidelines and requirements of the Florida Commercial Drivers Handbook.
- F. An employee will follow posted speed limits and observe all City safety regulations and state motor vehicle laws, including, but not limited to, wearing seat belts.
- G. Any CDL holder who is selected for random or post-accident drug/alcohol testing must test negative under the provisions of Article 26 of the collective bargaining agreement.



## **ARTICLE 13. DISCIPLINE**

### Section 1.

As a prerogative of management rights, the City has the right to discipline, demote, suspend, terminate employment, and take any other disciplinary action when an employee performs below satisfactory levels or violates any law, rule, regulation, policy or otherwise engages in conduct meriting corrective action, or for any just cause.

### Section 2.

Departments/Managers shall have the opportunity to conduct preliminary informal fact gathering on incidents reported to them in order to determine if a formal investigation is warranted. Should it be determined that a formal investigation is warranted then employees who become the subject of an investigation shall be notified in writing within thirty (30) calendar days of the incident which prompted the investigation or when management first became aware of the incident, whichever is later.

An employee shall be placed on unpaid administrative leave for the following alleged violations including but not limited to:

- Violence in the workplace
- Theft or theft of service e.g., theft of city property or falsification of information provided to obtain wages or benefits of any kind.
- Weapons in the workplace
- Positive drug or alcohol test

### Section 3.       Disciplinary Actions

- A. The City may take disciplinary action at any time for the good of the City or for just cause. A number of criteria should be considered when determining appropriate discipline in any particular circumstance. The employee's length and quality of service, and job classification (including supervisory responsibilities) shall be considered. All other prior disciplinary actions should be reviewed and considered. Prior discipline remote in time shall be given appropriate weight based on its remoteness. Following eighteen (18) months of continuous service without a written reprimand, prior written reprimands will not be considered in the determination of current disciplinary action against an employee.
- B. It is the policy of the City of West Palm Beach to follow a system of progressive discipline as set forth in Personnel Policy 4-1. This means that employee misconduct or performance problems should be handled using actions which progress from less to more severe depending on the severity and frequency of past discipline. Under the same system of progressive discipline, serious misconduct based on a single incident may warrant immediate action and termination of employment. Disciplinary actions are to be administered consistently and in a non-discriminatory manner. A disciplinary action may include a verbal reprimand reduced to writing, written reprimand, suspension without pay, demotion, termination of employment or other action as set forth in this Article.

- C. An employee may be suspended at any time for the good of the City, for a disciplinary reason, or for other just cause. A suspension without pay shall not exceed thirty (30) days nor shall any employee be penalized by suspension for more than thirty (30) days in any twelve (12) month period.
- D. An employee may be terminated from employment at any time for the good of the City, for a disciplinary reason, or for just cause. Before the effective date of any such termination of employment, the City shall give the affected employee a written statement of the reasons for such termination of employment.
- E. An employee may appeal any disciplinary action higher than a written reprimand according to the procedures established by Section 6 of this Article. The City expressly does not agree nor does it have any obligation to arbitrate any grievance brought by an individual employee.

Section 4. Code of Conduct

All employees shall maintain high standards of cooperation, efficiency and integrity in his conduct and work performance, in keeping with the laws of the United States, the State of Florida, and the City of West Palm Beach; all departmental or City rules or regulations, or Standard Operating Procedures; and as reflected in the Code of Conduct set forth below. The City's inherent right to take discipline up to and including termination of employment may be specific to these laws, rules, regulations, procedures or policies (as amended from time to time), or any other standard it employs to address conduct that it considers unsatisfactory work performance, misconduct, or other adverse impact for the City.

Code of Conduct violations include but are not limited to:

I. GENERAL

- 1. Any violation of the Alcohol and Substance Abuse Policy as set forth in Article 26 of this agreement or City Personnel Policy 4-16.
- 2. Any violation of the provisions of the City Charter, these rules, or any other published City or departmental rule or regulation.
- 3. Any violation of the provisions in Article V of the City Charter relating to political activity.

II. PERFORMANCE

- 1. Insubordination.
- 2. Refusal to perform assigned duties and responsibilities.
- 3. Inability to perform the essential functions of the job with or without reasonable accommodation.

4. Incompetence, negligence and/or inefficiency to such an extent that performance levels, including but not limited to performance review ratings fall below minimum standards.
5. Carelessness or negligence with property of the City, loss of equipment, materials, or anything of value belonging to or leased by the City.
6. Malingering, pretending to be ill or injured to avoid responsibility or work.
7. Failure to comply with all safety regulations, procedures and related City policies or failure to observe security procedures.
8. Making derogatory or false accusations so as to discredit any employee of the City, or the general public.
9. Loss of licenses, certifications or other credentials required as a condition of employment or necessary to perform an essential function of the job classification.
10. Unauthorized release or misuse of any privileged, confidential, or sensitive information, or release of work product without the express pre-approval of the supervisor.
11. Inappropriate conduct or language including the use of profanity or abusive language toward any employee of the City or the general public.
12. The use of violence or the threat of violence against any City employee or member of the general public.
13. Refusal to respond to any lawful inquiry by the City or its representatives or to furnish a lawfully requested statement concerning property holdings, financial affairs, income or expenditures, or refusal of any lawful request to waive immunity from prosecution before any grand jury, or any other body, official or officials having the rights and possessing the powers of a grand jury.
14. Antagonism toward any City employee, or the general public, including but not limited to criticizing orders, rules or policies adopted by the City, or conduct which interferes with the proper coordination of the employees of the City or efficient delivery of public service.
15. Failure to comply with any residential and/or emergency response requirements.
16. Failing to report a vehicle accident or leaving the scene of an accident with or without injuries.

### III. ATTENDANCE AND PUNCTUALITY

1. Being absent from work without approved leave or failure to report to work after approved leave has expired, or within a reasonable time after such leave of absence has been revoked or canceled.
2. Absence without approved leave for three (3) consecutive work days shall constitute abandonment of employment and will result in immediate termination.
3. Being absent for any reason in excess of the standards set forth in Article 18, Section 8.

4. Being tardy three (3) times or in excess of sixty (60) minutes in a calendar quarter.
5. Failure to notify the supervisor of being absent or tardy one (1) hour prior to scheduled start time.
6. Abuse of sick leave privileges by falsely reporting illness or injury of self or a family member.
7. Abuse of the time keeping system by knowingly or habitually failing to timely punch in or out during the employee's shift.

#### IV. INTEGRITY AND HONESTY

1. Unauthorized use or possession of firearms or other weapons while at work or in uniform.
2. Criminal misconduct.
3. On or off-the-job conduct which would have a negative impact on the employee's work performance or the City.
4. Conduct not becoming of a City employee or conduct that renders an employee incapable of effective performance of their duties and responsibilities.
5. Conviction of a felony.
6. Removal of City money, merchandise, or property without permission, including property in custody of the City.
7. Dishonesty, including but not limited to intentionally giving false information, making false statements, or intentionally falsifying records.
8. Falsification of any testimony, documents or records in connection with work-related issues or investigations related to City business.
9. Falsification of any documents prepared to secure or maintain employment, making false statements when applying for employment, and falsification of any document during the course of employment with the City.
10. Taking or receiving any fee, gift or other valuable thing in the course of City employment in connection therewith, including soliciting, use of client or business contacts or attempt to obtain preferential treatment for personal gain.
11. Solicitation for personal gain during work time in working areas, without the approval of the Human Resources Director.
12. Use or the threat to use, or attempt to use political influence including but not limited to securing promotion, leave of absence, transfer or change of classification, or pay.

13. Gambling during duty hours, or on City property or with City computers or telecommunication devices.
14. Conducting any type of personal commercial enterprise including but not limited to using City facilities, equipment, computers or telecommunication devices.
15. Sleeping on the job.
16. Failure of an employee to notify the Department Director or his/her designee verbally or in writing within two (2) working days of an arrest for a felony, a DUI while in an on-duty or off duty status. Arrests for any traffic infraction while driving a City vehicle shall be reported to the Department Director immediately.
17. Failure of an employee to notify the Department Director of the suspension, cancellation or revocation of a valid Florida driver's license. Notification must be made before the beginning of the next shift or assignment.
18. Evading a drug test or assisting an employee in evading a drug test.

Section 5.      Due Process

- A. Prior to management taking disciplinary action, an employee shall be notified in writing of an investigation or the basis for action.
- B. Where disciplinary action of a written reprimand or higher is being considered, the affected employee shall have the opportunity for a disciplinary meeting. The City will schedule all disciplinary meetings seventy-two (72) hours in advance of such disciplinary meeting, except in cases involving exigent circumstances, drug or alcohol abuse, workplace violence or waiver by the employee to less than 72 hours advance notice. The employee may choose to have a Union representative present at the disciplinary meeting. It is the responsibility of the employee to timely request such participation directly from their union representative. Failure of the employee to appear at a scheduled disciplinary meeting shall constitute a waiver of such a meeting.
- C. The employee may submit a written response to the contemplated disciplinary action in lieu of attending the meeting. The written response must be received by the Department Director a minimum of twenty-four (24) hours prior to the scheduled time for the disciplinary meeting.
- D. A written notice of disciplinary action shall be hand-delivered, emailed or mailed by U.S. regular and/or certified mail to the employee's last known place of residence. A copy of such notice shall be simultaneously submitted to the Human Resources Director with the following information:
  1. Specified charge of misconduct with reference to a violation of City or department conduct or work performance rules or regulations, a supervisory order or the collective bargaining agreement.
  2. Reference to prior disciplinary actions, as applicable.
  3. Warning regarding the consequence of future misconduct.
  4. The effective date of discipline.

5. The signature of the Department Director and the person serving notice and the name of the employee the notice is intended for .

A disciplinary notice shall be effective regardless of whether all of the above information has been obtained.

Section 6. Appeal of Disciplinary Action

The union may appeal a suspension without pay, reduction in salary, demotion or termination of employment. Such disciplinary appeal shall be filed directly with the Human Resources Department, Employee Relations Division within ten (10) working days of receipt by the employee of written notice of any disciplinary action. New hire probationary employees do not have any right of appeal of any disciplinary action. The city will electronically notify the union of any termination of employment of any bargaining unit members covered by this agreement.

The Human Resources Department shall respond to the appeal in writing within twenty (20) working days from date of receipt of any timely submitted written disciplinary appeal.

If the Human Resources Department upholds the disciplinary action, the union may proceed to arbitration in accordance with Article 28, Section 2 Arbitration Referral.

## **ARTICLE 14. EMPLOYEE RESIGNATION AND REINSTATEMENT**

### Section 1. Resignation

Any employee wishing to leave the City in good standing is requested but not required to file with their department head, at least two (2) weeks before leaving written notice to that effect. Regardless of the amount of notice given to the city a written resignation (letter or email) to department head stating the date the resignation shall become effective is required. Failure to comply with this procedure may be cause for denying the person future employment with the City.

### Section 2. Final Pay

All employees leaving City employment shall be responsible for returning City equipment including but not limited to cell phones, radios, computers, uniforms, keys, identification badges and tools. The employee's final paycheck shall include regular compensation, accrued leave balances up to the maximums allowed by this agreement and any other funds due. Employees shall pay the City the replacement value of any unreturned equipment by deduction from their final pay check.

### Section 3. Reinstatement

- A. A regular status employee who resigned his/her position while in good standing and without fault or delinquency on his/her part may apply within one (1) year of the date of his/her resignation for reinstatement with the City. A request for reinstatement must be made in writing to the Human Resources Director. Reinstatement may be made to a vacancy in a classification in which he/she was formerly employed or a related classification as determined by the Human Resources Director. An employee may be reinstated at the rate of pay he/she occupied at the time of his/her resignation or may be reinstated at such lower rate as recommended by the Department Director and approved by the Human Resources Department. Reinstatement shall be to regular status.
- B. Pension contributions shall begin upon date of reinstatement.
- C. Requests for reinstatement may be denied at the discretion of the Human Resources Director.
- D. Performance appraisal review will be conducted one year from date of reinstatement and each year thereafter in accordance with applicable policy.

### Section 4. Rehire

An employee who resigned from employment with the City and is eligible for re-hire who seeks to return to employment after one year or more may only reenter employment through original entrance procedures. Upon rehire by the City, such employee is not entitled to any seniority credits as provided in this agreement earned through prior service.

