

**AGREEMENT
BETWEEN
CITY OF PORT ORANGE, FLORIDA
AND
COASTAL FLORIDA PUBLIC EMPLOYEES
ASSOCIATION
LOCAL 5000**

PERC Certification #552

October 1, 2014 through September 30, 2016

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AGREEMENT

THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN THE City of Port Orange, hereinafter referred to as the "City", and the Coastal Florida Public Employees Association (PEA), hereinafter referred to as the "Association".

WITNESSETH:

WHEREAS, This Agreement reduces to writing the understandings of the City and the Association to comply with the requirements contained in Chapter 447, Florida Statutes, as amended; and

WHEREAS, This Agreement is designed to provide for an equitable and feasible procedure for the resolution of differences concerning the enforcement of this Agreement in accordance with grievance procedures contained herein; and

WHEREAS, This Agreement is entered into to promote a harmonious relationship between the Association and the City and to encourage more effective employee service in the public interest; and

WHEREAS, The Association understands that the City is engaged in furnishing essential public service which affects the health, safety and welfare of the general public, and the Association recognizes the need to provide continuous and reliable service to the public; therefore, it is hereby agreed:

ARTICLE 1

ASSOCIATION RECOGNITION

- 1.1 The City recognizes the Association as the exclusive collective bargaining representative for those employees in the bargaining unit, as defined in PERC Certification #552, dated August 26, 1981.

ARTICLE 2

MANAGEMENT RIGHTS

- 2.1 The Association recognizes that it is the function of management to determine and direct the policies and mode and method of providing its services without any interference in the management and conduct of the City's operations.
- 2.2 The City shall continue to exercise the exclusive right to take any action, not in conflict with provisions of this Agreement or in conflict with any federal or state law, it deems necessary or appropriate in the management of its operations and the direction of its work force. The City expressly reserves all rights, powers and authority customarily exercised by management, which the City has not expressly modified or delegated by express provisions of this Agreement or by federal or state law. Nothing in this Agreement shall be construed to limit or impair the right of the City to exercise its own discretion in determining whom to employ, and nothing shall be interpreted as interfering in any way with the City's right to alter, re-arrange, or change, extend, limit or curtail its operation or any part thereof unless specifically addressed in this Agreement, nor should this article be interpreted to be a waiver of any right of the Association or the members of the Association.
- 2.3 Without limiting the provisions of Sections 2.1 and 2.2, but in order to clarify some of the important rights retained by management, the City shall have the following management rights, unless such rights are specifically limited and in direct conflict with this Agreement:
- (a) To determine the size and composition of the work force, including the number and composition of employees assigned to any particular operations, shift or turn;
 - (b) To determine the number and type of equipment, vehicles, materials, and supplies to be used, operated, or distributed;
 - (c) To hire, rehire, and promote employees;
 - (d) To reward or reprimand, discharge or otherwise discipline an employee for just cause;
 - (e) To evaluate, maintain, and/or improve the efficiency of employees;

- (f) To create, abolish, or change job classifications and to determine job content and minimum qualifications for job classifications, and the amount and type of work to be performed;
- (g) To determine the assignment of work, and to schedule the hours and days to be worked on each job and each shift unless contrary to a specific provision of this Agreement;
- (h) To discontinue, temporarily or permanently, in whole or in part, its operations, and to transfer or assign all or any part of its operations to new facilities;
- (i) To require an employee at the City's expense, to take a physical or mental examination on an annual basis or more frequently if the City has reasonable cause to believe there is a health problem which impairs the employee's ability to perform his/her job or which appears to threaten the safety of the employee, other employees or the general public. If these findings may result in a job action, the employee, at his own expense, may obtain a second opinion, given by a health service or a physician or psychiatrist selected by the City;
- (j) To determine the location, method, means and personnel by which operations are to be conducted, including the right to contract and sub-contract existing and future work;
- (k) To make or change rules, policies and practices, not in direct conflict with any provision of this Agreement in accordance with State law;
- (l) To determine work schedules, work cycles, starting and quitting times, and the number of hours and shifts to be worked unless contrary to a specific provision of this Agreement;
- (m) To introduce new, different or improved methods, means and processes of conducting the operation, transportation, maintenance and service of the City in accordance with Article 12;
- (n) To determine the qualifications for positions in the City;
- (o) To determine the work to be performed during the employee's regular work day and require that all work be performed in a satisfactory and workman-like manner; and
- (p) To assign overtime work in accordance with provisions of this

Agreement.

- 2.4 The City reserves and retains in full and completely any and all management rights prerogatives and privileges except to the extent that such rights, prerogatives and privileges are specifically limited by some express provision of this Agreement, and has no obligation to bargain over the decision to exercise such right, prerogatives and privileges, or the effect of such decisions unless the changes involve changes in the terms and conditions of employment which must be negotiated with the Association.
- 2.5 The City's failure to exercise any function or right hereby reserved to it, or its exercising any function or right in a particular way, shall not be deemed a waiver of this right to exercise such function or right, nor preclude the City from exercising the same in some other way not in conflict with the express provisions of this Agreement.
- 2.6 The City, subject to State law, has the sole authority to determine its purpose and mission and the amount and allocation of the budget.
- 2.7 If, in the sole discretion of the City, it is determined that civil emergency conditions exist, including but not limited to riots, civil disorders, hurricanes or other weather conditions, or similar catastrophes, the provisions of this Agreement may be suspended during the time of the declared emergency except for the economic provisions.
- 2.8 It is agreed that every incidental duty connected with operations, enumerated in job descriptions, is not always comprehensive and the employees, at the discretion of the City, may be required to perform duties not within their specific job descriptions as related to the objectives and mission of the employee's particular Department.

ARTICLE 3

EMPLOYEE RIGHTS

- 3.1 The parties hereto agree not to interfere with the right of any employee to become a member of the Association, withdraw from membership from the Association, or refrain from becoming a member of the Association.
- 3.2 Nothing contained in this Agreement shall foreclose any employee covered by this Agreement from pursuing any right or remedy, not including arbitration, as defined in that Section available under this Agreement, without representation by the Association. Further, nothing contained in this Agreement shall foreclose any employee from discussing a non-contract problem directly with his immediate supervisor or other Departmental Official without the intervention of the Association, provided that the immediate supervisor or other Departmental Officer agrees to discuss and/or attempt to resolve the matter.
- 3.3 In matters involving a formal grievance filed pursuant to the grievance Article of this Agreement, the Association shall be given the right to be present at any meeting called for the resolution of such grievance.
- 3.4 The Association's failure to exercise any function or right hereby reserved to it, or its exercising any function or right in a particular way, shall not be deemed a waiver of this right to exercise such function or right, nor preclude the Association from exercising the same in some other way not in conflict with the express provisions of this Agreement.
- 3.5 There should be no discrimination against any employee by reason of Employee Organization membership or activity.
- 3.6 The City agrees that it is the right of bargaining unit employees to participate in the following activities without permission of the City and without being subject to discipline, discrimination or harassment:
- (a) to participate in informational pickets as an Association member;
 - (b) to hold office within the Association and to represent other members of the Association before representatives of the City on Association matters;
 - (c) to author articles for the Association's newsletter or the Association's flyers;

- (d) to participate in political screenings, political endorsements and/or political activities of the Association;
- (e) to speak to local, state or federal elected officials concerning Association concerns or issues;
- (f) to participate as a member of the Association's negotiation team or any other committee of the Association;
- (g) to appear in political or informational flyers;
- (h) to speak to citizens and/or civic groups about Association concerns or issues;
- (i) to participate in media press conferences and press statements concerning Association concerns or issues

This list is not considered to be all inclusive, but includes examples of the rights that the employees of this bargaining unit maintain in addition to other rights given to them by local ordinances and state and federal laws.

ARTICLE 4

STRIKES AND LOCKOUTS

- 4.1 The Association and bargaining unit members shall have no right to instigate, promote, sponsor, engage in, or condone any work stoppage, boycott, slow-down, strike, intentional disruption of City operations, or to withhold services for any reason. Each employee who holds a position in the Association also occupies a position of special trust and responsibility in maintaining and bringing about compliance with this Article, the strike prohibition of Section 447.505, Florida Statutes, and the Constitution of the State of Florida, Article I, Section 6.
- 4.2 The Association's officers, agents, stewards and other representatives agree that it is their continuing obligation and responsibility to promote 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 other City employees; and including their responsibility, in the event of breach of this Article or the law by other City employees; and upon the request of the City, to encourage and direct employees violating this Article or the law to return to work, and to disavow the strike publicly.
- 4.3 In addition to the penalties set forth in Section 447.507, Florida Statutes, any and all employees who violated any provision of the law prohibiting strikes or this Article may be disciplined, up to and including discharge, by the City. Any such action by the City pursuant to this Section shall not be grievable or arbitrable under the provisions of the grievance and arbitration procedures of this contract, except to determine if violations, in fact, occurred.
- 4.4 The circuit courts of this State shall have jurisdiction to enforce the provisions of this Section by ex parte injunction and contempt proceedings, if necessary.
- 4.5 For the purpose of this Article, it is agreed that the Association shall be responsible and liable for any act committed by any of their officers, agents, and/or representatives, which act constitutes a violation of State law, City ordinance, or policy, or the provisions herein. In addition to all other rights and remedies available to the City under State law, in the event of a breach of the provisions herein, the City shall have the right, without further notice, to suspend this Collective Bargaining Agreement.
- 4.6 The City agrees that there will be no lockouts for the duration of this Agreement.

ARTICLE 5

DUES DEDUCTION

- 5.1 Upon receipt of a written authorization from an employee covered by this Agreement, the City will deduct from the employee's pay each pay period the amount owed to the Association by each employee for dues. No authorization shall be allowed for payment of any collection of fines, penalties or special assessments. The City shall remit monies collected to the Treasurer of the Association monthly. The City remittance will be deemed correct if the Association does not give written notice to the City within thirty (30) calendar days of a remittance, of its belief with reasons stated therefore that the remittance is incorrect. It shall be the responsibility of the Association to notify the City Manager or his designee in writing of any change in the amount of dues to be deducted at least thirty (30) days in advance of said change.
- 5.2 If there is an amount deducted in excess of what is authorized by this Agreement and forwarded to the Association, the employee affected shall seek recourse with the Association and not the City. Association dues only will be deducted once a week and thereafter, will be transmitted to the Association monthly. The City will not deduct other Association assessments. The Association will indemnify, defend, and hold the City harmless against the City on account of payroll deduction of Association dues.
- 5.3 An employee may revoke his authorization for deduction of dues provided the employee gives thirty (30) days written notice to the City and the Association. Upon receipt of such notification, the City shall terminate dues on the pay date immediately following the expiration of the thirty (30) day notice period.
- 5.4 No deduction shall be made from the pay of an employee for any payroll period in which the employee's net* earnings for that payroll period are less than the amount of dues to be checked off.
- (*) Net earnings shall mean net after required deduction of federal taxes, social security, pensions, credit union, and health and life insurance.
- 5.5 In the event the Association delivers additional dues authorization to the City Human Resources Director, it is agreed and understood that the City shall have thirty (30) days from the date of delivery in which to commence the dues deduction procedure.