## **ARTICLE 15. PERSONNEL RECORDS**

### Section 1.

All official personnel records subject to the Public Records Act and Administrative Procedures Act shall remain a permanent part of the employee's file and kept confidential to the extent provided by law.

### Section 2.

Where permitted by law, the name and photograph of an employee may be furnished to the news media in order to announce promotions or acts of exemplary service.

### Section 3.

The City agrees that, upon request, an employee shall have the right to inspect their official personnel record. No record(s) shall be hidden from an employee's inspection. When an employee requests to review personnel record(s), they shall be permitted to bring a union representative with them for inspection of said personnel records at a time scheduled by the Human Resources Department. .

### Section 4.

- A. No written material shall be placed in an employee's personnel file in Human Resources until a copy of said material is first given to the employee.
- B. Any employee who has been provided with a written adverse statement may request a meeting to review such statement by filing a written request for a meeting with his/her supervisor or Department head within ten (10) working days from receipt of the written statement. A meeting shall be held within ten (10) working days of receipt of the request for the meeting. Attending the meeting shall be the Department Director or his/her designee, the person who initiated the written statement regarding the employee, the employee, his/her union representative, and the Human Resources Director r or his/her designee.

Employees shall have the right to include in their official personnel file a written and signed response (including signed statements) of personnel record(s) the employee considers detrimental. Such response must be submitted within fifteen (15) days and will remain a permanent part of the employee's official personnel records.

### Section 5.

Using its existing reporting systems and formats the City shall provide to the Union an electronic quarterly report containing the names, addresses, hire date, employee identification number, classification, hourly rate and date of birth of city employees under the SEIU bargaining unit. Nothing in this section shall be interpreted to require the City to expend additional staff, time, financial or other resources in creating new reports or formats; or using or purchasing software/hardware, which are not already in use as part of the City's current report generating structure as of the date this agreement goes into effect.



**ARTICLE 16. UNION REPRESENTATIVES AND UNION BUSINESS**

Section 1. Grievance or Discipline Matters

- A. A Union official shall be allowed to handle grievance or discipline matters. If on duty, sufficient staffing as determined by the Department Director must be available on the regular shift to maintain efficiency of operations during the absence of the employee. City employees must get approval from the Department Director or his/her designee before being released for union business to ensure maintenance of efficiency of operations during the absence of the bargaining team member.
- B. If an employee desires union representation on a discipline matter, the City agrees to provide at least seventy two hours notice of a scheduled disciplinary hearing except in cases where the employee and the union waive the notice period or in cases involving on the job substance abuse issues or a positive drug or alcohol test in which case the disciplinary meeting shall be held within twenty-four (24) hours. It is the employee's responsibility to notify the union representative in a timely manner. However, management will allow flexibility of scheduling when feasible to accommodate fair representation.

Section 2. Collective Bargaining

Up to four (4) employees may serve as members of the collective bargaining team to attend negotiations on an on-duty status provided that no more than one (1) employee from the same work unit is assigned to the collective bargaining team. Employees who are members of the collective bargaining team and are in an off-duty status shall not be carried on an on-duty status for the sessions. Time must be scheduled twenty-four (24) hours in advance and approved by the supervisor. The Department Director has sole discretion to approve or deny time for negotiations based upon staffing needs and any other operational efficiencies during the absence of the bargaining team member.

Section 3. Union Time Pool Donations

- A. Each dues-paying Union member shall be charged for the purpose of Union Time Pool, one (1) hour from his or her accrued annual leave balance, or their accrued sick leave balance if such sick leave balance is greater than 288 hours. Nothing herein shall prohibit an employee from contributing additional time if such is available.
- B. In funding the Union Time Pool one (1) hour will be deducted from each dues-paying member's leave bank during the second pay period of October.
- C. The City shall donate to the Union Time Pool, fifty hours (50) in October for each year of this agreement. An SEIU representative shall have the right to request time off from the Union Time Pool for the purpose of conducting Union business with the City including grievance hearings, investigations, Union training, contract negotiations, and legislative body meetings regarding the resolution of collective bargaining impasse procedures, arbitrations or other local Union business.

Section 4. Union Time Pool Charges

The Union Time Pool will be drawn in increments of one quarter (¼) hours and will be charged for all time during which an elected or appointed Union representative is in an on-duty release for the purpose of Union business.

- A. The Union shall promptly refund to the City any funds disbursed by the City under the provisions of this Article which are not covered by the Union Time Pool.
- B. Union representatives shall have the right to request time from the Union Time Pool for the purpose of conducting Union business. Requests must be submitted through and include authorization from the Chief Steward if the absence is to be covered by payments from the Union Time Pool.
- C. All requests for the use of the Union Time Pool shall be submitted to the Department Director or designee at least two (2) work days in advance of the requested time off. However, this shall not preclude the applicable Department Director or designee from granting leave with less than two (2) work days notice.

Section 5. Documenting Use of Union Time Pool

- A. Charges against the Union Time Pool shall be documented using the City's timekeeping system for each request. At a minimum, the request will identify the name of the user, the number of hours requested, the purpose of the request, and the approval of the Department Director.
- B. A record of all time donated and drawn against the Union Time Pool shall be kept by the City's timekeeping system. C. City Employees will utilize the City's timekeeping system to request and process union time when scheduling union related business. The employee is responsible for recording all union time leave usage through the City's timekeeping system.

Section 6.

Employees who are union delegates may be granted a leave of absence without pay to attend union national or state conventions or seminars once each year for a maximum of five (5) days per year. Said leave may be granted to a maximum of four (4) employees provided that time is granted to no more than one (1) employee from the same work unit.

Section 7.

An elected Union Official may be granted, at the discretion of the City Administrator and in accordance with the City Code, a Leave of Absence without pay or loss of seniority for a period of up to twelve (12) months.

Section 8.

In coordination with the Human Resources Department, the Union will be permitted ten (10) minutes to speak to employees in the Union's classifications after new employee orientation has concluded.

## **ARTICLE 17. SENIORITY AND LAYOFF**

### Section 1.

City seniority means an employee's most recent date of full-time and continuous employment. Seniority shall accumulate during paid leaves of absence or active military leave.

### Section 2.

Classification seniority means the length of time in a particular classification. After successful completion of a probationary period, length of time in classification reverts to date of entry, transfer or promotion to that classification.

### Section 3.       Layoff

- A. The number of employees in any job classification or classifications may be reduced whenever necessary because of material changes in duties, or organization, or because of shortage of work funds or at the discretion of the City in conformance with the decision of the City Administrator.

The Human Resources Director shall affect the order in which the employees in such classification or classifications shall be laid off. A written notice of layoff shall be hand-delivered to each employee or mailed to their last known place of residence.

- B. Employees shall be laid off in order as follows:

1. temporary employees
2. probationary employees
3. regular status employees

- C. The order of layoff of regular status employees shall be in reverse order of classification seniority.

- D. An employee noticed for layoff may bump into the previous classification in which they held regular status prior to the layoff. In such case, the laid off employee shall bump the least senior employee.

An employee noticed for layoff that has not held regular status in another classification prior to layoff shall be offered a vacant position within a classification for which they qualify if available.

- E. An employee noticed for lay-off may be offered another position with similar duties at no change to rate of pay.

- F. An employee who accepts a voluntary demotion in lieu of layoff shall be compensated at the commensurate rate of pay (not to exceed the maximum of the pay grade) for the job at the lower classification.

- G. If an employee has progressed in continuous service and holds regular status classification in each of several job classifications in the same job series, they shall hold seniority in one of the several job classifications as follows:

1. In the highest job classification, only seniority actually accrued in that classification shall apply.
  2. In any lower job classification, all seniority accrued in such lower classification together with all seniority accrued in the several higher classifications, shall comprise the total seniority in the lower job classification.
- H. No employee shall have any right to job classification in which they were never employed nor held regular status.
- I. Any employee holding regular status in one job classification and elevated through assignment or promotion to a higher classification on a temporary or probationary basis shall continue to accrue seniority in the lower classification in which they hold regular status.
- J. Employees who have "advanced" to another classification not in the same job series will maintain seniority credited in their former classification as of the date of advancement, but they will not accrue any new seniority in such former classification.

Section 4.        Re-employment Eligibility Lists

An employee who held regular status and who is laid off shall be placed on an appropriate re-employment eligibility list for a period of eighteen (18) months.

Section 5.        Employee Assistance

If resources are available, the City will attempt to counsel, provide outplacement assistance and/or refer to available private and community training providers those employees who are being laid off.

Section 6.        Severance Pay

Employees who are laid off shall receive continuation of health insurance benefits through the end of the month that follows the month of layoff (City's share of premium contribution only) plus severance pay in the amount of one (1) week's wages (forty hours multiplied by the base rate of pay) for each year of service, up to a maximum of five (5) weeks.

Section 7.        Ties In Layoff

Breaking a tie in layoff shall be in favor of the employee who submitted a completed employment application first (Date and Time received).

## **ARTICLE 18. TYPES OF LEAVE**

### Section 1.       Effect of Leave On Probationary Period

- A. Leave of absence during the probationary period shall extend such probationary period the length of time necessary to equal the leave up to the length of the original probationary period.
- B. The employee shall return to his/her position upon expiration of leave of absence and may return at a date prior to the expiration of leave of absence with the approval of the Department Director.
- C. Failure to return upon expiration of the leave shall result in termination of employment.

### Section 2.       Military Leave

An employee shall be entitled to military absences pursuant to the City Military Policy 4-9 and all applicable federal law(s). Employees, must submit a copy of their orders to report for duty to their Department Director prior to their reporting date, absent exigent circumstances allowable by law.

### Section 3       Bereavement Leave

- A. An employee may be granted up to a maximum of five (5) days paid leave due to a death in their immediate family. The term "immediate family" shall mean spouse, registered domestic partner (defined as a person with whom the employee shares a residence and within the context of a committed relationship), registered domestic partner's parent, registered domestic partner's child, registered domestic partner's grandparent, natural, adopted, foster or step-child, parent, step-parent, parent-in-law, brother, sister, step-brother or step-sister, grandparent, step-grandparent, grandchild, grandparent of spouse or registered domestic partner's grandparents, daughter-in-law, son-in-law, any person for whom the employee is a legal guardian, and a sole dependent residing in the same household if such sole dependent is an allowable deduction pursuant to the Internal Revenue Service.

Within thirty (30) calendar days from the date the employee returns to work from a death in the family, the employee will provide and file a copy of the death certificate, obituary notice or other documented proof of the deceased family member to the Department of Human Resources. The City realizes that on occasion a death could occur outside the Continental United States which may result in a delay for the member to provide proof of the death via documentation. Under this circumstance the Department Director or his/her designee may authorize an extension to the member to provide proof of death.

Failure to produce a death certificate/obituary notice or other documentary proof will result in the employee reimbursing the City for any paid leave taken under this Article. Any employee found to have falsified their application for the use of bereavement leave will be disciplined up to and including termination.

- B. The City will permit a supervisor and one employee to attend the funeral of an employee within the same work group for a period not to exceed four (4) hours during regular working hours, provided that the absence of same does not interfere with the normal operations of the department and that the deceased employee shall have been a regular full time employee. Said request to attend the funeral will not be unreasonably denied.

Section 4.        Earned Personal Leave (EPL) Accruals

A. EPL Rate of Accruals for Employees hired on or prior to February 2, 2013.

Employees hired on or prior to February 2, 2013 will be allowed to accrue EPL up to a maximum cap of one-hundred and sixty (160) hours.

Any employee who was hired on or prior to February 2, 2013 who has accrued more than one-hundred and sixty (160) hours of EPL time will be not be entitled to accrue any additional EPL time until such time that their EPL accruals falls below one-hundred and sixty (160) hours and then will only be able to accrue no more than one-hundred and sixty (160) hours.

B. EPL Rate of Accrual for Employees hired on or after February 3, 2013.

Employees hired on or after February 3, 2013 will be allowed to accrue EPL up to a maximum cap of eighty (80) hours.

C. Conversion of hours for employees who attain the maximum of EPL accrual rates identified in Section 5A and 5B above.

Any EPL hours accrued in excess of the maximum as outlined in Section 5A and 5B above will have the option to convert the EPL accruals to either vacation accruals or be paid out at the employees current hourly rate of pay at the end of the calendar year.