ARTICLE 6

PERSONNEL RECORDS

- 6.1 Each employee covered by this Agreement shall have the right to inspect his official personnel file provided, however, that such inspection shall take place during working hours at the location where the official personnel file is kept. The employee shall have the right to make duplicate copies, at his own expense, of any item contained in his official personnel file.
- 6.2 Employees shall have the right to file a written response to any letter of reprimand or other document which is placed in the employee's official personnel file, as a result of supervisory action or citizen complaint. At the employee's request, any such written response shall be included in the employee's official personnel file together with the letter of reprimand or other document against which it is directed.
- 6.3 The City and the Association agree to forward all requests for employee personnel records to the Human Resources department to be processed through the City Clerk's Office and be distributed in accordance with applicable law. The City agrees to notify said employee of these requests.

ARTICLE 7

SENIORITY

- 7.1 For the purpose of this Agreement, employees shall have two (2) types of seniority; Department Seniority and City Seniority. Department Seniority is defined as the length of continuous, uninterrupted service in one of the Departments. City Seniority is defined as the length of continuous, uninterrupted service with the City, measured from the employee's initial or adjusted date of employment.
- 7.2 Continuous service shall be considered as having been interrupted when the employee:
- (a) Resigns;
 - (b) Is discharged;
 - (c) Takes unauthorized leave of absence leave;
 - (d) Is absent due to a lay-off for more than twelve (12) months;
- or,
- (e) For purposes of Department Seniority only, returns to former Department after having been promoted, or after having been transferred to a different Department after the end of the probationary period.
- 7.3 Seniority shall be utilized for the following purposes:
- (a) Vacations for each calendar year shall be drawn by employees on the basis of Department Seniority provided, however, that the Department shall retain the right to disregard seniority preference in the event it becomes necessary to do so in order to provide adequate coverage during any vacation period. Nothing contained herein shall be interpreted as restricting the Department's right to cancel all vacations during any given period in the event of disaster or emergency.
 - (b) In the event of a non-promotional vacancy within the Department, seniority will be considered along with skills, abilities, and the requirements of the job
 - (c) In the event of a reduction in force (RIF), employees shall be laid-off in the inverse order of their City seniority within their Department. An employee ranked higher in Seniority shall be given an opportunity to revert to any non – supervisory position within the Department, provided he is fully qualified to perform work in that position classification. All temporary and probationary employees

in the Department shall be laid-off before any permanent employee is laid-off or reduced in classification.

In the event of a RIF, the City agrees to meet with the union prior to the RIF to review and discuss the requirements and parameters of the RIF.

- (d) Employees shall be recalled from lay-off in accordance with their City seniority in the Department from which they were laid-off. No new employees shall be hired within that Department until all employees on lay-off status within that Department have had an opportunity to return to work in positions that they are qualified to perform. No laid-off employee shall retain recall rights beyond twelve (12) months from the date of lay-off. If they are rehired after the twelve (12) month period, they will start as new employees. It is the responsibility of the employee to keep current the location and telephone number where he can be reached for recall. Employees recalled shall report to work within ten (10) working days of the recall notification.
- (e) Seniority of employees who are laid-off up to twelve (12) months will be adjusted for the time of lay-off. Employees who are laid-off for twelve (12) months or more and are later rehired, start as new employees with no accrued seniority.
- (f) Departmental Seniority shall be utilized for the purpose of selecting shift schedules for shift personnel. Separate schedules will be maintained for shift supervisors and operators. The individual with the most departmental seniority shall select his shift first and others in turn shall select their shift. However, seniority shall not apply for shift selection until the individual has been in the position for six (6) months. The six (6) month waiting period shall not apply if two (2) or more operators are on probation. In that event, it shall revert back to departmental seniority for the individuals on probation; however, the individuals on probation will still receive last selection amongst other operators until their six (6) months in position and probationary period has ended.
- (g) In the event of a departmental or divisional re-organization by the City, the City shall meet with the PEA to address Seniority of the affected employees.

7.4 The City will give preference over new hires to the laid-off employee in filling job openings in the laid-off employee's Departmental classifications, provided the employee is qualified to perform the work, and is eligible.

Provided, that the decision on qualifications and eligibility shall not be subject to the grievance and arbitration procedures of this Agreement.

- 7.5 An employee on lay-off shall retain his seniority but shall not accrue any benefits. Should an employee be rehired after having been on lay-off for more than twelve (12) consecutive months, the employee will be considered a new employee for purposes of seniority.
- 7.6 If more than one employee is hired on the same day or has the same adjusted date of employment, seniority shall be determined by the last four (4) digits of their social security number and the employee with the lowest number shall be considered the employee with the most seniority, subject to this Article.

ARTICLE 8

PROBATIONARY EMPLOYEES

- 8.1 All new members in the Department shall be classified as probationary employees for the first one hundred and eighty three (183) calendar days of continuous, uninterrupted employment during which time such employees may be laid-off, disciplined, or discharged with or without cause and without recourse to the grievance and arbitration procedures of this Agreement but during such period, such new members shall be subject to all other terms and conditions of this Agreement except as limited in the Agreement. At the discretion of the City, probation may be extended for up to eighteen (18) months in order to allow sufficient time for a new employee to attain the minimum certifications and/or licenses of the position. Shorter periods of employment shall not be cumulative. Provisions as to seniority shall not apply to probationary employees; rather, seniority shall date back to the initial or adjusted date of employment after an employee successfully completes his probationary period. A decision by the City to extend or not extend the probationary period for a new employee shall not be subject to the grievance and/or arbitration procedures of this Agreement.
- 8.2 Employees who have been promoted to a new classification or selected to fill a vacancy within the bargaining unit shall serve a ninety (90) calendar day probationary period in the new classification or filled position, except that, at the discretion of the City, probation may be extended for up to eighteen (18) months in order to allow sufficient time for an employee to attain the minimum certifications and/or licenses of the position to which he or she was promoted. If at any time during the probationary period the promoted employee is found by the City, at its sole discretion, not to be suited for the position to which he was promoted, the employee shall be returned to his former classification. A decision by the City to extend or not extend the probationary period for a promoted employee shall not be subject to the grievance and/or arbitration procedures of this Agreement.
- 8.3 All probationary employees as defined in Section 8.1 of this Article shall be entitled to the leave and holiday provisions of this Agreement.
- 8.4 Employees who are in their initial probationary periods will have limited accrued sick and annual leave, and are not generally permitted to take annual leave at all until they have completed their first three months of service. The City recognizes, though, that probationary employees may become legitimately sick or otherwise require time away from work to handle real emergencies before they have accrued sufficient leave to cover their time off. In these situations, the City Manager shall have the

discretion to grant probationary employees excused time off under the following provision:

- a. If the probationary employee has completed at least 90 days of City service, he/she may be granted unpaid leave by the City Manager for the period of time which he/she needs to be off. This leave shall be granted only for clear and compelling cause, and in no event shall the duration of this leave exceed forty (40) hours during the entire term of the employee's probationary period without the express written approval of the City Manager. The City Manager shall have complete discretion as to whether or not to grant an employee in his/her initial probationary period emergency and/or sick leave under this provision and an employee requesting such leave must provide any relevant information concerning the need for leave to the City Manager upon request. In addition, if such leave is granted, the City shall add on to the employee's probationary period an amount of time equivalent to the amount of leave which the employee has taken under this section to allow the employee to be evaluated for his/her full probationary period. The City reserves the right to consider unpaid leave taken under these provisions as a factor in whether the employee should be retained as an employee beyond the end of his/her probation period.

ARTICLE 9

LABOR MANAGEMENT COMMITTEE

- 9.1 There shall be a Labor Management Committee which shall consist of two (2) members who shall be designated, in writing, by the Association and two (2) members who shall be designated by the City.
- 9.2 The Labor Management Committee may meet on a semi-annual basis, or more or less often by mutual consent; and such meetings may be held during working hours. The purpose of these meetings shall be to discuss problems and subjects of mutual concern; however, the Committee shall not engage in collective bargaining or the resolution of any grievances. This Committee is to serve in an advisory capacity only.

ARTICLE 10

BULLETIN BOARDS

10.1 The City shall provide the Association with a Bulletin Board two (2) square feet in size in each Department.

10.2 The Association agrees that it shall use space on the Bulletin Boards provided for in Section 10.1, for the posting of the following:

Notices of Association Meetings
Association Elections of Officers (not including representation elections)
Reports of Association Committees
Rulings and Policies of the Association
Recreational & Social Affairs of the Association
Notices of Meetings by Public Bodies
Notices of Ratification Meetings
Contract Administration

In no event shall the Bulletin Boards be used to post political material or controversial material which adversely reflects upon the City of Port Orange, its independent agencies, its employees, elected officials, or any labor organization among its employees.

10.3 All Association materials placed on the Bulletin Boards shall be signed by the Association representative or his designee, and copies of any materials posted shall be sent to the Human Resources Director of the City.

10.4 Failure of the Association to follow the procedures for the proper posting of materials and notices on the Bulletin Boards shall result in the materials or notices being removed from the Bulletin Boards by the City and in suspension of all Bulletin Board privileges.

ARTICLE 11

DISCIPLINARY ACTION

- 11.1 In the event an employee is discharged, suspended without pay, or demoted for disciplinary reasons, the City agrees that he shall be provided with written notification of the action. This notification shall be hand delivered to the employee or sent by certified mail, return receipt requested, to the address in the City Human Resources Department records.
- 11.2 Except in extraordinary circumstances, before the employee is discharged or suspended without pay for disciplinary reasons, the notification described in Section 11.1 will be provided to the employee in advance of the action so as to give the affected employee an opportunity to present his position.
- 11.3 No employee shall be disciplined except for just cause.
- 11.4 No discipline, except termination, shall become effective until such time that the employee has exhausted the appeal process or until such time for an appeal has expired.

ARTICLE 12

TUITION REIMBURSEMENT AND TRAINING

- 12.1 The City agrees to reimburse the employee for all approved classes taken subject to availability of funds as appropriated by the City Council and the expenditure of such funds as approved in advance by the City Manager.

The City shall not reimburse an employee for classes that are not passed with a grade of "C" or better or a passing grade on a pass/fail system. The City shall not reimburse an employee for courses if the employee fails to turn in grades within 3 months after completion of course work.

Classes may be taken only after an employee covered by this agreement has completed 12 months of service.

Certain employees are required to have certain licenses and certifications in order to perform their job functions and to complete continuing education hours for those certifications and licenses. The City, during the term of this agreement, agrees to pay for the courses necessary to obtain licenses and certifications as well as the required continuing education hours. Enrollment in courses is subject to appropriation of funds by the City Council and advanced approval of the courses by the City Manager. Employees must pass all course work and provide to the City proof that they have successfully completed the course. The employee shall reimburse the City for all cost and expenses associated with continuing education hours, certifications, and licenses should the employee not pass.

- 12.2 Each employee shall incur a one (1) year period of obligated service to the City starting from the last date of any class paid for by the City. Should the employee fail to comply with the obligated service he shall be required to repay the City for the course.
- 12.3 All tuition reimbursement and training costs paid by the City will be administered in accordance with IRS regulations pertaining to fringe benefits.
- 12.4 The City will pay for renewal of Commercial Driver Licenses (CDL) for those employees required by the City to possess such CDL. The employee must pay for the initial cost of the license.

ARTICLE 13

LEAVE OF ABSENCE

- 13.1 The City of Port Orange will grant leave to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA) and in accordance with the City Family and Medical Leave Act Policy. This Policy, as amended from time to time, is set forth in the City's Administrative Policies Manual as Policy 1-22.
- 13.2 Holidays, sick leave, annual leave, and any other benefits based on time spent in the employ of the City shall not accrue (or be credited) during a leave of absence without pay. Employee shall be responsible for insurance premiums for single and dependent coverage during unpaid leave of absence. If permitted by the Retirement Plan, the employee may maintain his retirement credit by paying both his and the City's share of the Retirement Plan premiums.
- 13.3 Longevity increases, merit increases, and any other increases for which an employee may become eligible based in whole or in part on length of service with the City shall not be credited during any period of leave of absence without pay. An employee shall return from leave of absence to the same pay rate as at the time of commencement of leave of absence.

ARTICLE 14

GRIEVANCE AND ARBITRATION PROCEDURES

- 14.1 In a mutual effort to provide a harmonious working relationship between the parties to this Agreement, it is agreed and understood that there shall be a procedure for the resolution of grievances between the parties and that such procedure shall cover grievances involving the application or interpretation of this Agreement.
- 14.2 Every effort will be made by the parties to settle any grievance as expeditiously as possible. Any grievance not answered by management within the prescribed time limits shall automatically advance to the next step. Should the grieving party fail to observe the time limits as set forth in the steps of this Article, his grievance shall be considered conclusively abandoned.
- 14.3 The employees are permitted to select a steward for each Department in the City that is covered by this Agreement. The stewards shall be permitted reasonable access for reasonable periods of time to conduct workplace investigations and discussions to handle specific grievances. The exercise of such access rights by the steward shall not interfere with their duties or the duties of other employees. An Employee Representative of the Association, designated by the President, shall be permitted reasonable time to handle specific grievances and matters of interpretation of this Agreement in the event that the Department steward is unavailable and upon proper approval of the Department Heads involved. The City will provide the Public Employees Association, on an annual basis, with a complete roster of the bargaining unit to include present position and pay scale.
- 14.4 Grievances shall be presented in the following manner:
- Step 1. The employee shall first take up his grievance with his immediate supervisor within ten (10) work days of the occurrence of the event(s) which gave rise to the grievance or from the date on which the employee becomes knowledgeable of the cause of action. If the event(s) which gave rise to the grievance occurred at a time when the employee was on annual leave, sick leave, or other compensated leave, the ten (10) work day period shall commence running immediately upon the employee's return from such compensated leave. The first step (between the employee and his immediate supervisor) shall be on an informal and oral basis and shall not involve the Association or any other representative of the employee, unless requested by the employee.

Step II. Any grievance which cannot be satisfactorily settled with the immediate supervisor shall be reduced to writing by the employee or his designee and shall next be taken up with the Department Head. All grievances proceeding to Step II must be reduced to writing and must contain the following information:

- (a) The specific Article and Section of the Agreement alleged to have been violated by the City;
- (b) A full statement of the grievance, giving a complete description of the facts, dates and times of the events involved in the alleged violation, and the specific remedy desired by the grievant;
- (c) Signature of grievant (or the signature of all employees in the case of a group of employees filing a single grievance) and date(s) signed; and,
- (d) Designation of the specific Association Representative (must be an elected officer, Representative or steward) if the grievant requests Association representation.

Failure of the grievant(s) to substantially comply with any part of this Section shall make the grievance null and void. Such grievance shall be presented to the supervisor in writing, within five (5) work days of the completion of Step I. The Department Head shall, within five (5) work days after presentation of the grievance render his decision of the grievance in writing, unless a longer period of time is mutually agreed upon in writing.

Step III. Any grievance which cannot be satisfactorily settled with the Department Head shall next be taken up with the Human Resources Director, or his designee, either through a Representative of the Employee Organization and the employee, or by the employee himself at the employee's option. The grievance, as specified in writing in Step II, shall be discussed by and between the employee and/or the Representative of the Employee Organization and the Human Resources Director, or his designee, within five (5) work days after completion of Step II. The Human Resources Director or his designee shall, within seven (7) work days after this discussion, (or such longer period of time as mutually agreed upon in writing) render his decision in writing.

Step IV. Any grievance which cannot be settled with the Human Resources Director shall next be taken up with the City Manager or his designee, either through a presentation of the Employee Organization and the employee, or by the employee himself at the employee's option. The

grievance as specified in Step II shall be discussed by and between the employee and/or the Representative of the Employee Organization and the City Manager, or his designee, within five (5) work days after the completion of Step III. The City Manager or his designee shall, within fifteen (15) work days after this discussion, (or such longer period of time as mutually agreed upon in writing) render his decision in writing.

Step V - Arbitration. In the event a grievance processed through the grievance procedure has not been resolved at Step IV above, the Association may request that the grievance be submitted to arbitration within fifteen (15) calendar days after the City Manager renders a written decision on the grievance. The arbitrator may be an impartial person mutually agreed upon by and between the parties. If an impartial arbitrator cannot be agreed upon within ten (10) calendar days after the grievance is submitted to arbitration, the Association shall request the Federal Mediation and Conciliation Service to furnish a panel of seven (7) Arbitrators within twenty (20) work days after the grievance is submitted to arbitration. Within five (5) work days of receipt of the panel, each party shall have the option to alternatively strike three (3) names from the list.

Should the Association fail to request the panel of Arbitrators within the prescribed time period the grievance shall become null and void.

The City and the Employee Organization shall attempt to mutually agree, in writing, as to the statement of the grievance to be arbitrated prior to the arbitration hearing, and the arbitrator, thereafter, shall confine his decision to the particular grievance thus specified. In the event the parties fail to agree on the statement of the grievance to be submitted to the arbitrator, the arbitrator will confine his consideration and determination to the written statement of the grievance presented in Step II of the grievance procedure. The arbitrator shall fashion an appropriate remedy for violations of the provisions contained in this Agreement.

The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this Agreement or any part thereof, or amendment thereto. The arbitrator shall have no authority to consider or rule upon any matter which is stated in this Agreement not to be subject to arbitration or which is not a grievance as defined in this Agreement; nor shall this Agreement be construed by the arbitrator to supersede applicable laws in existence at the time of signing of this Agreement, except to the extent as herein provided. The arbitration hearing shall be conducted in accordance with the rules of procedure promulgated by the Federal Mediation and Conciliation Service.

Each party shall bear the expenses of its own witnesses and of its own

representatives for purposes of the arbitration hearing. The impartial arbitrator's fees and related expenses and expenses of obtaining a hearing room, if any, shall be paid by the party declared by the arbitrator to be the loser of the arbitration. The arbitrator shall have the obligation in resolving the case before him/her to declare which party has lost the decision. If the Arbitrator fails to specify the losing party, the Arbitrator's fees and related expenses and expenses in retaining a hearing room, if any shall be equally divided between the parties. Any party desiring a transcript of the hearing shall bear the cost of such transcript unless both parties mutually agree to share said cost.

Copies of the arbitrator's award shall be furnished to both parties within thirty (30) calendar days of the close of the arbitration hearing. The arbitrator's award shall be final and binding on the parties.

- 14.5 Where a grievance is general in nature in that it applies to a number of employees rather than a single employee, or if the grievance is directly between the Employee Organization and the City, such grievance shall be presented by the Association's Representative, in writing, directly to the City Manager, Step IV, within ten (10) work days of the occurrence of the event(s).
- 14.6 Consistent with the provisions of the Florida Public Employees Relations Act, Chapter 447, Florida Statutes, unless amended, it is mutually acknowledged and agreed that this Agreement shall be administered within the amounts agreed to by the City Council for funding of the Agreement. Accordingly, and notwithstanding any other provision of this Agreement, the arbitrator shall have no authority, power, or jurisdiction to construe any provision of this Agreement to result in, obligate, or cause the City to have to bear any expense, debt, cost, or liability which would result, directly or indirectly, in the City exceeding the amounts initially agreed to by the City Council for the funding of this Agreement as agreed upon by the parties. Any such award which contravenes or is not in compliance with the provisions of this paragraph shall be null and void.
- 14.7 A member of the Association shall have the option of utilizing the Civil Service appeal procedure or the grievance and arbitration procedure set forth in this Article, but such employee cannot use both the Civil Service appeal procedure and the procedure of this article. A grievance pertaining to a specific article of this contract must be filed as a grievance under the provisions of this contract. Civil Service issues not addressed in this contract cannot be grieved under the provisions of this contract. At the time that an employee initiates a written grievance, he/she shall state in the body of the grievance whether the grievance is filed under the Labor Agreement or the City's Civil Service Rules. If the employee fails to make

this statement, the employee shall be deemed to have filed the grievance under the Labor Agreement. At no time following the filing of a written grievance may the employee change his/her selection of which procedure and standards the grievance shall be processed under.