Section 5.        Sick Leave

A. Rate of Accrual for Employees hired on or prior to February 2, 2013.

A regular status full-time employee shall accrue sick leave at the rate of 3.69 hours each bi-weekly pay period to a maximum accumulation of nine hundred sixty (960) hours. All employees hired on or prior to February 2, 2013 will be grandfathered-in and keep such accrued hours up to a maximum of nine hundred-sixty (960) hours. A regular status part-time employee shall accrue sick leave on a prorated basis for the actual hours worked. Sick leave with pay shall be accumulated by an employee based on actual hours worked or actual hours of paid leave. An employee is not entitled to any sick leave days off with pay until they have completed three (3) months of continuous employment with the City. An employee who earns the maximum accumulation of 960 hours may convert excess hours to earned personal leave at the rate of two (2) for one (1) at the end of the calendar year. Employees shall not accrue sick leave while on unpaid status.

B. Rate of Accrual for Employees hired on or after February 3, 2013

All employees hired on or after February 3, 2013 shall accrue sick leave at the rate of 3.69 hours each bi-weekly pay period to a maximum accumulation of four hundred sixteen (416) hours. A regular status part-time employee shall accrue sick leave on a prorated basis for the actual hours worked. Sick leave with pay shall be accumulated by an employee based on actual hours worked or actual hours of paid leave. An employee is not entitled to any sick leave days off with pay until they have completed three (3) months of continuous employment with the City. An employee who earns the maximum accumulation of four hundred sixteen (416) hours may convert excess hours to

Earned Personal Leave at the rate of two (2) for one (1) at the end of the calendar year. Employees shall not accrue sick leave while on unpaid status.

A regular status full-time employee hired on or after February 3, 2013 upon reaching ten (10) full years of employment and starting with the first payroll period in the eleventh (11<sup>th</sup>) year of employment shall accrue sick leave at the rate of 3.69 hours each bi-weekly pay period to a maximum accumulation of nine hundred sixty (960) hours. A regular status part-time employee shall accrue sick leave on a prorated basis for the actual hours worked. Sick leave with pay shall be accumulated by an employee based on actual hours worked or actual hours of paid leave. An employee who earns the maximum accumulation of 960 hours may convert excess hours to earned personal leave at the rate of two (2) for one (1) at the end of the calendar year. Employees shall not accrue sick leave while on unpaid status.

### C. Sick Leave Incentive Program

1. An employee who utilizes less than twenty-four (24) hours (3 working days) of sick leave during a payroll calendar year (the time period spanning the start of the first pay period which includes January 1 of the current year through the last day of the last pay period prior to December 31 may convert up to twenty-four (24) hours of sick leave to earned personal leave if, after the conversion, the employee has a balance of at least 192 hours of sick leave during the last pay period of the calendar year (this requires a sick leave balance of at least 216 hours prior to conversion to convert the full 24 hours). The employee also has the option to be paid for these hours.
2. In addition to the conversion privilege in Section 6.C.1. above, an employee who has not used any sick leave in the payroll calendar year may convert an additional eight hours of sick leave to earned personal leave if, after the conversion, the employee has a balance during the last full payroll period of the calendar year of at least 192 hours of sick leave (this requires a balance of at least 224 hours prior to conversion to convert the full amount for both conversions). The employee does not have the option to be paid for these hours.
3. For an employee on an alternate work schedule, the equivalent of three (3) working days shall apply, to measure utilization of leave, employees who use less than 30 hours if employee is on a 10 hour day, four (4) day workweek.
4. Earned personal leave may be utilized in the same manner as annual leave or may be accumulated and paid at the rate of one hundred percent (100%) at the employee's base hourly rate of pay at the time of termination or retirement.
5. In further recognition of an employee who has not used any sick leave during the payroll calendar year as defined in Section 6.C.2. above the City will present the employee with a certificate of appreciation. Only employees who have been employed in a pay status for the entire payroll calendar year as defined in Section 6.C.2., will be eligible. In addition, there will be an annual drawing of five (5) employees from the pool of eligible employees. Each of the five (5) employees whose name is drawn shall receive a one hundred (\$100) dollar cash prize.

Section 6. Conversion Upon Retirement or Resignation

- A. Upon termination, resignation or normal retirement, an employee hired on or prior to February 2, 2013 having greater than fifteen (15) years of service will be compensated at the rate of seventy-five (75%) percent of accumulated sick leave, based on a maximum accumulation of nine-hundred-sixty (960) hours, at the employee's base hourly rate of pay at the time of the resignation or retirement, *i.e.*, maximum equals 960 hours multiplied by .75 = 720 hours times base hourly rate of pay.
- B. Upon termination, resignation or normal retirement, an employee hired on or prior to February 2, 2013 and having attained ten (10) to fifteen (15) years of service, will be compensated at the rate of fifty (50%) percent of accumulated sick leave, based on a maximum accumulation of nine-hundred-sixty (960), at the employee's base hourly rate of pay at the time of the termination, resignation or retirement, *i.e.*, maximum equals 960 hours multiplied by .50 = 480 hours times base hourly rate of pay.
- C. All employees hired on or after February 3, 2013 upon termination, resignation or normal retirement, an employee having greater than 10 years of service will be compensated at the rate of fifty (50%) percent of accumulated sick leave, based on a maximum accumulation of four hundred sixteen (416) hours, at the employee's base hourly rate of pay at the time of the resignation or retirement, *i.e.*, maximum equals 416 hours x .50 = 208 hours times regular rate of pay.

Section 7.

- A. Sick leave with pay is a benefit provided by the City for employees so that they may have paid time off when unable to report for duty by reason of personal or family sickness or healthcare needs. Sick leave shall be used only as defined by this article.

The Department Director may disapprove an employee's request for sick leave with pay after making adequate investigation to determine the validity of the request under guidelines set forth in the City Leave Administration Policy.

- B. The City has the right to expect regular and dependable attendance from its employees. The City's Family and Medical Leave Policy sets forth guidelines for the use of leave for serious illness and shall not be construed to reduce the sick leave benefits existing prior to the effective date of this contract. Leave taken under the Family Medical Leave Act (FMLA) shall not be considered as a factor in any performance evaluation or disciplinary action, as long as such leave is consistent with the FMLA and City Policy 4-12 (Family and Medical Leave).
- C. Requests for sick leave use in excess of three (3) consecutive working days must be accompanied by a physician's certificate upon return to work. The reasons for such absence, the dates the employee or family member was under the physician's care and the day on which the employee was able to return to work shall be required and submitted for approval through Human Resources.
- D. No employee shall be permitted paid sick leave that has not already been earned.
- E. No sick leave shall be granted to an employee who is injured while gainfully employed by an employer other than the City.



- F. Employees who return to City employment from a layoff status shall be credited with sick leave accumulated prior to being laid off, provided that such employees shall not accumulate such leave during their period of layoff and shall not be entitled to sick leave benefits during such layoff periods.
- G. Employees shall make every effort to schedule physician appointments at the beginning or end of a work day and supervisors shall be notified two working days in advance of such appointment unless it is an emergency.

Section 8. Sick Leave Standards

- A. Department Directors shall review the quarterly use of sick leave by all employees. Any employee whose use of sick leave appears to be excessive or which appears to form a pattern indicating possible abuse shall be placed immediately on written notice. Sick leave usage shall be determined using a twelve (12) month rolling calendar.
- B. A supervisor may initiate an immediate review of a particular incident or historical pattern of leave usage (*i.e.* patterned absenteeism where an employee is sick the day before or the day after his/her regular day off, a holiday, vacation day, or where the employee is using sick leave as the hours are accrued).

Records indicating sick leave in excess of ninety six (96) hours used within the preceding twelve calendar months will "red flag" an employee for review. Sick leave usage is defined as any absence from work for employee or family illness or injury, excluding pre-scheduled doctor's appointments.

- D. An employee may be required to provide physician's documentation of illness, injury or other health issue accounting for any questionable absence from work. Such documentation shall be provided to the Human Resources Department to protect the privacy of the employee
- E. If after review of a particular incident, historical pattern or an individual's sick leave usage, the explanation and/or documentation is not satisfactory the Department Director shall implement the following corrective measures:
  - 1. Verbally counsel the employee in writing after sick leave exceeding ninety six (96) hours of sick leave not covered by paragraph D above in the rolling twelve months.
  - 2. Follow the steps of the progressive disciplinary procedures on the employee exceeding one hundred twelve (112) hours of sick leave not covered by paragraph D above in a rolling twelve month period, unless the employee has already received steps of progressive discipline for this issue. In that event, the next step in the progressive discipline procedure shall be applied by the Department Director.
- F. Approved Family Medical Leave (FMLA) is exempt from this provision.

G. Individual Sick Leave Incentive Program

After the first full payroll period in January of the calendar year, employees may utilize up to twenty-four (24) hours sick leave as personal leave, without reason given, *i.e.*, "Personal Leave." Such hours will be designated as "Incentive Sick Leave Hours" and be charged as sick leave and are non-cumulative. Personal leave hours used in accordance with section 6.C. shall not have a negative impact on the Sick Leave Incentive Program. The request to use Incentive Sick Hours (Personal Leave Hours) must be requested and approved by management forty-eight (48) hours (two (2) work

days) in advance. Incentive Sick Leave Hours must be used by the end of the last payroll period of the calendar year.

Section 9.      Emergency Excused Absence

An excused emergency absence, with pay may be granted when approved by the Department Director or Assistant Department Director if designated for up to six (6) incidents not to exceed a combined total of sixteen (16) hours per payroll calendar year for unforeseen emergency(ies). Excused absences will not be counted as time worked for the purposes of calculating overtime and will be deducted from Annual Leave. Any additional absence hours for emergencies will be treated as a leave without pay and may result in disciplinary action up to and including separation from employment.

If the employee’s absence is due to illness of themselves or family member such absence shall be deducted as sick leave and is not considered as an “Emergency Excused Absence” under this section.

Section 10.      Annual Leave

- A. The City shall provide annual leave with pay for regular full time and regular part time employees whose normal work week is twenty hours or more. The current accrual and maximum carry forward, expressed in eight hour days is:

<b>YEARS OF SERVICE</b>	<b>ANNUAL ACCRUAL EXPRESSED IN EIGHT-HOUR DAYS</b>	<b>MAXIMUM CARRY FORWARD EXPRESSED IN EIGHT-HOUR DAYS</b>
01 – 04	13	26
05 - 09	17	34
10 - 14	20	40
15 - 19	21	42
20 or More	22	44

Employees hired on or after February 3, 2013 shall accrue annual leave as follows:

<b>YEARS OF SERVICE</b>	<b>ANNUAL ACCRUAL EXPRESSED IN EIGHT-HOUR DAYS</b>	<b>MAXIMUM CARRY FORWARD EXPRESSED IN EIGHT-HOUR DAYS</b>
01 – 04	10	20
05 – 10	15	26
11 – 15	20	30
16 – 19	21	36
20 or More	22	40

- B. Employees shall request annual leave at least two (2) work days prior to use. Granting an annual leave request shall be at the Department Director’s discretion but not unreasonably denied.
- C. Whenever feasible, employees will be permitted to use in a continuous period all accumulated annual leave up to their maximum balance.

- D. No employee shall accrue more than the maximum annual leave days for years of service regardless of the amount of payroll periods per calendar year.
- E. Employees are not permitted to use vacation accruals until successfully completing their initial probationary period. Upon completing the initial probationary period and attaining regular employment status, such employees shall have vacation accruals deposited in their wage statements on the first full payroll period after completion of probation.

Section 11. Health Center Time

Upon ratification and approval of the City Commission all employees will be credited with six (6) hours of Health Center Time accrual. The Health Center Time accruals are separate from sick leave accruals.

In addition, an employee who chooses to have an annual physical and complete a Health Risk Assessment at the City's Health Center will be entitled to an additional one and one half (1 ½) hours of Health Center Time. Employees will be allowed to utilize Health Center Time to schedule appointments with the Health Center in one half (1/2) hour increments and will not be considered as an incident as outlined Section 9.C. of this Article. Travel to and from the Health Center can be scheduled for the beginning or end of the employees work day or during lunch hours. Travel to and from the Health Center will be on City time. Such travel time will be monitored by the immediate supervisor.

Should an employee's scheduled Health Center visit extend beyond the end of their work day, such time shall not be paid time nor considered "time worked" for purposes of overtime compensation.

All appointments made with the Health Center where the employee will be away from the work site must be with the approval of the immediate supervisor.

Health Center Time will start upon ratification and approval of the City Commission.

Health Center Time cannot be carried over past September 30 of any year and is not eligible for any payout if not used. Health Center Time is on a use it or lose it basis.

Section 12

Failure to return upon expiration of any leave of absence shall result in termination of employment.

Section 13. Parental Leave

The City may provide a Parental Leave benefit to City employee classifications under this CBA. Should a Parental Leave benefit be provided it shall be administered under the guidelines provided under City Leave Administration Policy 4-13. Parental Leave benefits may be modified or terminated at any time at the City's discretion.

**ARTICLE 19. HOLIDAYS**

Section 1.

A. Discretionary Time

The City shall provide to each employee who is on payroll at the start of the first pay period beginning in January eight (8) hours of discretionary time that may be used at the discretion of the employee. Such time must be requested through the timekeeping system at least two working days in advance and must be approved by the employee’s supervisor prior to taking leave. Use of discretionary time shall not interfere with the operation of the department as determined by the supervisor. If not used, the discretionary time may not be carried over into a new payroll calendar year, is not subject to reimbursement if not used, and has no monetary value that can be claimed by the employee.

B. Recognized Holidays

Holidays for all employees shall be in accordance with Section 62-57 of the City Code and the City’s Leave Administration Policy (Personnel Policy 4-13) and the City’s Work Schedule Policy (Personnel Policy 4-6) the following days shall be holidays for the purposes of this article:

<b>New Year’s Day</b>	January first
<b>Martin Luther King Day</b>	Third Monday in January
<b>President’s Day</b>	Third Monday in February
<b>Memorial Day</b>	Last Monday in May
<b>Independence Day</b>	July Fourth
<b>Labor Day</b>	First Monday in September
<b>Columbus Day</b>	Second Monday in October
<b>Veteran’s Day</b>	November Eleventh
<b>Thanksgiving Day</b>	Fourth Thursday in November
<b>Thanksgiving Holiday</b>	Friday following Thanksgiving
<b>Christmas Day</b>	December twenty-fifth

C. Holidays Specifically Designated By Resolution

Employees shall also observe any other day specifically designated by resolution of the City Commission..

D. Holiday Pay

1. Employees shall be allowed eight (8) hours holiday leave with pay on every City-recognized holiday unless already on leave as described in subsection D 2. If any employee’s working schedule will not permit holiday leave, such employee shall receive their holiday pay and an hour of pay for each hour of work on the holiday at their regular rate of pay.

2. Employees shall not receive paid leave and holiday pay for the same period of time. Employees on leave without pay, active military duty in excess of thirty (30) days or workers' compensation shall not receive holiday pay.
3. Employees required to work an alternative schedule, shall receive holiday pay equal to a shift on which the holiday occurs.

E. Part-Time Employee

1. Part time holiday hours shall be paid at the following rate:

20 - 29.99 Hour Part-Time Employees	30 – 39.99 Hour Part-time Employees
4 Holiday hours	6 Holiday hours

Section 2.      Holiday Pay During A State of Emergency

Critical services employees who are required to work to provide services when City work operations are closed due to a declaration of a state of emergency by the Mayor shall be compensated as follows:

If an employee is required to work on a holiday during a state of emergency declared by the Mayor, the employee will receive their regular holiday pay and one hour pay for every hour worked during the state of emergency as provided for under Article 8 “Basic Workweek and Overtime” Section 5 of this agreement.. Employees who are called in during a state of emergency but when they arrive at the work site are sent back home because they are not needed to work shall receive two hours of pay for responding to the initial call to go to their worksite.

Section 3.

Sanitation Division employees will not be required to work on a City recognized holiday except as determined by management.

Section 4.

Telecommunicators assigned to work at the West Palm Beach Police Department (Dispatch Division) only will receive Holiday pay as follows:

Employees who receive approval from their supervisor based on operational needs for time off during a regularly scheduled City Holiday will be paid the number of hours equal to the amount of hours they would have been scheduled to work on any given Holiday if they had not been approved for leave.

For Example:

If a Telecommunicator employee would have been scheduled to work twelve (12) hours during a Holiday they were approved for leave, then they will receive twelve (12) hours of Holiday pay.

If a Telecommunicator employee would have been scheduled to work ten (10) or eight (8) hours during a holiday they were approved for leave, then they will receive ten (10) or eight (8) hours of Holiday pay.

## **ARTICLE 20. WORKERS' COMPENSATION BENEFITS**

### Section 1.

The City shall at all times comply with Florida Statutes Chapter 440, Workers' Compensation, as to employees who are injured in the course and scope of employment. In accordance with provisions set forth below, an employee who is injured in the course and scope of employment shall be authorized to be absent from work as determined by an authorized workers' compensation treating physician ("physician"). The employee may be absent from work for a maximum of 52 weeks or until the physician deems such employee is able to perform all of the essential functions of the employee's position, whichever comes first. Notwithstanding anything in this agreement to the contrary, if at any time during the 52 week period, the physician determines that the employee will never be able to perform all of the essential functions of the employee's position with or without reasonable accommodation, then the authorization to be absent from work shall cease and the employee may be terminated from employment with the City.

Absences will be designated and counted against all available, accrued FMLA leave. Absent extenuating circumstances, the City shall notify FMLA-eligible employees within five (5) business days if it is designating the absence as FMLA-qualifying leave.

### Section 2.

An employee who is on an authorized absence due to a work-related injury shall be eligible to receive paid leave time as follows:

- A. Whenever an employee is on leave from work because of an injury determined to be compensable under the provisions of the Workers' Compensation Act, they shall be entitled to pay as follows:

If the absence due to injury is less than 7 calendar days, the employee shall utilize available sick leave first, then annual leave, then any other available leave in order to be paid during such absence. If the absence is greater than 7 calendar days, the employee shall receive a salary supplement up to an amount equal to the difference between their workers' compensation check and their normal base rate of pay. The injured employee will be eligible to receive the salary supplement for a period not to exceed thirty (30) calendar days beginning on the eighth day of the compensable injury.

At the end of the thirty (30) calendar days or sooner, the Risk Manager, will review the medical certification from the employee's authorized workers' compensation treating physician for a determination of pay status. If the authorized medical certification justifies temporary total leave, the salary supplement continuation will be granted. If the continuation of the salary supplement is granted, it shall be continued at the same rate as defined above for up to another 30 calendar days. In no case will the salary supplement be extended beyond sixty (60) calendar days from the beginning of the salary supplement.

After sixty (60) calendar days from receiving the salary supplement, the injured employee may elect to receive accrued sick leave and after accrued sick leave is exhausted, any other accrued leave to

supplement his/her workers' compensation payment.

If an employee who is receiving Workers' Compensation payments along with the City salary supplement, sick or vacation leave, is found to be working or receiving compensation for their services elsewhere either on their normal City work hours or where they exceeds their workers' compensation restriction for which they are receiving compensation, they will be obligated to reimburse the City for all of the salary supplement received and shall be subject to disciplinary action up to and including dismissal.

- B. An employee shall use sick leave first, then annual leave, then any other available leave to supplement Workers' Compensation under this section and as set forth above.
- C. The employee shall be required to cooperate in the treatment as prescribed by the City's designated Workers' Compensation ("WC") physician(s) in order to obtain maximum medical improvement and return to work as soon as possible. Failure to cooperate in the treatment as prescribed by the City's designated WC physician(s) shall be grounds for discipline up to and including termination from employment.

### Section 3.

The City at its sole discretion may assign an employee who has been injured on the job to light duty work in any department if the treating physician indicates the employee's medical condition permits and the scope of light duty work is so defined. The salary supplement to workers' compensation benefits as stated above ceases when the employee goes on light duty. The City has no obligation to provide light duty work.

### Section 4.

An employee who is able to return to full duty shall notify the City and complete a return-to-work certification as directed. Subject to Section 1 above, an employee who is returned to full duty shall be reinstated consistent with Chapter 440 of Florida Statutes, Workers' Compensation Act.

### Section 5.

As the primary employer, the employee on work related or non-work related leave due to injury is required to notify the City immediately, in writing, of any additional employment, whether self-employed or working for another employer, including the name of the company, address, telephone number and name of supervisor. Failure to notify the City of such additional employment shall be grounds for discipline up to and including termination from employment.

### Section 6.

Work related and non-work related leave due to injury as defined in this Article, is to be administered consistent with all applicable federal, state, and local laws, the City's personnel and leave policies, and this collective bargaining agreement.



## **ARTICLE 21. EDUCATIONAL BENEFITS**

### Section 1.

- A. Education reimbursement eligibility is for classes and/or courses at an accredited junior college, community college, college or university within the state of Florida that are part of a program resulting in a two year degree, four year degree, or Master's degree or higher.
- B. Training reimbursement eligibility is for classes and/or courses designed to increase job-related knowledge and/or improve job skills. Training includes, but is not limited to, the attainment of a license or certificate.
- C. An employee who participates in City-mandated training shall be in an on-duty status.

### Section 2.

- A. In accordance with City Policy 4-19 and City Code 62-64, an employee may attend routine training during normal work hours. An employee will not be allowed to attend specialized training during normal work hours except when such training is only available during working hours or is a part of an established departmental program. An employee may not be granted paid work time to attend higher education courses, but nothing herein shall prevent an employee from using accrued leave other than sick leave, upon the approval of the Department Director to attend classes. Furthermore: 1.
- B. Education reimbursement must be for job-related coursework and is limited to twelve (12) semester hours (or the equivalent) with reimbursement for such coursework provided as established under City Higher Education Policy 4-19.
- C. Intent to pursue certification or license requirements must be submitted to the Human Resources Department and a copy submitted to the appropriate Department Director before March 1<sup>st</sup> of each year prior to the intended fiscal year of enrollment.

### Section 3.

Upon advance approval of the Department Director, and contingent upon the availability of funds, the City will pay for or reimburse an employee for any mandatory continuing education/specialized training necessary for certification, re-certification or renewal of license(s) appropriate for the position held.

### Section 4.

Reimbursement will only be made by the City when an employee receives a grade of C or above, or in the case of Pass/Fail, a passing grade. There will be no reimbursement when a grade of Incomplete, Fail, D, F, or Withdraw is received.

Section 5.

An employee who voluntarily leaves City employment, or who is terminated from employment for any cause other than failing to achieve a required license or certification, will be required to repay the costs of any specialized training or higher education paid for by the City. If the employee leaves or is terminated from employment as set forth above within the first year of the City reimbursement the employee shall repay the City one hundred (100) percent of the amount paid; from one to two years, fifty (50) percent of the amount paid. After two years following reimbursement, an employee who leaves the City is not obligated to repay the City any of the amounts paid. An employee is not required to repay the costs of routine training.

Section 6.

Educational benefits under this Article and City Code 62-64 are subject to availability of funds and budget approval by the City Commission.

**ARTICLE 22. INSURANCE BENEFITS**

**A. Health and Hospitalization**

During the term of this agreement, the City agrees to provide health and hospitalization coverage, for employees and their dependents in the percentage of premium set forth below.

**MEDICAL AND HOSPITALIZATION  
EMPLOYER CONTRIBUTION**

<b>SINGLE</b>	<b>95%</b>
<b>EE+1</b>	<b>75%</b>
<b>Family</b>	<b>75%</b>
<b>Over Age Dependent</b>	<b>0%</b>

All rates for overage dependent coverage will be that of the actual cost of the premium that the City would pay and this increase in premium will become the responsibility of the employee.

Over Age Dependent Qualifications will be in accordance with applicable State and Federal laws and regulations.

**B. Dental Benefits**

**Section 1. DMO Dental**

During the term of this agreement, the City agrees to provide dental benefits for employees and their dependents.

<b>DENTAL</b>
DMO Employer Pays
Single: 100%
EE+1: 69.8 %
Family: 42.1%

**Section 2. PPO Dental**

For employees electing the PPO Dental Plan, the City will pay the same dollar amount for single, employee + 1, and Family as it pays for participants in the DMO Dental Plan. The balance of the premium shall be paid for by the employee. For example, if the City pays \$11.25 per month for single participating in the DMO Dental Plan, the City shall contribute \$11.25 per month to offset premiums for single participants in the PPO Dental Plan. The balance of the premium for the PPO Dental Plan shall be paid by the employee. If the DMO rates increase during the term of this agreement and the City begins to pay \$14.00 per month for single employees electing the DMO plan, the City will pay \$14.00 per month for employees who elect the PPO Dental Plan with the balance of the premium being paid by the employee.