ARTICLE 15

HOLIDAYS

15.1 It is recognized that the City will close its offices for seven (7) official holidays. The City will recognize the following as paid holidays for employees:

1. Thanksgiving Day
2. Friday after Thanksgiving
3. Christmas Day
4. New Year's Day
5. Memorial Day
6. Fourth of July
7. Labor Day

Floating Holiday – Twenty four - hours will be added to the employee's annual leave accruals on the first pay period after the first of January for the employee to use as he or she wishes. The hours are to be scheduled in the same fashion as annual leave. Sixteen of these hours are in recognition of a 2008 policy change in which the City remains open for Martin Luther King's Birthday and Good Friday where the City had previously been closed.

Employee Birthday - eight - hours will be added to the employee's annual leave accruals on the first pay period after the first of October for the employee to use as he or she wishes. The hours are to be scheduled in the same fashion as annual leave.)

In order to qualify for the four (4) annual leave accruals for the Floating Holiday, Birthday Holiday, Martin Luther King Birthday, and Good Friday, an employee must have been employed for the entire 12 consecutive previous months. After 12 consecutive months of service, employees shall be eligible to receive the additional hours added to their annual leave accruals. After new employees complete their first consecutive 12 months of service will receive the additional hours added to their annual leave accruals. Annual leave accruals will only be earned for Martin Luther King Birthday and Good Friday in the event the City remains open for these holidays.

15.2 For those holidays where the City is officially closed for business and a holiday falls on an employee's off duty day, he shall receive holiday pay at his regular rate of pay.

- 15.3 An employee who performs work on a holiday when the City is officially closed for business shall receive payment at one and one-half ($1 \frac{1}{2}$) times his regular rate of pay for all hours worked in addition to holiday pay for the hours worked on the holiday. Under no circumstances will holiday pay exceed two and one half ($2 \frac{1}{2}$) times one (1) day's pay at the regular rate, unless there is required overtime.
- 15.4 For those holidays where the City is officially closed for business and a holiday falls while any employee is on vacation, he shall receive an additional day's vacation in lieu thereof.

ARTICLE 16

ANNUAL LEAVE

- 16.1 Annual Leave is provided for the purpose of allowing employees time off from their work for vacation or for necessary time to attend to personal business. The City shall, in conjunction with the Association, develop a standardized leave request form that shall be utilized by all departments that employ a bargaining unit member. Any request for annual leave shall be answered within three (3) work days following the date that the request was presented to management.
- 16.2 In computing annual leave time, holidays or regular days off immediately preceding the commencement of, falling within, or following the termination of an employee's annual leave, shall be excluded from the computation of the employee's annual leave time.
- 16.3 The following sections 16.3 A-C apply to current employees hired before prior to November 8, 2011.
- A. General Terms of Accrual - Annual leave shall be accrued by eligible employees hired prior to November 8, 2011 from the most recent day of employment under the conditions hereinafter stated, but no annual leave shall be granted until an employee has completed three (3) months of continuous service. An employee who is paid for less than twenty (20) hours of work in a week shall accrue no annual leave credit for such week of service. Provided, however, that the limit of twenty (20) hours shall not apply to an employee on annual leave, sick leave, or other authorized leave with pay who would otherwise have worked at least twenty (20) hours.
- B. Accrual for Full-Time Employees Hired Prior to November 8, 2011
Each full-time employee working a forty (40) hour week shall accrue annual leave at an equally prorated amount per pay period as follows. In the event an employee has worked less than a full year, the total number of accrued hours of annual leave will be reduced proportionately;

<u>Length of Continuous Service</u>	<u>Hours Accrued Each Year</u>
Less than 5	100
5 through 7	116
8 through 10	132

11 through 15	148
16 through 19	164
20 through 24	180
25 or more years	196

- C. Accrual for Part -Time Employees Hired Prior to November 8, 2011- Designated part-time employees who work at least twenty (20) hours, but less than forty (40) hours per week shall accrue annual leave at one-half (1/2) the rate of permanent full-time employees. Such employees may not use annual leave until after three (3) months have passed from their date of continuous uninterrupted employment. Temporary, seasonal, and part-time employees working less than twenty (20) hours per week shall not accrue annual leave.

16.4 Reserved.

16.5 Maximum Accrual - Annual leave normally is to be taken in the anniversary year in which it is earned. Current Employees hired prior to November 8, 2011, may accumulate unused annual leave to a maximum of three hundred twenty hours (320). Leave indicated on the paystub received on the second to last pay check in September in excess of 320 hours shall be paid or deferred into the employee's ICMA-RC 457 Plan account or other City adopted 457 Plan at a rate of one hour of leave for one hour of pay at the employee's regular rate of hourly pay in effect on September 15 of each year. This payment will be made on or about the last pay check received in September of each year.

16.6 Current Employees hired prior to November 8, 2011 will be permitted to use annual leave in units of not less than one-half (1/2) hour subject to approval of their supervisor. In case of conflict, annual leave shall be granted on the basis of seniority.

16.7 The following sections (16.7 A-F) apply to employees hired on or November 8, 2011:

- A. Accrual for full time employees working a forty (40) hour week hired on or after November 8, 2011 shall accrue no more than ninety six (96) hours of Annual Leave each year.
- B. Part-Time Employees hired on or after November 8, 2011 that are designated part-time employees who work at least twenty (20) hours per week, but less than forty (40) hours per week shall receive forty eight (48) hours of Annual Leave per year. Temporary, seasonal, or part-time employees working less than twenty (20)

hours per week shall not accrue annual leave.

- C. Employees hired on or after November 8, 2011 will accrue Annual Leave from the most recent day of employment under the conditions hereinafter stated, but no annual leave shall be granted until an employee has completed three (3) months of continuous service. Should a new probationary employee, as defined in Article 8, fail to successfully complete the probationary period or should such employee be discharged the employee shall not be credited any annual leave.
- D. Reserved.
- E. Leave in excess of one hundred (100) hours as indicated on the second to last pay stub received in September of each fiscal year shall be forfeited.
- F. Employees will be permitted to use annual leave in units of not less than one-half (1/2) hour subject to approval of their supervisor. In case of conflict, annual leave shall be granted on the basis of seniority.

16.8 Termination, Resignation, Retirement or Death – An employee who is terminated for cause or who resigns without a two (2) week notice shall not be eligible for compensation for any accumulated unused annual leave. An employee who resigns with a two (2) week notice or retires under the provisions of the City's pension plan (or in the event of death, his/her heirs) shall be compensated for all accumulated unused annual leave up to the maximum accrual as provided for in Sections 16.4 and 16.6E. In case of death, compensation shall be paid to the surviving spouse or the employee's estate. In lieu of a cash payment, the employee may choose to have the accrued leave payment deposited into the employee's ICMA-RC 457 (deferred compensation) Plan account, up to the maximum provided by law, by completing a deferral form in the month prior to his or her termination.

16.9 Employees taking annual leave shall have their accounts charged for the actual number of scheduled hours absent because of leave.

ARTICLE 17

HOURS OF WORK AND OVERTIME

- 17.1 The purpose of this Article is to define hours of work but nothing in the Agreement shall be construed as a guarantee or limitation of the number of hours to be worked per day, days per week, or for any other period of time, except as may be specifically provided herein.
- 17.2 Unless changed by the City, forty (40) hours in a seven (7) day period shall constitute a normal work week for an employee covered by this Agreement, except as hereinafter provided. Nothing herein shall guarantee an employee payment for a forty (40) hour work week unless the employee actually worked a forty (40) hour work week. Holidays will count as hours worked only if the employee is required to work the holiday or was scheduled to work on the holiday and was sent home by management. In this case, if the employee works more than 32 additional hours during this week pay period, the additional hours will be paid at the overtime rate of one and one half ($1 \frac{1}{2}$) times regular pay. During pay periods in which a holiday occurs, employees who are not shift employees and who are not required to work on the holiday shall be paid for hours worked in excess of their normally scheduled hours, at a rate of one and one half ($1 \frac{1}{2}$) their normal rate of pay. Hours worked in excess of forty (40) hours per week shall be compensated at the rate of one and one half ($1 \frac{1}{2}$) times the employees regular rate of pay. Nothing shall guarantee the employee payment for overtime unless the employee works more than forty (40) hours in a week. Sick leave, annual leave, bereavement leave, and jury duty shall not count as hours worked for the purposes of overtime. However, if the City requires an employee to work mandatory overtime extending beyond the end of his/her normal work shift, the employee will be paid at one and one-half ($1 \frac{1}{2}$) times his/her normal rate of pay.
- 17.3 An employee who has left his normal place of work and who is "called back" for overtime work and is required to report to work within eight (8) hours of notification shall receive a minimum payment of three (3) hours at time and one-half ($1 \frac{1}{2}$) or the actual hours worked at time and one half ($1 \frac{1}{2}$), whichever is greater. Provided that this Section shall not include scheduled overtime and shall not apply if hours worked as a result of a call back extend into the start of the employee's regular work period. Scheduled overtime shall be defined as overtime scheduled with the employee prior to the employee leaving the work site, or overtime scheduled to commence when the employee is provided more than eight (8) hours notice.

- 17.4 Upon proof of attending court pursuant to subpoena or other court order involving a job-related case, not as a plaintiff in litigation against the City, an off-duty employee will receive pay equal to one and one-half (1 ½) times the employee's regular straight time hourly rate of pay for the hours he attends court. Provided, that such employee shall receive a minimum of three (3) hours pay at the rate of one and one-half (1 ½) the employee's regular straight time hourly rate for such attendance. The City reserves the right to institute any procedure or system it deems appropriate to measure, record, and/or verify attendance and duration of off-duty court appearances. In the event any employee claims time not actually spent in an off-duty court appearance, he may be discharged or disciplined. The employee will sign over to the City, all subpoena and witness fees, excluding travel fees, unless City transportation is furnished, in which case such travel fee will be signed over also.
- 17.5 No employee shall authorize overtime for himself but shall be entitled to work overtime as assigned or authorized by his supervisor. It is understood that the City has the right to schedule overtime work as needed, and in a manner most advantageous to the City.
- 17.6 Overtime hours shall be distributed as nearly equal as possible among employees as long as such sharing will not delay or increase the cost of the City's operations.
- 17.7 All employees shall be required to report to work on time, shall not leave the job early, shall be prompt in reporting to their assigned duties, and shall faithfully perform their duties. If an employee is late reporting to work, that time will be charged as time without pay. A supervisor may use discretion in allowing employees to use annual leave to offset infrequent valid instances of tardiness.
- 17.8 Employees covered by this Agreement shall be given forty-eight (48) hours notice of any change in their regular hours of work, unless an emergency or operational emergency necessitates a quicker change. An operational emergency is defined as the requirement to have one (1) licensed operator on duty at all times. Should it be necessary to change schedules to insure one (1) licensed operator is on duty; schedules can be changed without the forty-eight (48) hour requirement and without paying overtime. Except for the operational emergency or emergency action, personnel will receive pay at one and one-half (1 ½) times the regular rate of pay for the first eight (8) hours of the changed shift.
- 17.9 Nothing herein shall require the payment of compensation when an insubstantial amount of time (less than 15 minutes) is worked in excess of

the length of the employee's normal shift.

- 17.10 There will be no duplication of premium payments and no claims that provide for "overtime on overtime".

ARTICLE 18

AUTHORIZED USE OF PRIVATE AUTOMOBILES

- 18.1 Any employee authorized to use his private automobile in the performance of his official City duties will be compensated at the approved City rate corresponding to the most current "standard mileage rate" as set by the I.R.S. for business miles driven. Such mileage shall be computed based on the distance between the employee's regular duty station and the place of assignment or the employee's residence and the place of assignment, whichever is shorter.
- 18.2 A written claim for compensation under this Article must be submitted to the Department Head by the employee during the week that the private automobile was used. Failure to follow this procedure will result in the claims being denied.

ARTICLE 19

SICK LEAVE

- 19.1 Sick leave benefits shall not be considered as a right to be used at an employee's discretion. Sick leave is an allowance granted by the City to provide employees with reasonable time off during periods of personal or family illness or injury and to attend medical appointments without loss of pay. This includes time off to recover from off-duty illness or injury that prevents an employee from being able to adequately perform their required job duties and functions. All employees desiring to utilize sick leave are required to notify their supervisor as early as possible and at least one (1) hour in advance of their scheduled reporting time each day of their intended absence due to illness, injury or medical appointment. Extenuating circumstances to the above shall be given due consideration. Such notice shall be given each day of the absence and the employee shall notify the supervisor as soon as possible of the employee's intention to return to work. Abuse of sick leave privileges shall be considered cause for disciplinary action or dismissal. The City may require a physician's certificate to authenticate an absence or to determine qualifications to resume work. The decision to require a doctor's certificate shall not be subject to the grievance and arbitration procedures of this Agreement.
- 19.2 General Terms of Accrual - Sick leave shall accrue from the most recent day of continuous uninterrupted employment under the conditions hereinafter stated. An employee who is paid for less than twenty (20) hours of work in a week shall accrue no sick leave credit for such week of service. Provided, however, that the limit of twenty (20) hours shall not apply to an employee on annual leave, sick leave, or other authorized leave with pay who would otherwise have worked at least twenty (20) hours. No employee shall be permitted to use sick leave for any period spent on unauthorized leave or participating in an unlawful work stoppage.
- a. Accrual for Full-Time Employees -Each full-time employee shall accrue sick leave at an equally prorated amount per pay period to 96 hours per calendar year. In the event an employee has worked less than a full year, the total number of accrued hours of sick leave will be reduced proportionately.
 - b. Accumulation and Pay-Off of Sick Leave - Subject to the provisions of this Agreement employees may accumulate sick leave from year to year for use in future years as needed. Employees may exchange sick leave for pay as provided herein. The maximum unused sick leave that may be exchange for pay in any one year is

one hundred ninety-two (192) hours. No employee will be authorized to reduce their sick leave accruals below forty (40) hours when selling back sick leave. No employee accruals will be reduced below the forty (40) hour minimum when selling back sick leave.

- c. Accrual for Part-Time Employees - Designated part-time employees who work not less than twenty (20) hours per week shall accrue sick leave at an equally prorated amount per pay period to yield forty eight (48) hours per calendar year. In the event an employee has worked less than a full year, the total number of accrued hours of sick leave will be reduced proportionately.

19.3

Accumulation of Sick Leave and Sick Leave Sell Back

Subject to the provisions of this Agreement employees may accumulate sick leave from fiscal year to fiscal year for use in future years as needed. As of October 1, 2010, the maximum amount of sick leave an employee will be able to carry forward into the following fiscal year will be seven hundred fifty (750) hours. Employees hired after November 8, 2011 will be limited to five hundred (500) hours. Only employees who have already accrued in excess of seven hundred fifty hours of sick leave as of November 8, 2011 will be able to carry forward each fiscal year a sick leave balance equal to their total sick leave accruals as of October 1, 2010. All accrued sick leave hours as reflected on the second to last pay check received each September which are in excess of the accrual cap amounts for each particular employee shall be paid off by the City or, at the employee's option, deferred into the employee's ICMA-RC 457 Plan account at the employee's regular hour rate for each hour of sick leave.

Sick Leave Exchange for Pay

- a. For employees who have a minimum of ten (10) years of seniority with the City as of September 30 of the year in which the employees seek to exchange sick leave for pay, the following procedures shall apply to sick leave exchanges for pay or, at the employee's option, deposit into the employee's ICMA-RC 457 Plan account:

All employees must maintain a minimum balance of forty (40) hours of sick leave. Employees may exchange a maximum of one hundred ninety-two (192) hours of unused sick leave for pay or for deposit into the employee's ICMA-RC 457 Plan account each year. Each employee shall receive one hour of pay at his/her regular hourly rate as of September 15 of the year that the exchange is being made for each hour of unused sick leave being cashed in or deposited into the employee's ICMA-RC 457 Plan account.

- b. For employees who have less than ten (10) years of seniority with the City as of September 30 of the year in which the employees seek to exchange sick leave for pay or for deposit into the employees' ICMA-RC 457 Plan account, the following procedures shall apply to sick leave exchange:

All employees must maintain a minimum balance of forty (40) hours of sick leave. Employees may exchange a maximum of one hundred ninety-two (192) hours of unused sick leave for pay or for deposit into the employees' ICMA-RC 457 Plan account each year. Employees who have accumulated more than forty (40) hours of sick leave but less than one hundred (100) hours, may exchange that leave for pay or for deposit into the employees' ICMA-RC 457 Plan account at the rate of three (3) hours of sick leave for one (1) hour of pay.

Employees who accumulate more than one hundred (100) hours of sick leave may exchange that leave for pay or for deposit into the employees' ICMA-RC 457 Plan account at a rate of two (2) hours of sick leave for one (1) hour of pay. At all times a minimum of forty (40) hours of sick leave must be maintained in order for the employee to exchange sick leave for pay or for deposit into the employees' ICMA-RC 457 Plan account.

- 19.4 Subject to the provisions of this Agreement, an employee may cash in or deposit into the employee's ICMA-RC 457 Plan account, at his/her regular rate of pay effective on September 15 his accumulated sick leave hours by obtaining the appropriate form and submitting it upon completion to the Human Resources Department no later than September 1 of such fiscal year, subject to the restrictions indicated in Article 19.2(b). Failure to submit this form will result in an employee's accrued sick leave being "banked" for future use or pay-off as provided herein. Any sick leave taken after the filing of such form shall first be deducted from accrued sick leave "in the bank" and, secondly, from those days for which payment is sought but not yet paid.
- 19.5 All payments for unused sick leave made under this Article shall be paid by check issued by the City on or about the last pay check in September.
- 19.6 Participants utilizing sick leave shall be paid and their account charged for the actual number of scheduled hours absent.
- 19.7 Any absence for a fraction or part of a day which is chargeable to sick leave shall be charged in increments of not less than one-half (1/2) hour.

- 19.8 Retirement, Resignation or Death - An employee who resigns with two (2) weeks prior notice and has a minimum of twenty (20) years of service with the City, or retires under the provisions of the City's pension plan (or in the event of his death, his heirs) shall be entitled to a lump sum payment, or lump sum deferral into the employees' ICMA-RC 457 Plan account up to the maximum provided by law, for all unused sick leave accrued at a rate of one hour of pay for one hour of sick leave.
- 19.9 An employee who is fired, dismissed, or who quits and/or separates from the City for any reason other than detailed in section 19.8 shall forfeit accrued sick leave.
- 19.10 Employees may use up to three (3) days of their accumulated sick leave per year to handle personal emergencies. Any employee's written request to utilize this emergency leave must include information specifically describing the situation for which the leave is being requested. After emergency leave has been granted, the City shall have the right to require verification from the employee of the emergency circumstances which necessitated the taking of emergency leave, if evidence verifying the circumstances is available. If an employee is found to have provided false information concerning his/her need to take emergency leave, he/she may be subject to disciplinary action.
- 19.11 Sick Leave Bank - Both parties agree to schedule separate workshops to establish and maintain a Sick Leave Bank.

ARTICLE 20

ASSOCIATION REPRESENTATIVES AND ACTIVITIES

- 20.1 The Association shall be represented by its President or his designee.
- 20.2 The Association shall notify the City Human Resources Director in writing of the name of the President or his designee. It shall be the responsibility of the Association to immediately notify the City's Human Resources Director and the City Manager in writing of any change in the designation of President or his designee. The Association shall notify the City of the CFPEA Unit Representatives and/or Alternate Representatives.
- 20.3 The City shall provide the Association a copy of the agenda of each regularly scheduled meeting of the City Council, which may be picked up at City Hall.
- 20.4 The employee or Association shall not engage in Union business of any kind, including solicitation of membership during work time. An Employee Representative of the Association, designated in writing by the President, shall be permitted reasonable access to all Department locations at reasonable times during a working day for investigating grievances; provided the City is first notified of the investigations, and provided further that such absence would not unduly hamper the operation where the Representative or steward is employed.
- 20.5 Bargaining unit members will be allowed to use accrued annual leave to attend local and state seminar functions of the Association. Attendance at union seminars and other functions shall be at the employee's own expense – the City will no longer pay an employee to attend union activities.
- 20.6 The President and two (2) members of the Association negotiating committee (employees of the City) shall be permitted to attend the City Council meeting where final action is scheduled to be taken on approval (or rejection) of this Collective Bargaining Agreement and its successor, without loss of pay. Members of the designated negotiating team shall be allowed to negotiate a successor agreement to this Agreement on their own time, at no expense to the City.
- 20.7 Any hours spent attending seminars; negotiation sessions or Council Meetings as described in 20.5 and 20.6 above will not be counted as hours worked towards overtime.