Section 3.

An employee who can document that they are covered under their own or a spouse's health insurance plan may "opt-out" of the City coverage. In the event of "opt-out", an employee shall receive a payment of \$150.00 a month.

Section 4.

Vision care benefits, at no cost to an employee, shall be provided by the City to an employee and their dependents.

Section 5.

Employees shall be entitled to receive a Life and Accidental Death and Dismemberment benefit in the face amount equal to the employee's annual base salary, exclusive of overtime, incentives and other premium pay (\$100,000 maximum). This benefit will be provided by the City at no cost to the bargaining unit employee. Employees shall have the right to purchase additional coverage at the City rates under the terms of the City's Contract with its life insurance provider.

Section 6.

Long-Term Disability Benefits Policy shall be provided by the City at no cost to an employee.

Section 7.

The City shall make available at no cost to employees an Employee Assistance Program ("EAP") and provide evaluative visits at no cost to employees as determined by the EAP service provider's contract with the City.

Section 8.

Other than for a qualified "change in family" status, an employee shall not be permitted to transfer membership from one health benefit plan to another or from one of the options listed in Section 1 of this article except during the annual group open enrollment period.

Section 9.

- A. Sixty (60) days prior to the proposed effective date of a premium increase by the City's insurance carrier, or a shift to a self-insured program, the City and the Union agree to re-open negotiations concerning those provisions covered in Sections 1 through 5 of this article.

The Union agrees that should the City at its discretion decide to continue any coverage or plan under this article "as-is" with no employer contribution changes, plan design changes or with changes that do not reduce benefits to the employees this Article shall continue in effect with no negotiations needed; and the plan shall continue to operate "as-is".

- B. Upon the effective date of any plan year's premium increase by the City's provider or providers under programs authorized by this Article, the parties agree to continue paying the same proportionate share of a carrier-proposed rate increase for health and dental insurance as was paid during the previous plan year.

- C. The City reserves the right for each upcoming plan year to propose changes in the cost of any program set forth in this Article or to propose changes in any program or overall program design.

## **ARTICLE 23. PERFORMANCE EVALUATIONS**

### Section 1.

- A. Performance evaluations shall be conducted annually and are to be sent to the employee by their supervisor within seven (7) calendar days of the employee's anniversary date.
- B. If an employee receives an overall rating of "unsatisfactory" or "improvement needed" the employee shall be placed on a written performance improvement plan ("PIP"). Performance under the PIP shall be re-evaluated once a week for the first, month, and once every two (2) weeks for the following two (2) months, contingent upon the employee demonstrating immediate and consistent improvement. In no event will the PIP last longer than ninety (90) days from the date of issuance to the employee.

In addition, employees should have no expectation that they will be provided the entire 90 days if they do not show immediate and consistent improvement. Failing to show immediate and consistent improvement shall subject the employee to discipline up to and including separation from employment at any time prior to the 90 day period being exhausted.

- C. If the performance improvement plan has been successfully completed, then the employee shall receive any withheld compensation effective with the start of the first payroll period following completion of the Plan for Improvement.

For the length of this agreement Section 1C will be suspended. The annual review date shall remain the same.

### Section 2. Performance Evaluation Appeal Procedure

An appeal may be made for a performance evaluation where the rating average falls below a score of satisfactory. Such appeal shall be submitted in writing to the Department Director within five (5) working days after the final appraisal interview is conducted. The appeal shall include the areas of disagreement and the employee's justification for seeking the appeal.

When an employee appeals a performance evaluation resulting in no modification at the department level, the employee may file in writing for a review of the evaluation with the Human Resources Director within (5) working days of receiving a response to their appeal from the Department Director.

Performance evaluations are not subject to Article 28 Grievance and Arbitration Procedures.

## **ARTICLE 24. COMPENSATION**

### Section 1. Wages

Across the Board (“ATB”) pay increases for the duration of this contract shall be as follows:

For fiscal year 2017/2018 Union employees covered under this contract which have attained regular status with the City shall receive an Across the Board pay increase of 4.00%, effective on the first full pay period on or after October 1, 2017.

For fiscal year 2018/2019 Union employees covered under this contract which have attained regular status with the City shall receive an Across the Board pay increase of 3.00%, effective on the first full pay period on or after October 1, 2018.

For fiscal year 2019/2020 Union employees covered under this contract which have attained regular status with the City shall receive an Across the Board pay increase of 3.00%, effective on the first full pay period on or after October 1, 2019.

Notwithstanding anything in this agreement to the contrary should the City’s ad-valorem tax receipts decline in any year of this contract over the prior year’s collections then the ATB raises outlined in this Article are suspended and shall not take effect and this Article shall be re-opened for negotiations with the Union.

For any fiscal year under which ATB raises are provided for under this agreement eligible employees (i.e., regular status) whose base rate of pay will exceed the maximum of their grade as result of any ATB pay increase, will be paid the balance of the ATB pay increase that is in excess of the maximum base rate of pay as a lump sum. This amount will be paid to the employee on a bi-weekly basis, (twenty-six (26) times per year) starting on the first full pay period in which the ATB takes effect. Lump sum payments under this article shall not carry over into future fiscal years or be cumulative in any manner.

Notwithstanding anything in this agreement to the contrary, ATB pay increases under this section shall be effective on the first full pay period on or after October 1, 2017 provided that Union members have approved this agreement by August 1, 2017.

### **B. Compensation and classification structure**

1. Classifications will be allocated to pay grades according to their comparisons to benchmark classifications.
2. Any employee, whose salary is below the minimum of the proposed pay grade, will receive an adjustment to the minimum after the ATB increases have been processed.
3. The City shall have the discretion to adjust pay grades and/or employee salaries upwards for job classifications as it may deem appropriate. Should the City decide to adjust salary ranges or specific employee salaries for a classification or for specific employees within

a classification for retention, recruitment or other reasons, that does not entitle other employees within the classification or other job classifications to receive any salary adjustments (increases) or salary range adjustments.

C. Provisional Rate of Pay

1. A Building Inspector or Building Plans Examiner who otherwise meets qualifications for employment but does not possess a state of Florida Building Inspector or Plans Examiner license shall be compensated at a provisional rate of pay that is five percent (5%) less than the minimum of the respective pay grade until the license is attained.
2. Failure to possess the applicable state of Florida license within twelve (12) months from the original date of hire shall be cause for rejection of probation and termination of employment unless said license requirements are pre-established by the State of Florida.

D. Merit Pay

Notwithstanding anything in this contract to the contrary no merit pay increases will be provided for the length of this contract.

Section 2. Longevity Pay

All bargaining unit members who have completed the required years of continuous service on September 30, 2009 as listed below shall continue to receive longevity pay.

Years of Continuous Service	Longevity
10 - 19 years	5% of Base Pay
20 or more years	10% of Base Pay

All longevity increases are frozen as of September 30, 2009. All employees with less than ten (10) years of service or any employee who has more than ten (10) years but less than twenty (20) years of service and all new hires shall not be eligible for a longevity increase.

Notwithstanding anything in this agreement to the contrary, longevity benefits, if provided, shall only apply and be paid out on hours worked by the employee and shall not be applied to hours in any annual, sick leave, earned personal leave, holiday saved bank or other balances which the employee may be entitled to receive a payout upon separation of employment with the City.

Section 3. Stipends for Certification or License

A. 5 % Stipend Designations

A Building Inspector, Plans Examiner, Chief Building Inspector or Chief Plans Examiner who possesses three (3) or more State of Florida issued licenses shall be eligible for a five percent (5%) stipend.

B. 2½ % Stipend Designations

A Building Inspector, Plans Examiner, Chief Building Inspector or Chief Plans Examiner who possesses two (2) State of Florida issued licenses shall be eligible for a two and one-half percent (2½%) stipend.



C. Other Stipends

1. An employee who is eligible to receive one of the stipends listed below in paragraphs a-g, shall receive only one of those so listed:
  - a. A Laboratory Technician who holds a Class "C" or higher water or wastewater operator's certificate shall receive \$50.00 per month.
  - b. A Water or Wastewater Plant Operator who holds a Florida issued Class "B" operator's certificate shall receive \$75.00 per month.
  - c. A Water or Wastewater Plant Operator who holds a Florida issued Class "A" operator's certificate shall receive \$150.00 per month.
  - d. An Environmental Compliance Technician employed in Industrial Pretreatment who holds a Florida issued Class "C" or higher water or wastewater certificate shall receive \$50.00 per month.
  - e. An employee employed in Stormwater shall receive \$50 per month for holding a Class B Stormwater certificate or \$75 per month for holding a Class A Stormwater certificate.
  - f. An employee employed in Water Distribution shall receive \$50 per month for holding a Class B water distribution certificate or \$75 per month for holding a Class A water distribution certificate.
  - g. An employee employed in Wastewater Collection shall receive \$50 per month for holding a Class B wastewater collection certificate or \$75 per month for holding a Class A wastewater collection certificate.
2. A Building Inspector, Plans Examiner, Chief Building Inspector or Chief Plans Examiner shall receive \$25.00 per month for each Building Inspector, Plans Examiner, Chief Building Inspector or Chief Plans Examiner pre-license certificate, i.e., a certificate that is in a field other than that in which a State of Florida license has been issued and for which a stipend is being paid as set forth in subsections A and B above, up to a maximum of four certificates.
3. Code Enforcement Officers shall receive \$250 annually for each level of Florida Association of Code Enforcement awarded including Code Enforcement Professional.
4. Employees shall be paid a differential based upon performing the following duties:
  - a. Entering a "**permit-required confined space (permit space)**" \$1.00 per hour.

They include, but are not limited to:

Storm Drains	Manholes	Water Storage Vessels Meter
Vaults/ARV's	Wet Wells	Air Handlers

- b. Work with spray equipment in the application of insecticides or poisonous sprays where chemical spraying is not a job requirement: \$1.00 per hour.

- c. Work with “arc flash” boundaries that require use of ARC Flash PPE \$1.00 per hour.

Notwithstanding anything in this contract to the contrary, all employees hired on or after October 1, 2009 shall not be eligible for any stipends or incentives as described in this Article and Section 3 above. All employees who after October 1, 2009 are receiving stipends and incentives as described in Section 3 above will be grandfathered and will continue to receive such stipends and incentives.

Section 4. Stand-by and Call-out

- A. Effective the beginning of the first payroll period following the ratification of the bargaining agreement, an employee required by the Department Director or division manager to be on "stand-by" shall be compensated at the rate of twenty-five dollars (\$25.00) for every twenty-four (24) period or portion thereof they are on call, Sunday through Saturday, including holidays. An employee who is on sick leave shall not be eligible to be placed on “stand-by” or receive the twenty five \$25.00 “stand-by” pay until the next “stand-by” period after they have returned from their sick leave absence.

An employee, whenever possible, will be issued a communication device. Should a communication device not be provided, an employee shall contact an appropriate supervisor and provide a phone number where the employee may be reached. If an employee fails to respond within thirty (30) minutes to a stand-by call, the employee shall forfeit their stand-by pay and shall be subject to disciplinary action up to and including termination of employment.

- B. An employee who is on stand-by and who is actually called-out to a worksite, shall receive premium rate of pay of one-and-one-half (1½) times their base rate of pay for actual time worked in addition to the "standby" rate and shall be guaranteed a minimum of two and one-half (2½) hours of pay at said rate. Said minimum two and one-half (2½) hours shall be applied upon the first call-out/work assignment and shall apply only once during a twenty four hour (24) period.

The next call-out/work assignment and each thereafter will be at a rate of one and-one-half (1½) times their base rate of pay for actual time worked, including portal to portal travel or work assignment to work assignment travel as the case may be.

- C. An employee who is not on stand-by and who is called-out to a worksite during a time different from their regular shift assignment, shall be paid at the rate of one-and-one-half (1½) times their base rate of pay for actual time worked, and shall be guaranteed a minimum of two and one-half (2½) hours of pay at said rate. Said minimum two and one-half (2½) hours shall be applied upon the first call-out/work assignment and shall apply only once during a twenty-four (24) hour period.