ARTICLE 21

INSURANCE

- 21.1 The City agrees to maintain a hospitalization program for the employees with the City paying the lowest "employee only" rate among all health insurance plans offered. Dependent coverage will be at the employee's expense. The employee who elects coverage with a carrier which has a higher rate shall pay the difference in any premium charged by that carrier. Dependent coverage will be at the employee's expense.

ARTICLE 22

UNIFORMS AND EQUIPMENT

- 22.1 After forty-five (45) days of continuous employment, the City will furnish uniforms to all bargaining unit members. Cleaning of the uniforms will be the responsibility of the employee.
- 22.2 The City agrees to furnish employees, at City expense, those replacement uniform items that are worn, torn or damaged through normal wear and tear, rather than through negligence or misconduct.
- 22.3 The City agrees to have each City vehicle inspected by a mechanic on a scheduled basis.
- 22.4 The City will furnish safety equipment the City determines to be necessary for the job.
- 22.5 The City will require new employees to provide their own safety shoes upon hiring. After the probationary period of six (6) months is complete, the City will provide the employee \$50 to purchase safety shoes. The City will then provide \$165 per year by the third full week in October for the employee to purchase safety shoes.
- 22.6 Where safety equipment is furnished by the City, the employees must wear such equipment when instructed to do so and are subject to disciplinary action for failure to do so.
- 22.7 City-issued uniforms and other articles of clothing are provided for wear while at work, and are not to be worn for non-duty purposes.
- 22.8 The City will issue uniforms in compliance with IRS regulations pertaining to work clothes and Uniform Allowances and Reimbursements.

ARTICLE 23

BEREAVEMENT LEAVE

- 23.1 All permanent employees may be granted time-off with pay to arrange and/or attend funeral services in the event of death(s) in the employee's family. Such time-off may be granted as required to a limit of four (4) working days per event. A maximum of eight days per fiscal year may be granted without charge to annual leave or sick leave.
- 23.2 Management may, upon request and at its sole discretion, require the employee to verify the employee's relationship to the deceased and to provide proof of death.
- 23.3 In the event of the need for additional time for a death, an employee may use accrued sick or vacation leave provided the Department Head is notified in advance of such leave.

ARTICLE 24

WAGES

- 24.1 The City Council will approve any pay adjustments during the budget process to be effective on October 1 at the beginning of each fiscal year.
- A. Effective the first pay check received in October of 2014 for fiscal year 2015, will receive a three percent (3%) increase to their base pay.
 - B. Reserved.
 - C. Reserved.
 - D. All future wage increases beyond the term of this contract shall be subject to negotiation by the parties.
 - E. The City Manager may review and amend the pay schedule during the fiscal year as appropriate to provide for new job classifications, reclassifications, title changes, or pay range changes. The City Manager shall review the pay schedule annually prior to submission of the proposed budget to the City Council and shall recommend to the City Council any amendments deemed necessary to properly maintain the pay schedule.
- 24.2 The City performance evaluation for regular full-time and regular part-time employees is a satisfactory/unsatisfactory rating system. If the employee's performance for the previous year has been satisfactory, he/she will receive a rating of satisfactory. The employee will then be scheduled for an evaluation the next year. Should the employee receive a rating of unsatisfactory, due to unsatisfactory work or performance, the employee will be placed under intensive management guidelines, and re-evaluated in ninety (90) days. If the employee has still not raised his/her performance level to satisfactory at the conclusion of this ninety (90) day period, additional counseling may be provided, and the employee may be re-evaluated at the conclusion of another extended rating period; or, the supervisor may initiate action to terminate the employee.
- 24.3 New hires will start at the minimum rate of pay established for the classification. If an applicant possesses exceptional qualifications, a rate of pay higher than the minimum may be authorized. Requests for a starting rate up to ten (10) percent above the minimum rate will require the approval of the Administrative Services Director and or the City Manager or the City Manager's designee. These requests must be in writing and fully justified by the Department Head and approved before the offer is

made to the applicant. Requests for a starting pay more than ten (10) percent above entry level shall be fully justified and submitted in writing for review by the Administrative Services Director. The Administrative Services Director shall make a recommendation to the City Manager, in writing, for final determination. The City Manager's approval is required in writing before making the offer to the applicant.

24.4 Employees put on restrictive on-call pager will be paid three hours pay weekly at the rate of time and one half (1 ½) times their regular rate of pay if they have worked sufficient hours during the week to be entitled to overtime payment for that week, or the hours worked plus authorized compensated leave totaled forty (40) hours for that week. If employees placed on restrictive on-call pager do not have a weekly total of forty (40) hours based on hours worked plus authorized compensated leave, they will only receive overtime pay for that period of time where the total of their weekly hours worked plus authorized compensated leave plus three hours.

24.5 The rate of pay for promotional appointments shall be the minimum of the new pay range, or an amount equal to five (5) percent above the employee's current rate of pay whichever is higher. If the employee possesses exceptional qualifications or there will be a substantial change in supervisory or managerial responsibility, the Administrative Services Director has the authority to approve up to a ten (10) percent increase above the employee's current rate of pay or ten (10) percent above the minimum of the new pay range. Requests received in writing from the Department Head for an increase in pay more than ten (10) percent of the current rate or minimum rate shall be fully justified and submitted in writing for review by the Administrative Services Director. The Administrative Services Director shall make a recommendation to the City Manager, in writing, for final determination. The City Manager's approval is required in writing.

ARTICLE 25

RETIREMENT PLAN

- 25.1 The parties hereto recognize that in accordance with Chapter 54, Article VI, Code of Ordinances, City of Port Orange, the employees in the Bargaining Unit are participants in a General Employees Defined Benefit Plan, or an International City Management Association Retirement Corporation (ICMA-RC) Section 401a Defined Contribution Plan for those employees who opted into the 401a Plan in 2003. In addition, employees may participate in the ICMA-RC Deferred Compensation (457) plan currently offered by the City.
- 25.2 Basic Benefit – Reduce to 2.0% for future years only – Under this change employees benefit would be calculated using 2.12% for years through September 30, 2009, and using 2.0% for all future years.
- 25.3 Supplemental Benefit – Eliminate for all years after September 30, 2009 Under this change employees would keep all Supplemental Benefits already earned through September 30, 2009 (at \$16 per year of service), but would not earn any future Supplemental Benefits beginning October 1, 2009.
- 25.4 Employee Contribution Rate is 7.5%.
- 25.5 The City's contribution shall not exceed 13%.
- 25.6 For employees that are not enrolled in the defined benefit plan, the City shall contribute 10% of the employee's base salary to the employee's ICMA 401A or 457 Plan. Additionally, for each 1% of employee contribution, the City will contribute an additional ½ of 1% to a maximum additional contribution of 3%.
- 25.7 Upon adoption of the General Employees Pension Ordinance, all bargaining unit members hired after the adoption of the Ordinance shall receive the Retirement benefits provided below or have the option of participating in a defined contribution program:

General Employee Pension City Proposal Comparisons

<u>Benefit</u>	<u>Current GE</u>	<u>New Hires Post Ratification GE</u>
Normal Retirement	65/10	65/10
Early Retirement	55/10	55/10
Reduction factor up to 30%	< 25 YOS	Increased Reduction Factor for less than 33 YOS
No reduction factor	>25 YOS	Deleted option for unreduced pension at 25 and 30 YOS
No reduction factor	> 30 YOS	
Multiplier	2%	1.60%
COLA	None	None
DROP	Yes (Self Directed)	Yes (Self Directed)
Supplement	None	None
Member Contribution	7.50%	7.50%
Employer Contribution	13%	13%
AFC	high 5	high 8
Vesting	10 years	10 years

ARTICLE 26

JURY DUTY AND APPEARANCE AS A WITNESS

- 26.1 Any employee in the bargaining unit who is summoned to perform jury service during his normal working hours in any court (City, Federal, or County) shall be granted leave with pay for the time he or she is absent from work as a result of fulfilling his or her jury duty obligation. The employee summoned as a juror shall attach a copy of his summons to the Leave of Absence Request. An employee who is released from jury duty prior to four (4) hours from his normal end of the workday, shall be required to report to his work site immediately after his release and any money and or fees will be signed over to the City.
- 26.2 Upon proof of attending court, a deposition, or an administrative hearing during the employee's normal working hours pursuant to a subpoena or other court order involving a job-related case and not as a plaintiff or claimant in litigation against the City nor as a defendant in litigation by the City, the employee shall receive his or her regular rate of pay for such attendance. The City reserves the right to institute any procedure or system it deems appropriate to measure, record, and/or verify attendance and duration of an on-duty deposition, or court or administrative hearing appearance. In the event any employee claims time not actually spent in an on-duty deposition or court/hearing appearance, he or she may be subject to the disciplinary procedures as outlined in Article 11. The employee will sign over all subpoena and witness fees, excluding travel fees, unless City transportation is furnished in which case such travel fee will also be signed over. The employee shall provide a copy of the subpoena to his or her supervisor within twenty-four (24) hours of its service or receipt.
- 26.3 An employee subpoenaed as a witness for a court or administrative proceeding or a deposition, other than a job-related case and other than a case involving personal litigation by the employee as a plaintiff, claimant or defendant, shall be granted leave without pay to appear and testify pursuant to the subpoena. If the employee is released from the subpoena prior to the expiration of four (4) hours from his or her normal starting time for that work day, the employee shall be required to report to his or her work site immediately after release from such subpoena. An employee may take sick or vacation leave when subject to a subpoena under this provision. The employee shall provide a copy of the subpoena to his or her supervisor within twenty-four (24) hours of its service or receipt.
- 26.4 An employee may take vacation pay, but not sick leave, when participating in any court or administrative proceeding of a personal nature in which the Employee is a claimant, plaintiff or defendant.