The next call-out/work assignment and each thereafter will be at a rate of time-and-one-half (1½) times their base rate of pay for actual time worked, including portal to portal travel or work assignment to work assignment travel as the case may be.

- D. The provisions as set forth in this section shall also apply to an employee who is called out on a day in which they are not scheduled to work.

Section 5. Mileage Reimbursement

An employee, when so authorized, shall be entitled to mileage reimbursement in accordance with City policy for the use of a personal vehicle while conducting City business exclusive of round-trip mileage between such employee's place of residence and such employee's work site.

Section 6. Tool Allowance

The City will reimburse the following employees up to an annual tool allowance of three-hundred dollars (\$300.00): Fleet Mechanic, Emergency Vehicle Mechanic, HVAC Mechanic, Street Lighting Technician, Fleet Preventive Maintenance Technician, Tire Repair Worker, Facility Maintenance Worker, Skilled Trades Worker, Fleet Diagnostic Technician and Lead Street Lighting Technician who are required to furnish their own tools.

Reimbursement shall occur upon the employee submitting proof of purchase of any tool necessary to perform their assigned tasks. Such proof of purchase must be submitted to the Department Director for final approval and reimbursement.

Section 7. Uniforms

The City will issue uniforms to all employees who are required to wear them. The uniforms will be purchased by the City or provided through a uniform company of the City's choosing. Uniforms shall only be worn during work hours and employees shall not wear City uniforms in public if they are not in a paid status.

Section 8. Parking Administration

Parking Administration will provide both full-time and part-time employees with required city issued uniforms to include work shoes.

**ARTICLE 25. RETIREMENT**

Section 1.

No employee shall be enrolled in the City of West Palm Beach Restated Employees Defined Benefit Retirement System plan that is not already enrolled. An employee who participates in the plan shall contribute five and one-half percent (5½) of their gross pensionable wages to the plan.

Section 2.

Other employees shall participate in the City of West Palm Beach Restated Defined Contribution Retirement System plan and shall contribute seven and one-half percent (7.5%) of their gross pensionable wages to the plan. The City shall contribute an equal amount.

Section 3. Employees hired on or prior to February 2, 2013.

- A. Effective with the start of the first pay period after October 1, 2004 eligible employees shall begin making contributions of seven and one-half percent (7.5%) of their gross pensionable wages to the City of West Palm Beach Restated Defined Contribution Retirement Plan beginning with their first paycheck.
- B. For those eligible employees whose probationary period is six (6) months, the City shall begin making contributions of seven and one-half percent (7.5%) of the employee's gross pensionable wages to the plan beginning with the first paycheck following successful completion of the employee's original probationary period.
- C. For those eligible employees whose probationary period is longer than six (6) months, the City shall begin making contributions of seven and one-half percent (7.5%) of their gross pensionable wages to the plan with the first paycheck following successful completion of six (6) months of employment.
- D. For those employees whose probationary period is longer than six (6) months, and who do not successfully complete their probationary period, the City's contributions shall not be paid to the employee upon separation from employment.

Section 4. Employees hired on or after February 3, 2013

- A. Employees hired on or after February 3, 2013 shall begin making contributions of seven and one-half percent (7.5%) of their gross pensionable wages to the City of West Palm Beach Restated Defined Contribution Retirement Plan beginning with their first paycheck.
- B. For those eligible employees whose probationary period is six (6) months, the City shall begin making contributions of six and one-half percent (6.5%) of the employee's gross pensionable wages to the plan beginning with the first paycheck following successful completion of the employee's original probationary period.

- C. For those eligible employees whose probationary period is longer than six (6) months, the City shall begin making contributions of six and one-half percent (6.5%) of their gross pensionable wages to the plan with the first paycheck following successful completion of six (6) months of employment.
- D. For those employees whose probationary period is longer than six (6) months, and who do not successfully complete their probationary period, the City's contributions shall not be paid to the employee upon separation from employment.
- E. Starting the first full pay period of the sixth (6) year of employment, employees hired on or after February 3, 2013 the City shall increase its share of the employer contributions to seven and one-half percent (7.5%) of their gross pensionable wages.

Section 5.

Any retirement plan must receive approval from the City and its legal counsel as to legal sufficiency. Final agreement and subsequent implementation is contingent upon passage of an ordinance, and language and terms that meet the City's and Union's legal standards as determined by their respective Attorneys.

**ARTICLE 26. ALCOHOL AND SUBSTANCE ABUSE**

**AUTHORITY**

The Article is governed by the Drug Free Workplace Act of 1988, U.S. Department of Transportation regulations, Florida Statutes Section 440.102, Florida Administrative Code Chapter 59A-24, City of West Palm Beach (City) Charter Section 3.01 (12), and City Code Chapter 62, and any amendments thereto.

**POLICY STATEMENT**

The City of West Palm Beach (City) has a responsibility for the safe and effective delivery of public services. The use of illegal/illicit drugs by City employees, on or off the job, and the state of being under the influence of alcohol while at work are inconsistent with the law-abiding behavior expected by all citizens and the special trust placed in City employees as public servants. In light of these concerns and based on the authority cited above, the City strives to maintain a workplace free of drug and alcohol abuse.

A condition of employment for each employee is to refrain from reporting to work or working with the presence of illegal or illicit drugs or alcohol in his or her body.

Pursuant to Florida Statutes, the unlawful manufacture, distribution, dispensing, possession or use of controlled substances in the workplace is strictly prohibited.

**PURPOSE**

To ensure a workplace free of substance abuse and set forth guidelines for the consistent handling of substance abuse.

**SCOPE OF APPLICABILITY**

The provisions of this Article shall apply to all employees covered by this collective bargaining agreement.

The City is subject to the U.S. department of Transportation's drug and alcohol testing requirements with respect to certain employees.

**DEFINITIONS**

**Adulterated Specimen** is a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present, but is at a concentration that is not consistent with human urine.

**Alcohol** is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols such as methyl and isopropyl, no matter how it is packaged or in what form the alcohol is stored, utilized or found.

**Confirmed Positive** is based upon a second analytical procedure used by the testing laboratory to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle to ensure accuracy.

**Dilute Specimen Results** means a urine specimen with creatinine specific gravity values that are lower than expected for human urine. (49 CFR Part 40)

**Drug** means both alcohol and controlled substances as listed in Schedules I through V of Florida State Statute, Chapter 893.

**Drug Test** means any chemical, biological, or physical instrumental analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites.

**Employee** is a person who works for the City on a wage, salary or unpaid basis, who is subject to the control and direction of the City in the performance of their duties.

**Employee Assistance Program** is an established program for employee assessment, counseling and/or possible referral to an alcohol and/or drug rehabilitation program.

**Illicit Drugs** includes drugs listed on Schedules I through V of Florida Statutes, Chapter 893 which are not legal; drugs which are legal, but not legally obtained; and/or drugs used in a manner or for any purpose which is not legal or prescribed.

**Job Applicant** for purposes of this Article is an individual who has applied for a position with the City, has been selected and offered the position contingent upon completion of a background check, post-offer physical and drug test.

**Licensed Physician** is a physician that meets all the criteria as established in Florida State Statute Chapter 458, Medical Practice, or a physician licensed to practice medicine in another state under that state's established law regarding the licensure of medical practice physicians.

**Medical Review Officer (MRO)** is a licensed physician responsible for receiving and reviewing laboratory drug test results. The MRO assesses and determines whether an alternate medical or other acceptable explanation can account for a confirmed positive test result.

**Negative result** means when a specimen contains no drug or the concentration of drug is less than the cutoff concentration for the drug or drug class and that the specimen is a valid specimen (49 CFR Part 40)

**Non-negative specimen** means a urine specimen that is reported as adulterated substituted, positive (for drug(s) or metabolites (s), and or invalid (49 CFR Part 40)

**Positive Test Result** indicates the presence of drug, alcohol or steroid (or its metabolite).

**Refusal to Submit to Testing** is defined as:

- Failure or refusal to appear, to submit for any test, or to submit a test sample;
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide an adequate amount of breath for a breath alcohol test;
- Failure to provide a sufficient specimen and the Medical Director has determined, through a required medical examination, that there was no adequate medical explanation for such failure;
- Failure to return a call from the MRO or the testing facility within twenty-four (24) hours. In this regard, it shall be the drug-test subject's responsibility to provide correct and reliable contact information; or
- Leaving the scene of an accident and not informing their supervisor of the accident.

**Safety Sensitive Position** is any position, including a supervisory or management position, in which drug impairment would constitute an immediate and direct threat to public health or safety.

**Specimen** means a tissue, hair, oral fluid (saliva) or product of the human body capable of revealing the presence of drugs or their metabolites.

**Split Sample** means one urine specimen is collected. This collection of urine is then split into a primary **(A)** specimen and a **(B)** specimen.

**Stepping Forward** means that prior to being selected for a random drug test, or prior to being ordered to submit to a reasonable suspicion drug test, fitness for duty evaluation, or a test resulting from being involved in a vehicle or industrial accident, the employee comes forward and requests assistance for substance abuse.

**Unannounced Mandatory Testing** is follow up testing that the City will conduct at its sole discretion after an employee has completed an EAP.

## **STANDARDS AND PROCEDURES**

### **A. EMPLOYEE RESPONSIBILITIES**

Any employee who believes that a City employee is using or has used drugs or alcohol in violation of this Article shall immediately report that information to their Department Head, Risk Management or Employee Relations. Failure of an employee to make such report could result in disciplinary action up to and including termination.

Any City employee who is arrested or convicted for a violation of a criminal drug statute must notify Risk Management and Employee Relations in writing of such arrest or conviction immediately but in no event later than five (5) calendar days subsequent to such arrest or conviction. Failure of an employee to make such report could result in disciplinary action up to and including termination.

### **B. USE OF PRESCRIPTION MEDICATIONS/DRUGS WHILE AT WORK, IN UNIFORM, OPERATING A CITY VEHICLE OR REPRESENTING THE CITY IN ANY CAPACITY.**



Employees should never use intoxicants or drugs that could cause impairment during work hours unless prescribed by a physician licensed to practice medicine in the United States. An employee who is using a prescription medication while on the job shall do so in strict accordance with medical directions. It is the employee's responsibility to notify the prescribing physician of the duties required or performed to ensure that the physician approves the use of the prescription medication while the employee is performing their job duties. If the prescribing physician determines that the employee cannot perform their job duties without impairment while taking the prescribed medication, then the employee will be required to use their sick and/or FMLA leave, or unpaid leave if their leave pools are exhausted, until they can return to work. If the employee reports to work, the City will presume that the employee is not impaired.

**C. TYPES OF DRUG TESTING:**

1. **Post-Offer Job Applicant Testing** - All applicants receiving conditional offers of employment will be tested for drugs and alcohol. Refusal to submit to testing, an adulterated specimen, or a confirmed positive will result in the immediate rejection of the applicant for employment. The applicant will not be eligible to apply for one (1) year from the date of the confirmed positive test result.
2. **Fitness-for-Duty Testing** – Any employee required to submit to a fitness for duty medical examination will be drug tested as part of the examination.
3. **Reasonable Suspicion Testing** - Testing will be conducted based on reasonable suspicion that an employee is using, has used, or is abusing or has abused drugs or alcohol in violation of this Article. Reasonable suspicion is derived from specific, objective and particular facts and reasonable inferences. As illustrative, but not exhaustive examples, such facts and inferences may be based upon one or more of the following:
  - a. Observable phenomena while at work such as direct observation of drug use or the physical signs or manifestation of being under the influence of a drug observed by two different employees;
  - b. Abnormal conduct, violent or threatening behavior, erratic behavior while at work, or a significant deterioration in work performance including excessive absenteeism or tardiness observed by two different employees;
  - c. A report of drug or alcohol use while at work, provided by a reliable and credible source(s);
  - d. Evidence that an individual has tampered with a drug test during his or her employment with the City;
  - e. Evidence that the employee has attempted to use or used, attempted to possess or possessed, attempted to sell or sold, attempted to solicit or solicited, or attempted to transfer or transferred drugs or alcohol while working, while on the City's premises, representing the City or while operating a City motor vehicle, machine, or equipment; and/or

f. Evidence that an employee while off-duty has attempted to use or used, attempted to possess or possessed, attempted to sell or sold, attempted to solicit or solicited, or attempted to transfer or transferred or transported illegal and/or illicit drugs, or is arrested and/or convicted for a drug-related offense.

4. **Post Vehicular, Injury, Illness or Industrial Accident Testing** – All employees involved in an on-the-job vehicular accident, industrial accident, or who sustain and are evaluated and/or treated for an on-the-job injury, cause death or serious injury to another will be drug tested as soon as reasonably possible following such an incident. Medical treatment will not be withheld or delayed from an employee in order to obtain post-accident drug testing.

Employees who leave the scene of an accident and who do not inform their supervisor of the accident and how to reach them for testing purposes, barring medical-related emergencies, will be considered to have refused testing and may be subject to disciplinary action up to and including termination of employment.

5. **Random Testing** - Random substance abuse testing shall be conducted for employees who possess a Commercial Driver's License, Parks and Recreation Department staff or safety sensitive positions identified by the City's Risk Management Division. Random selections of employees will be made by a third-party-contracted firm utilizing a Department of Transportation (DOT) approved random selection computer program. Employees selected for random testing shall be tested on the day his/her name is selected if on duty. If off-duty the employee shall be tested on his/her next shift.

**D. METHODS/PROCEDURES FOR DRUG TESTING**

1. An employee shall be taken to a City-authorized medical testing facility by a supervisor for reasonable suspicion and post vehicular accident testing. The employee and the supervisor shall remain at the testing facility until the necessary specimen has been provided. Refusal to comply with an order to submit to testing, or leaving the testing facility prior to such test being completed shall result in termination of employment. Supervisors are subject to discipline up to and including termination of employment for failing to keep the test donor in her/his presence at all times during the transportation to and from the test site and remaining at the test site through completion of the test process.
2. Breath alcohol testing shall be conducted at the City's sole discretion. If the initial test indicates a level of .04 or greater, a second breath test shall be conducted as a confirmation test. If the second test indicates a level of .04 or greater, it shall be considered a positive alcohol test and will result in disciplinary action up to and including termination of employment.
3. In cases where a urine split sample has been submitted for drug testing the sample will be held in the event the employee challenges the test results.
4. If during testing, the employee cannot produce a urine specimen sufficient for testing, the specimen will be thrown out and the employee will be given up to 40 ounces of fluid over a three-hour period until the employee can produce a sufficient specimen. If after three hours, the employee still cannot

provide a sample, the collection process will end. If the employee refuses to drink fluids as directed or refuses to provide a new specimen, the collector will end the process and notify the City. The City will refer the employee to a licensed physician who is selected and paid by the City for a medical evaluation to determine whether there is a medical explanation for the employee's inability to produce a specimen. The physician will report the results back to the MRO, who will report the written conclusion to the City.

5. Upon an employee being notified that they must submit to reasonable suspicion testing or post vehicular, injury, or industrial accident testing, such employee may be placed on administrative leave with pay until the results of the test are reported to the City. Administrative leave with pay may continue through completion of the initial employee assistance assessment as scheduled by the City.
6. The City reserves the right to determine the method of sample collection.

**E. CONSEQUENCES OF REFUSING TO SUBMIT TO A DRUG TEST**

Any employee who refuses to submit to drug and/or alcohol testing when required under this Article, or who alters, adulterates, or otherwise interferes with drug testing collection, samples, or analysis will be terminated from employment and may forfeit medical and/or indemnity benefits under Florida Workers' Compensation statute, and will forgo their rights under COBRA.

**F. POSITIVE TEST RESULTS**

1. Any confirmed positive drug test for an employee shall result in disciplinary action up to and including termination of employment, except as provided for in Section I of this Article under Employee Assistance Program.
2. Any confirmed positive test for alcohol at or above .04 shall result in disciplinary action up to and including termination of employment.
3. Positive Dilute results shall be considered the same as a positive test result and shall result in termination of employment.

**G. DILUTE OR NEGATIVE DILUTE SPECIMEN RESULTS**

Dilute or Negative Dilute Specimen Results are not accepted by the City as valid results. Any employee with a dilute or negative dilute specimen result shall submit a second sample at their next work shift following a dilute or negative dilute result being received by the City. Any applicant for employment with a dilute or negative dilute specimen result shall submit a second sample within twenty four (24) hours following a dilute or negative dilute result being received by the City. The second drug test sample shall be an Oral Fluid (saliva) test instead of urine test. No other results are subject to re-testing requests under any circumstances.

## **H. CHALLENGES TO TEST RESULTS**

1. After receipt of the confirmed positive test result from the MRO, the City will notify the employee in writing of the test result and the consequences of such results.
2. An employee who receives a confirmed positive drug test result may request a challenge to the test results with the MRO or designee within five (5) working days notification. The challenge must be in writing, signed and dated by the test donor, and filed with Risk Management, Employee Relations and the MRO. The employee is responsible for proving that they complied with the timeliness requirements of this section.

At the employee's written request and sole expense, the split specimen will be tested at a Department of Health and Human Services (DHHS) certified laboratory of the employee's choosing. Such challenge must include the chain of custody specimen identification number.

## **I. ENFORCEMENT**

The City may take the following actions:

1. A job applicant with a confirmed positive, positive dilute, non-negative or adulterated drug test or confirmed positive alcohol test will not be hired. The applicant will not be eligible to apply for one (1) year from the date of the test result.
2. An employee with a confirmed positive, positive dilute, non-negative or adulterated drug test or confirmed positive alcohol test will be subject to disciplinary action up to and including termination of employment.
3. Employees disciplined pursuant to this Article will be given notice of the right to a disciplinary hearing (by the Department Director) with charges and explanation of the circumstances in writing. All discipline policies, Civil Service Rules and Regulations, and collective bargaining agreements will be observed, where applicable.
4. If an employee is injured in the scope of his/her employment and drug tests and/or other medical evidence indicates the presence of illegal and/or illicit drugs or alcohol in the employee's body at that time of the accident, and it can be concluded that the drug(s) or alcohol used contributed to the accident, the employee may be required to forfeit any medical or indemnity benefits available under Florida's Workers' Compensation statute, and may also forfeit eligibility for unemployment benefits. These penalties are in addition to any other penalties that may apply under this Article or under applicable law.
5. Employees terminated for violating this Article will forgo their rights under COBRA.

**J. EMPLOYEE ASSISTANCE PROGRAMS**

1. Recognizing that there may be employees who have substance abuse issues, the City remains willing to assist in the resolution of these issues and encourages affected employees to seek help through the Employee Assistance Program (EAP) which is available to employees and eligible family members. The supervisor upon being notified by the employee will then promptly contact Risk Management and Employee Relations to initiate a mandatory supervisory referral to EAP. The City will not terminate employment, discipline or discriminate against an employee solely because an employee voluntarily seeks treatment for substance abuse or related issues unless otherwise stated in this Article.
2. The City provides an EAP and access to necessary and/or voluntary treatment and rehabilitation resulting from substance abuse. Access is available if the employee steps forward prior to being notified of the test being administered and requests assistance. Upon stepping forward and notifying the City the employee will then be placed into a mandatory EAP treatment program.
3. Pursuant to Florida Statutes, Chapter 440.102 (11), an employee who enters an EAP for substance abuse will be assigned to a position other than a safety sensitive position, or if such position in the City is not available, the employee will be permitted to use any accrued leave time during his/her rehabilitation. The treatment program requires that an employee complete a program prescribed by the City's EAP provider. If the employee does not have leave accrual or exhausts all accrued leave time while participating in an EAP, they will then be placed on unpaid leave during the completion of the program. Failure to comply with the prescribed treatment program will result in disciplinary action up to and including termination.
4. An employee who completes a rehabilitation or employee assistance program as described above, upon returning to work, will be subjected to unannounced mandatory testing at the City's sole discretion for a period of three (3) years from the return to work date.
5. An employee, who on the basis of such unannounced mandatory testing is found to be under the influence of alcohol, or an illegal or illicit drug after completing the rehabilitation program, shall not be given a second opportunity to access the Employee Assistance Program and will be immediately terminated from employment with the City, and will not be eligible for rehire.
6. If an employee who is selected for random drug testing discloses to their supervisor, before providing a testing sample, that they have used a medication prescribed for someone other than the employee, they shall have one opportunity to access the EAP. During the time that the employee is utilizing the EAP, the City will permit the employee to utilize any accrued leave time during his/her rehabilitation. Further, this section does not condone nor protect any employee from arrest, prosecution or conviction for violating any law, rule or regulation prohibiting the use of prescription medication other than that which has been legally prescribed to the employee for his or her own use.

**K. CONFIDENTIALITY OF RECORDS**

1. All information involving alcohol/drug testing (*i.e.*, reports, statements, memoranda, drug test results, written or otherwise, received or produced as a result of this drug test) will be treated as confidential to the extent possible, consistent with the scope of this Article and applicable laws, rules or regulations.
2. Generally, information concerning drug test results may not be released without a written consent form signed voluntarily by the person tested. Drug test results may be released without consent if compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal, or if it is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. Moreover, the City, its agents, or the drug testing laboratory may have access to the drug test information or use such information when consulting with legal counsel in connection with actions brought under this Policy, or when the information is relevant to a defense in a civil or administrative matter.

**L. DRUGS TESTED**

Employees may be tested for any or all of the substances listed on Schedule I through V of Florida Statutes, Chapter 893. The following is a partial list of Substances on Schedule I through V Florida Statutes Chapter 893:

Alcohol:	Beer, Wine, Booze, Liquor, Distilled Spirits, Malt Beverages, etc.
Amphetamines:	Speed, Uppers, Eve, Biphetamine, Desoxyn, Dexedrine, etc.
Barbiturates:	Downers, Phenobarbital, Butabarbital, Secobarbital, Tuinal, Amytal, etc.
Benzodiazepines:	Librium, Valium, Ativan, Azene, Clonopin, Dalomone, Diozepan, Halcion, Paxipam, Restoril, Serax, Tranxene, Verstran, Xanax, etc.
Cannabinoids:	Marijuana, Hashish, Hash, Hash Oil, Pot, Joint, Reefer, Spleaf, Roach, Grass, Weed, etc.
Cocaine:	Coke, Blow, Snow, Flake, Crack, etc.
Methaqualone:	Quaaludes, Ludes, etc.
Opiates:	Heroin, Codeine, Morphine, Opium, Dover's powder, Paregoric, Parepectolin, etc.
Phencyclidine:	PCP, Angel Dust, Hog, etc.
Synthetic Narcotics:	Methadone, Dolophone, Metadose, Propoxyphene, Darvocet, Darvon N, Dolene, etc.

The following cutoff concentrations shall be applicable to determine whether specimens are negative or positive for the following drugs or classes of drugs:

	Initial Test <u>ng/ml</u>	Confirmation <u>ng/ml</u>
Total Cannabinoid Metabolites	50	15
Total Cocaine Metabolites	150	100
Opiates	2000	2000

Phencyclidine	25	25
Barbiturates	300	150
Benzodiazepine	300	150
Amphetamines	500	250
Methaqualone	300	150
Methadone	300	150
Propoxyphene	300	200

Alcohol shall be confirmed positive if both the initial and confirmation tests reveal an alcohol content of .04 or higher.

**NEW DRUGS** - New drugs will automatically be added to the list of controlled substances based on amendments to the Florida Statutes and/or any federal law, rule, regulation or procedure.

**M. PRESCRIPTION DRUGS**

Many prescription drugs can alter or affect drug tests. Due to the large number of obscure brand names and the constant marketing of new products, this list is illustrative and not exhaustive.

- Alcohol: All liquid medications containing ethyl alcohol (ethanol). Read the label for alcohol content.
- Amphetamines: Pbetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Lonamine, Fastin.
- Cannabinoids: Marinol (Dronabinol, THC).
- Cocaine: Cocaine, HCl topical solution (Roxanne)
- Phencyclidine: Not legal by prescription
- Methaqualone: Not legal by prescription
- Opiates: Paregoric, Parepectolin, Donnagel PG, Norphine, Tylenol with Codeine, Emperine with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Diluadid (Hydromorphone), M-S Contin and Roxano (morphine sulfate), Percodan, Vicodin, Tussiorganidine, etc.
- Barbiturates: Phenobarbitol, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorianl, Fioricet, Esgic, Butisol, Mebarel, Butabarbital, Butalbital, Phrenilin, Triad, etc.
- Benzodiazepine: Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tanzene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax, etc.
- Methadone: Dolophone, Metadose, etc.
- Propoxyphene: Darvocet, Darvon N, Dolene, etc.