ARTICLE 27

ALCOHOL AND DRUG TESTING

- 27.1
- A. The City of Port Orange recognizes that drug and alcohol abuse is a growing problem within our nation's work force. The City also recognizes the tremendous costs, both in terms of efficiency and in human suffering, which drug and alcohol abuse may cause. Substance and alcohol abuse by employees of the City may have an adverse impact on City government, operations, and the health, welfare, and safety of City employees and the general public. Acknowledging the necessity for action, the following Alcohol and Drug Testing Program is hereby initiated for all Department employees.
 - B. All persons applying for employment with the Department may be required to submit to testing for alcohol or substance abuse as a condition of accepting employment.
 - C. All applicants shall be required to sign a certification prior to commencing employment which contains the following language:

I declare that I am not currently taking any controlled narcotic substance and do not use illegal drugs, including but not limited to, marijuana or cocaine. I understand that I am subject to screening for drugs, alcohol, or substance abuse and that positive findings will disqualify me for employment. I further understand that in the event I am currently taking any medications prescribed by a physician, it is my obligation to so inform the City prior to testing or anytime thereafter.
 - D. The City prohibits all employees from:
 - 1. Selling any drug, including alcohol or prescription drugs, whether on or off-duty, unless the employee is legally entitled to sell the substances in question under the circumstances.
 - 2. Possessing any alcoholic beverage or unlawful drug while on-duty or on City property at any time.
 - 3. Using any substance (including illegal drugs, prescription drugs not prescribed for the employee by a physician,

alcohol, or any other substance) which may adversely affect job performance.

This may include both use while on-duty and use while off-duty which can adversely affect on-duty job performance.

- E. The City shall have the authority to require employees to submit to toxicology and/or alcohol testing designed to detect the presence of any controlled substance, narcotic drug, or alcohol. The City agrees that requiring employees to submit to toxicology and/or alcohol testing shall be limited to those circumstances which indicate that reasonable cause exists that the employee is under the influence of such substances, suffers from substance or alcohol abuse, or is in violation of the City of Port Orange Personnel Rules regarding the use or possession of such substances.
- F. In the event the City has a reasonable cause to believe that an employee is under the influence of drugs or alcohol, the City may request that the employee submit to breathalyzer tests, blood tests, urinalysis, and/or other appropriate testing methods.
- G. In the event the City requests that an employee submit to breath, blood, urine, and/or other tests and the City employee chooses not to submit to such test or tests, then the reasonable cause to believe that the employee was under the influence shall be grounds for appropriate disciplinary action.
- H. If the employee tests positive for alcohol or drugs, the City may impose disciplinary sanctions. Discipline for use on-duty may include discharge.

The City may direct an employee who has tested positive for drugs to provide a hair sample for confirmation purposes. Employees who test positive for drugs may request a hair sample confirmation test be administered within one (1) day of receiving notice of a positive test. If an employee fails or is unable to provide a hair sample within the time period specified, the employee waives his or her right to use the hair sample as a confirmation and the result of the initial drug test shall be considered final. The hair sample shall not be used to confirm a positive alcohol test.

Any employee who is arrested for selling illegal drugs while off-duty shall be subject to disciplinary actions up to and including discharge.

All employees who must use a prescription drug which may cause adverse side effects (for example, drowsiness, impaired reflexes, or reaction time) shall so inform the City that they are taking such medication on the advice of a physician. It is the employee's responsibility to inform the City of the possible side effects of the drug on his/her performance and expected duration of use.

- I. In the event the City requests that an employee submit to drug or alcohol tests, the costs of such tests shall be paid by the City.
- J. Direct involvement in an accident by an employee while on-duty shall be considered an example of a reasonable cause to require the employee to take drug or alcohol tests, where it appears that such accident would not have occurred but for the possible impairment of the employee involved by drugs or alcohol.
- K. Employees required to take regularly scheduled physical examinations shall have included as part of the examination a test for alcohol or drugs.
- L. Employees with job performance or attendance problems shall bear the primary responsibility to seek diagnostic and appropriate treatment for such problems. In the event an employee seeks assistance and treatment for an alcohol or drug-related problem, the above-mentioned disciplinary system for violation of City Policy shall not be followed. An employee may be granted a one-time leave of absence without pay, not to exceed sixty (60) days to undergo treatment for alcohol or substance abuse pursuant to an approved treatment program. No employee benefits shall accrue during this period. The request must be voluntarily made in writing prior to the institution of disciplinary measures for alcohol or substance abuse. City employees with job performance and attendance problems or who otherwise fail to meet the requirements of his or her job and do not seek assistance shall be subject to the disciplinary actions as set forth by City Policy.
- M. The result of any drug or alcohol test shall be considered a medical report and shall be confidentially handled as if part of an internal affairs investigation of the City, and the employee involved shall be afforded a pre-disciplinary hearing which allows the employee to challenge or rebut the test findings prior to any disciplinary action being taken.
- N. Decisions of an arbitrator under this Article shall be limited to a determination of whether there existed reasonable cause to

activate the provisions of this Article and if this issue is determined in the employee's favor, he shall be reinstated. The question of whether or not the employee was under the influence of alcohol or drugs shall be subject to arbitration, but not the subsequent disciplinary measure imposed by the City.

- O. Reasonable cause as used in this Article shall be reduced to writing and signed by the person initiating the allegation before activating the provisions of this Article.

27.2

The City shall implement an alcohol and controlled substance testing program that meets the minimum requirements of the testing procedures which are required by Section 112.0455 and Section 440.102, Florida Statutes, Rule 69L-9 and Chapter 59A-24, Florida Administrative Code, and Title 49, Code of Federal Regulations in order to identify employees who use illegal drugs or abuse alcohol, either on or off the job. The City specifically agrees that it shall confine any employee sanctions to disciplinary actions authorized by its Drug-Free Workplace Policy as amended. In addition, the City agrees that it shall issue consistent levels of discipline to employees who receive verified positive tests for drug or alcohol use, whether the testing is administered as part of a random test or a test based on reasonable suspicion.

The City of Port Orange is a drug free workplace and as such shall comply with all laws, rules and regulations associated with being a drug free workplace. Additionally, the City of Port Orange requires in many of its job classifications that employees must have CDL's. The City of Port Orange and employees shall comply with all laws, rules and regulations related to drug and alcohol testing for CDL's.

First Offense is a mandatory 30 consecutive calendar day suspension without pay. Any holidays that occur during the suspension period shall not count as a day in meeting the suspension requirement. An employee who tests positive shall not accrue any annual or sick leave during the suspension. The employee shall forfeit the hours added to annual leave hours for holidays, birthday and floating holiday. An employee, covered by this agreement and who tests positive for drugs and alcohol, shall be required to pay all employee and dependent health, dental, and life insurance premiums during the suspension period. The employee shall not be eligible to accrue or use sick or annual leave during the suspension without pay period. The employee shall not be eligible for bereavement leave or any other type of paid leave during the suspension period with pay that may be included as part of this agreement. Prior to returning to work, an employee shall be required to take and pass a drug and alcohol test. The cost of the drug and alcohol retest shall be at the employee's

expense. Any employee who test positive for either drugs or alcohol shall be subject to 12 random drug tests during the following 12 month period at the employee's expense. Failure to pass any drug and alcohol test during this 12 month period of time shall result in immediate termination and forfeiture of any sick leave hours that may have accrued to the employee. Any employee who tests positive shall enroll in mandatory counseling program as a condition of returning to work. The employee shall provide weekly treatment statements to the City by a physician, professional counselor, counseling service, EAP or any other provider of drug and alcohol counseling and rehabilitation services.

Second Offense: Automatic Termination.

27.3 As used in this Article, a positive alcohol reading or a positive alcohol test shall mean a blood or breath alcohol level of .04 or above.

If an employee provides a valid blood or breath sample of .02 - .0399, he or she will be removed from the workplace and placed on unpaid leave until the BAC is below .02. For administrative purposes, a BAC of .02-.0399 shall not be considered a positive result.

ARTICLE 28

PHYSICAL EXAMINATION AND WORKERS' COMPENSATION

28.1 Any bargaining unit employee who is temporarily disabled as a result of an injury sustained in the course of his employment with the City, shall be entitled to the following compensation:

- (a) During such temporary, total disability, paid disability leave shall not exceed sixty (60) working days for any one injury. As a condition precedent to obtaining paid disability leave, the employee must formally assign his Workers' Compensation weekly benefits to the City for the period of the disability leave.
- (b) Unless an extension of the sixty (60) day period is granted pursuant to Subsection c, at the end of sixty (60) work days, the employee shall only be entitled to benefits provided by the Workers' Compensation law.
- (c) If, as a direct result of the continuation of the disability involved, the employee is unable to return to work at the end of the sixty (60) day working period, the employee may petition the City requesting that he be carried in pay status beyond the sixty (60) working day period. Upon receipt of such a petition, the City shall decide whether pay status should be extended. The decision of the City shall not be subject to the grievance and arbitration provisions of this Agreement.

28.2 The City may direct any employee claiming disability to submit to a physical and/or mental examination conducted by a physician, psychiatrist or psychologist selected by the employee from a list of not less than three (3) physicians designated by the City. The sole purpose of such an examination under this Article shall be to determine whether the employee has a physical or mental disability which impairs his effectiveness as an employee, limits his ability to perform his assigned duties, or makes his continuation in his job a danger to himself, the public, or other employees. In the event the City and the designated physician determine that a non-job-related disability does exist, the following action shall be taken:

If the designated physician determines that the disability can be corrected, the employee shall be allowed a specified time determined by the physician to have it corrected. During this period of time and after consulting with the City Human Resources Director, the City Manager, at his discretion, may permit the employee to continue with his normal duties,

or temporarily remove the employee from the City service. Should the employee be temporarily removed from the City service during the period of time specified for the correction of his disability, the employee may utilize his annual leave, sick leave, or leave without pay for the correctional period. However, if the employee fails to take the necessary steps to have the disability corrected within the specified period of time, he shall be subject to dismissal from the City service.

28.3

The City agrees that any employee injured on the job shall be paid for the employee's full schedule of hours for the day of the accident if his physician advises him that he could not or should not return to work that day. However, the City reserves the right to have the employee examined by a physician designated by the City, at no cost to the employee.

ARTICLE 29

RULES AND REGULATIONS

- 29.1 The City shall have the right to establish, maintain and enforce, or rescind, amend or change, reasonable rules and regulations and standard operational procedures, it being understood that such rules and regulations and standard operational procedures shall not be in conflict with the provisions of this Agreement.
- 29.2 Failure to discipline an employee for violation of these rules, regulations and/or standard operational procedures shall not affect the right of the City to discipline the same or other employees for the same or other violations.
- 29.3 Any employee violating a rule or regulation or standard operational procedure may be subject to disciplinary action, including dismissal.