An employee or job applicant who is contacted by the MRO may confidentially report the use of prescription medication(s) because the presence of these medications in the body may have affected the outcome of the test.

**N. DRUG TESTING LABORATORIES**

All testing of specimens for the presence of illegal/illicit drugs will be performed by a state-approved testing laboratory.

All testing for alcohol will be performed by a Certified Breath Alcohol Technician using a Certified Breath Alcohol Testing Device.



**ARTICLE 27. OUTSIDE EMPLOYMENT**

Section 1.

The City and the Union recognize the City of West Palm Beach as the employee's primary employer. An employee shall at all times keep the City advised as to any outside employment by completing and submitting the designated form to his Department Director for approval. A completed form will be forwarded to the Human Resources Director for insertion into the employee's personnel file. Other employment, which is deemed by the City in its sole discretion to be a conflict of interest or a conflict with regular employment, will not be permitted provided the City does not abuse its discretion in denying the employee outside employment.

The designated outside employment form must be submitted through channels to the department director each year for approval no later than January 15 and in compliance with the Palm Beach County Code of Ethics. Failure to comply with this process could lead to loss of approved outside employment.

Section 2.

No employee may accept outside employment which will prevent his/her return to duty in the case of emergency as declared by the Department Director, City Administrator or Mayor.

Section 3.

- A. No employee shall work outside the City during the employee's regular work time while on sick, disability or Family and Medical Leave while in a pay status.
- B. No employee shall perform duties in outside employment that aggravate the condition for which he/she has been granted disability or Family and Medical Leave.

## **ARTICLE 28. GRIEVANCE AND ARBITRATION PROCEDURES**

### Section 1. Grievance Procedure

- A. A grievance is defined as a dispute involving the interpretation and application of the express terms of this agreement.
- B. Time limits in this Article may only be waived upon the written, dated consent of both the City and the Union, identifying the grievance or appeal of a disciplinary action to which the time limit waiver applies.
- C. In a mutual effort to provide harmonious relations between the City and the Union it is agreed to and understood that there shall be a procedure for the resolution of grievances or misunderstandings from the application or interpretation of this agreement as follows:

#### Step1 Filing of Grievance

The Union representative shall present any grievance in writing to the Human Resources Department, Employee Relations Division within ten (10) working days of the occurrence or knowledge of the matter giving rise to the grievance. The Human Resources Department shall respond on behalf of the City in writing within twenty (20) working days from date of receipt of any timely submitted, written grievance.

- D. If the Union fails to follow any prescribed time limits in this Article, the grievance is deemed withdrawn with prejudice not to re-file. If the employer fails to follow any prescribed time limits, the grievance is forwarded to the next step in the process.

### Section 2. Arbitration Referral

- A. If the grievance is either not resolved at Step 1 of the Grievance Procedure, or the appeal of a disciplinary action is upheld as outlined in Article 13, Section 6, the Union may within ten (10) working days from the City's response submit a request for arbitration to the Human Resources Department. Only the Union or the City may request to take the issue or grievance to arbitration.

If the request to arbitrate is not received within ten (10) working days of the receipt of either response as indicated above the grievance and any request to arbitrate is deemed withdrawn with prejudice not to re-file.

- B. Within ten (10) working days after the date of receipt of the request for arbitration:

- 1. The Union and the City may meet for the purpose of preparing a joint arbitration agreement whereby the parties will attempt to define the issue to be submitted to any arbitrator who may be selected, and;

2. The party requesting arbitration shall request a list of qualified neutrals from the Federal Mediation and Conciliation Service (FMCS) and simultaneously serve the other party with a copy of such request.
- C. Within ten (10) working days of the dated FMCS document listing the qualified neutrals, the party requesting arbitration shall contact the other party so that they shall confer and alternately cross out the names on the list, and the remaining name shall be the arbitrator. A coin shall be tossed to determine who shall cross-out first, or as mutually agreed upon by both parties involved in the selection process.
- D. Within ten (10) working days after the selection of the arbitrator, both parties shall select a mutually agreed upon date for such arbitration to be heard. It shall be the responsibility of the party requesting arbitration to obtain the dates that are available from the arbitrator who will hear the arbitration.

If the party requesting arbitration fails to follow any of the above established time limits the arbitration shall be deemed withdrawn with prejudice not to re-file.
- E. The arbitration shall be informal and the strict rules of evidence shall not apply.
- F. The arbitrator shall not have the power to add to, subtract from, modify or alter the terms of a collective bargaining agreement in arriving at a decision regarding the issue or issues presented, and shall confine his/her decision solely to the interpretation or application of the agreement. The arbitrator shall not have the authority to determine any other issues not submitted.
- G. The decision of the arbitrator shall be final and binding upon the Union and the City in the absence grounds to vacate under Fla. Stat. Chapter 682 (Revised Florida Arbitration Code).
- H. The arbitrator's fees and expenses shall be borne by the losing party as determined by the arbitrator. If the arbitrator determines in favor of the City, the Union will be considered to be the losing party, and will bear the full cost of the arbitrator's fees and expenses. In the event the arbitrator deems his/her award as a compromise award, the arbitrator's fees and expenses shall be borne equally by the parties to the arbitration.
- I. Attendance at any arbitration procedure and compensation of participants shall be the responsibility of each side.
- J. The arbitrator shall be requested to tender his/her decision as quickly as possible but in any event no later than thirty (30) calendar days after the hearing.
- K. In the case of a grievance involving any continuing or other money claim against the City, no award shall be made by the arbitrator which shall allow any alleged accruals for more than five (5) calendar days prior to the date when such grievance shall have been submitted in writing.
- L. Upon receipt of the arbitrator's award, corrective action, if any, will be implemented as soon as possible, but in any event, no later than fifteen (15) calendar days after receipt of the arbitrator's award.
- M. Either party to this agreement desiring a transcript of the arbitration hearing shall be responsible for the cost of such transcripts. In the event that both parties request transcripts, the cost of the transcript will be shared equally between the parties.

- N. If the employee who is the subject of the arbitration fails to appear, the grievance or appeal of a disciplinary action is deemed withdrawn with prejudice not to re-file. If the City shall fail to appear and, if no evidence is being offered in support of the City's charges, the arbitrator may render a decision by default or may hear evidence offered by the grievant, through his/her Union representative, and render a decision thereon.
- O. In the case of an arbitration appealing a termination of employment, the acceptance by the City of the resignation of an Employee before the scheduled date of arbitration shall act to nullify the arbitration hearing, and the proceedings shall be dismissed without an award or opinion but with prejudice not to re-file. Any employee resigning under such circumstances forfeits all rights, including any appeal or grievance of any disciplinary action(s). The Union shall be responsible for all fees and charges associated with a cancellation of arbitration due to resignation.

Section 3. Exclusive Remedy

An employee who elects to go to arbitration must present all claims, whether based on local, state or federal law before the arbitrator. This excludes claims pre-empted by local, state or federal law.

**ARTICLE 29. SAVINGS CLAUSE**

Section 1.

If any article or section of this agreement should be found invalid, unlawful, or not enforceable by reason of any existing or subsequently enacted legislation or by judicial authority, all other articles and sections of this agreement shall remain in full force and effect for the duration of this agreement.

Section 2.

In the event of invalidation of any article or section, both the City and the Union agree to meet within thirty (30) days of such determination for the purpose of arriving at a mutually satisfactory replacement of such article or section.

**ARTICLE 30. MAINTENANCE OF CONDITIONS**

All matters pertaining to terms of employment and working conditions guaranteed by law and set forth in policy shall apply to the extent that they are not in conflict with the provisions of this agreement.

**ARTICLE 31. DURATION OF AGREEMENT**

Section 1.

Except as provided otherwise herein, subject to ratification by the Union and the City Commission of the City of West Palm Beach, this agreement shall be effective October 1, 2017 and shall continue in force and effect until its expiration date, September 30, 2020.

Section 2.

Negotiations for a successor agreement shall commence on or about March 1, 2020. Both parties shall discuss ground rules for negotiations at the first meeting and the general concepts of contractual changes to be proposed by both parties during negotiations in an effort to identify potential common areas for future agreement and process.

Should the City and the SEIU not reach a settlement for a successor agreement by September 30, 2020 then nothing in this agreement shall be construed to require the payment of wage increases of any kind.

**ARTICLE 32. SUBCONTRACTING**

The Union recognizes that the City's right to subcontract work is not a mandatory subject of bargaining. The City recognizes the Union's right to request impact bargaining in case the City subcontracts bargaining unit work. The City also recognizes the Union's right to appear before the City Commission to express its opinion on this matter.



**ARTICLE 33. PUBLIC SAFETY TELECOMMUNICATORS**

This Article shall apply only to employees in the classification of Telecommunicators assigned to work at the West Palm Beach Police Department.

Section 1. Exchange of Time

- A. Shift employees may exchange shifts, or parts of shifts, with another employee of the same classification subject to a twenty-four (24) hours advance notice and approval by the Division Manager or designee of each of the exchanging employees. Approval must be obtained from the supervisor, or designee, in charge of scheduling. Less advance notice may be accepted at the discretion of the immediate supervisor, for extenuating circumstances. Supervisors may exchange with another Supervisor or a Telecommunicator with the approval of the Division Manager or designee. The approval shall be based on the employees who are scheduled to work on the date and time of the exchange.
- B. Exchange of time under this section shall be subject to approval by the immediate supervisors affected.
- C. Telecommunicators and Telecommunicator Shift Supervisors shall not exchange shifts which result in the employee working more than sixteen (16) consecutive hours.
- D. Telecommunicators and Telecommunicator Shift Supervisors will be permitted to exchange shifts within the course of the division's eight (8) week block schedule. Payback of exchanged hours shall be completed within the eight (8) week block schedule.

Section 2. Shift and Vacation Bidding

- A. Shifts will be bid annually by seniority within the Dispatch Division. In the event that a vacancy occurs within the year, the vacancy will be rebid by seniority within the Dispatch Division by those interested in filling the vacancy. Should no telecommunicator volunteer for the position, it shall be filled by the telecommunicator with the least amount of classification seniority.
- B. Vacations shall be bid annually by seniority within the Dispatch Division in rounds. Each bid must include only shifts consecutive to one another. There will be no restrictions on the amount of time chosen in each round, as long as time is consecutive and does not exceed the employee's earned annual accrual.
- C. Telecommunicator Supervisor work and vacation shifts shall be bid by classification seniority within the supervisor classification.

All Shift and Vacation Bidding requests under this section shall be subject to approval of the Division Manager at their discretion based on the operational needs and functions of the Division.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have caused this agreement to be signed by their duly authorized representatives on the 15<sup>TH</sup> day of SEPTEMBER, 2017.

SIGNED:


SIGNED:

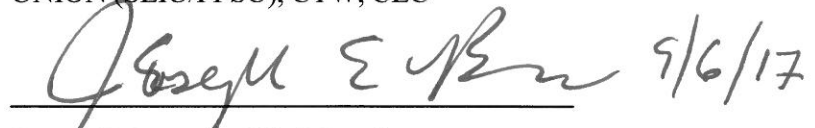
FOR

FOR

THE CITY OF WEST PALM BEACH

SERVICE EMPLOYEES INTERNATIONAL UNION/FLORIDA PUBLIC SERVICES UNION (SEIU/FPSU), CTW, CLC

  
Jeffrey L. Green, City Administrator

  
Joseph E. Brenner, Chief Negotiator

  
Jose Luis Rodriguez  
Chief Human Resources Officer

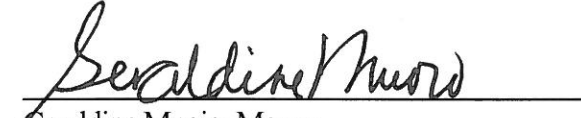
  
Alden Wilder, SEIU Delegate

  
Garrett Telfair, SEIU Delegate

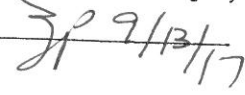
  
Christopher McClendon, SEIU Delegate

Ratified by City of West Palm Beach on the 15 day of Sept 2017

Ratified by the Union on the 11 day of Aug. 2017

  
Geraldine Muoio, Mayor

  
Daniel Kempa, SEIU Delegate

CITY ATTORNEY'S OFFICE  
Approved as to form and legality  
By:  9/13/17