ARTICLE 30

MILITARY LEAVE

- 30.1 Military Leave For Active Duty - Any employee who leaves the service of the City to join the military forces of the United States or is called to active duty for service or training shall be placed on military leave in accordance with conditions set forth in Federal and State laws. These laws currently provide that employees who are called to active duty military service shall be placed on a fully paid military leave of absence for a period of thirty (30) calendar days. During periods of military leave, the employee shall continue to receive City fringe benefits so long as employee shares of benefit payments are maintained during the period of active duty military service. While on military leave, the employee shall not accrue sick or annual leave and shall not receive holiday pay except for during the thirty (30) calendar days of the active duty military leave. The employee shall be paid at his/her base salary or wage rate for the thirty (30) calendar days of military leave beginning with the start of his/her active duty military service.
- 30.2 National Guard or Military Reserve - An employee will be granted seventeen (17) calendar days leave of absence during any twelve (12) month period for National Guard/Military Reserve duty. The twelve (12) month period shall begin on January 1st of each year and end December 31st. While on military leave, the employee shall continue to receive City fringe benefits and to accrue sick and annual leave. The employee shall be paid at his/her base salary or wage rate during the up to seventeen (17) calendar day leave of absence during any twelve (12) month period.
- 30.3 An employee going on military leave as described in either 30.1 or 30.2 above shall present a copy of his orders to his Department Head within three (3) days after receiving them. Military leave which exceeds the thirty (30) calendar days of leave for active duty service or the seventeen (17) calendar days in any twelve (12) month period for reserve or national guard training or service shall be taken as annual leave or charged as administrative leave without pay. Such leave will be granted without loss of time or seniority in accordance with Florida Statutes, Chapter 115 and Chapter 250. While on unpaid leave for military service, the employee shall continue to receive City fringe benefits but will not accrue sick and annual leave.

ARTICLE 31

EDUCATIONAL LEAVE

- 31.1 Any employee covered hereunder may be given educational leave for the purpose of taking courses or attending conferences and/or seminars directly related to the employee's work as determined in writing by the City Human Resources Director and the City Manager. Requests for such educational leave must be approved in writing in advance by the City Manager. The decision to grant (or not to grant) such educational leave and the determination as to whether such leave will be compensated shall be the sole and exclusive function of the City Manager and shall not be subject to the grievance and arbitration procedures of this Agreement.
- 31.2 An employee granted educational leave with full pay shall be entitled to receive all City benefits in the same manner as if he were on active duty during the period of the leave. Entitlement to benefits for employees on partially compensated or uncompensated educational leave shall be determined by the City Manager.

ARTICLE 32

SEVERABILITY

- 32.1 In the event any Article, Section or portion of this Agreement should be held invalid and unenforceable by any court of competent jurisdiction, such holding shall apply only to the Article, Section or portion thereof specified in the court's decisions; and all other Articles, Sections or portions not so invalidated shall remain in full force and effect. The parties may mutually agree in writing to renegotiate the affected Article, Section or portion specified in the court's decision.

ARTICLE 33

ENTIRE AGREEMENT

- 33.1 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.
- 33.2 Therefore, the City and the Association, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to, or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the same time they negotiated or signed this Agreement.
- 33.3 However, no language in this Agreement shall preclude the parties from mutually agreeing in writing to re-open any of the provisions covered by this contract.

ARTICLE 34

DURATION OF AGREEMENT

- 34.1 This Agreement will be in full force and effect as of the 1st day of October, 2014, or upon ratification by both the union and the City Council, whichever is later, and shall remain in full force and effect until midnight on the 30th day of September, 2016. For the contract year October 1, 2015 to September 30, 2016 negotiation of Article 24, Wages will begin on or thereafter April 1, 2015.
- 34.2 Except as specified in Section 34.3 of this Article, no item or provision of this Agreement shall be a proper subject for negotiation during the term of this Agreement unless it is mutually agreed by the parties in writing to renegotiate such items in negotiations.
- 34.3 Article 17, entitled HOURS OF WORK AND OVERTIME, shall be subject to renegotiations by either party in the event that the Federal Fair Labor Standards Act of 1938 is amended, or federal regulations are promulgated by the United States Department of Labor with respect to overtime payment to public employees, or the provisions of this Agreement concerning overtime payment should become inconsistent with federal law.
- 34.4 As used in this Agreement, the term "he" or "she" shall be interpreted to be gender neutral, and shall be understood to encompass both genders.

ARTICLE 35

INTERNAL INVESTIGATIONS

35.1 The parties recognize that from time to time the City must investigate allegations made against bargaining unit employees covered by this Agreement. In order to fully investigate these allegations, the City agrees that all investigations will be conducted under the following standards:

- (a) Prior to questioning a bargaining unit employee, the employee will be presented with written notice that will include a description of any alleged acts constituting misconduct and copies of any written City policies or standards which the conduct may have violated.
- (b) Bargaining unit employees will be given a copy of this Article prior to any questioning.
- (c) A bargaining unit employee shall have the right to be represented by an Association Representative, or a coworker of his/her choice. If the bargaining unit employee invokes his/her right to representation, any interview of the bargaining unit employee shall be conducted with the representative present. The Association recognizes and agrees, though, that the City has the right to conduct the interview promptly after any alleged misconduct has taken place and that a bargaining unit employee accused of misconduct cannot use unavailability of a particular representative as justification for unreasonably delaying an interview.
- (d) Prior to any questioning of a bargaining unit employee accused of misconduct, the bargaining unit employee and his/her representative shall have the right to copy and review any written or recorded statements of other persons concerning the alleged act(s) of misconduct.
- (e) All questioning of the bargaining unit employee accused of misconduct shall be related to the acts of misconduct only and background, witness and other relevant information reasonably related to those alleged acts.
- (f) Any interview of the bargaining unit employee accused of misconduct shall be conducted during the bargaining unit

employee's normal work hours and at the bargaining unit employee's normal work site, unless other time and place arrangements are mutually agreed to by all parties.

- (g) Interview sessions shall be for reasonable periods of time and shall be timed to allow for such rest periods as are reasonably necessary.
- (h) Any interviews of the bargaining unit employee accused of misconduct at which the employee is not accompanied by a representative shall be recorded. The City and the Association by mutual agreement may record the interview of the bargaining unit employee even if he/she has a representative present, as well as interviews of any other witnesses involved in the investigation. Any recordings of interviews shall include all break periods. There shall be no unrecorded questions or statements.
- (i) No bargaining unit employee shall be required to, requested or asked to volunteer to submit to any device that is designed to measure the truthfulness of a statement.
- (j) Bargaining unit employees who are accused of misconduct shall be given copies of their statements at no cost within five (5) work days following their interviews.
- (k) Bargaining unit employees may reserve the right to refuse to answer questions concerning alleged acts which could be criminal in nature until such time that any criminal investigation has been completed. The City reserves the right in these circumstances to initiate disciplinary actions against employees based on information otherwise disclosed by the investigation.
- (l) During interviews, the bargaining unit employee shall not be subjected to offensive language; or threats of transfer, dismissal or other disciplinary actions. The interviewer does not have the right to make any promises of reward as an inducement to answering questions.
- (m) The City and the Association agree to make no statements concerning an investigation until such time as the investigation is complete and the bargaining unit employee has been notified of the final disposition. In any case where the City chooses to relieve a bargaining unit employee from duty pending an investigation, the bargaining unit employee shall remain on full salary and benefits during this period of

time.

- (n) All investigations shall result in a final investigative report being completed by the City representative in charge of the investigation which will provide for a complete review of all of the relevant facts disclosed during the investigation.
- (o) Upon review of the report that Department Head of the employee accused of misconduct shall make a determination of whether or not disciplinary action against the employee shall be initiated within fifteen (15) work days of receiving the final investigative report. The Department Head shall put this determination into writing using one of the following terms:
 - (1) exonerated – a determination that the employee did not commit a violation of policy
 - (2) sustained – a determination that the employee committed a violation of policy
 - (3) not sustained – a determination that the facts disclosed by the investigation did not prove that misconduct occurred

No other terminology shall be used.

- (p) No discipline, except termination shall become effective until the bargaining unit employee's appeals are exhausted or until the time frames for such appeals have expired.

Approved and ratified this
3 day of October, 2014.

COASTAL FLORIDA PUBLIC

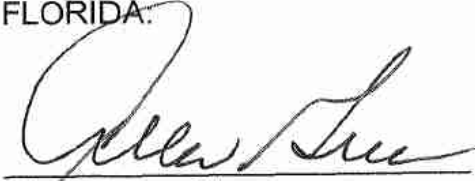
EMPLOYEES ASSOCIATION:



Vincent Champion, President

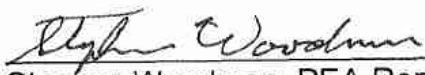
Approved and ratified this
7 day of October, 2014.

CITY OF PORT ORANGE,
FLORIDA.



Allen Green, Mayor

ATTEST:



Stephen Woodman, PEA Representative

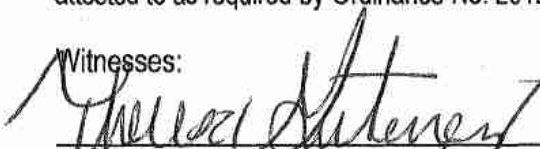


David T. Harden, City Manager


ATTESTATION OF SIGNATURES FOR
PUBLIC EMPLOYEES ASSOCIATION (PEA) 2014-2016
COLLECTIVE BARGAINING AGREEMENT

On this 7 day of October, 2014, I Robin L. Fenwick, CMC, City Clerk for the City of Port Orange, Florida, hereby attest that the attached document bears the signature of Allen Green, Mayor and David T. Harden, Interim City Manager of the City of Port Orange, and that the signatures have been duly affixed and are hereby attested to as required by Ordinance No. 2012-18 in the Port Orange Code of Ordinances.

Witnesses:

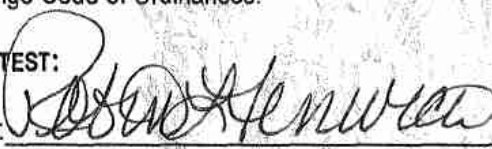


Printed Name: Theresia Gutierrez



Printed Name: Kristina Martin

ATTEST:

By: 

Robin L. Fenwick, CMC, City Clerk

Date: 10/7/14

