

AGREEMENT  
BETWEEN  
CITY OF HOMESTEAD  
AND  
DADE COUNTY POLICE BENEVOLENT ASSOCIATION

[Lieutenants]

October 1, 2008 through September 30, 2010

## **PREAMBLE**

This Agreement is entered into by and between the City of Homestead, Florida (the Employer), and the Dade County Police Benevolent Association, Inc. (the Association), for the purpose of promoting harmonious relations between the Employer and its employees, to establish an orderly and prompt procedure for the resolution of grievances, to insure continuation of normal activities and departmental operations, and to set forth the full agreement between the parties concerning wages, hours of work and other terms and conditions of employment.

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**ARTICLE 1**  
**RECOGNITION**

1.1 The Employer recognizes the Association as the exclusive representative for the purpose of collective bargaining with respect to wages, hours, and other terms and conditions of employment for the following bargaining unit of public employees under PERC Certification No. 663 (February 21, 1985):

Included: Sworn police personnel holding the grade of "police lieutenant" employed by the City of Homestead Police Department.

Excluded: All other employees of the City of Homestead.

## **ARTICLE 2**

### **MANAGEMENT RIGHTS**

2.1 Except as expressly abridged by any provision of this Agreement, the Employer reserves and retains exclusively all of the normal inherent rights of management of the Police Department, its division and agencies, whether exercised or not, including, but not limited to, its right to determine the purpose of its constituent agencies, set standards of service, and exercise control and discretion over its organization and operations. It is also the right of the Employer to direct its employees, take disciplinary action for proper cause, and relieve its employees from duty, provided in so doing the provisions of this agreement are not violated.

2.2 The Employer reserves its right to determine, and from time to time, redetermine the number, location, and type of its departments, divisions, and work sites, and the methods and materials to be employed.

2.3 The Employer reserves the right to:

2.3.1 Select and direct the work forces in accordance with requirements determined by the Employer.

2.3.2 Establish and change work and shift schedules and assignments.

2.3.3 Transfer and promote employees.

2.3.4 Suspend, discharge, demote, or otherwise discipline employees for proper cause.

- 2.3.5 Use supervisors to perform work of the kind performed by unit employees.
- 2.3.6 Take such measures as the Employer may determine to be necessary to the orderly, efficient and economical operation of the Police Department.
- 2.3.7 Determine the size and composition of the work force.
- 2.3.8 Lay off employees for lack of work or other legitimate reasons, and to determine "lack of work".
- 2.3.9 Assign and distribute available overtime work.
- 2.3.10 Make and enforce standards of quality and quantity of work to be performed.
- 2.3.11 Determine job content.
- 2.3.12 Make and enforce safety rules.
- 2.3.13 Make and change reasonable rules and regulations and to determine disciplinary action for the failure to obey such rules and regulations.
- 2.3.14 Eliminate previously provided Employer services.

2.4 The question of physical fitness, being of vital importance to the safety and welfare of the individual police officer, requires that standards be established (in accordance with State of Florida minimum standards) to insure the physical capability of the individual officer.

2.5 The Employer, therefore reserves the right to require on a scheduled basis, during duty hours, physical fitness and training programs to be attended by the individual officer at prescribed times and locations. It is also recognized that failure of the individual employee to meet physical standards necessary to accomplish the job requirements is just and sufficient reason for action to be taken by the Employer once the employee has been given an adequate opportunity to correct his deficiencies.

2.6 The exercise of management rights shall not preclude employees or their representatives from raising grievances, should decisions on the above matters have the practical consequence of violating the terms and conditions of this agreement.

## **ARTICLE 3**

### **RIGHTS OF EMPLOYEES**

3.1 The Employer and the Association agree that bargaining unit employees possess the rights enumerated in Section 447.301 of the Florida Statutes, and are entitled to exercise those rights without interference, restraint, or coercion by any person.

**ARTICLE 4**  
**DUES DEDUCTION**

4.1 Any member of the Association who has submitted a properly executed written dues deduction authorization to the City Manager or his designee, may have his membership dues in the Association deducted from his pay. Dues shall be deducted once each month and shall be transmitted to the Association accompanied by a list of those employees' names whose dues are included. The Association will pay an annual lump sum charge of twenty-five (\$25.00) dollars for this service. It shall be the responsibility of the Association to notify the City Manager, or his designee, of any change in the amount of dues to be deducted at least thirty (30) days in advance of said change. Under no circumstances shall the Employer be required to deduct Association fines, penalties, or special assessments from the pay of any member. Any employee may revoke in writing his authorization for dues deduction at any time.

4.2 The Association agrees to indemnify and hold harmless the Employer, its agents, employees, and officials from and against any claims, demands, damages or causes of action, of any nature whatsoever, asserted by any person, firm, or entity, based upon or related to payroll deduction of Association dues. The term officials, as used herein, includes elected and appointed officials.

## **ARTICLE 5**

### **ASSOCIATION REPRESENTATIVES**

5.1 One member of the Association from the bargaining unit shall be granted time off without loss of pay to attend negotiating sessions, mutually set, to renegotiate the agreement. It shall be the mutual responsibility of the parties to attempt to keep Employer working time loss to a minimum. The Association agrees that its on-duty representative will be prepared for response to emergency situations at all times.

5.2 The Employer will recognize one (1) Association representative, a member of the bargaining unit appointed by the Association, whose duty shall be to process grievances from members of the bargaining unit who request such representation and bring to the attention of the Chief problems with conditions that have been addressed in this agreement. The representative will be allowed up to two (2) hours without loss of pay or benefits to process a grievance or discuss a problem after obtaining permission of the Chief or his designee. Such permission should not be unreasonably withheld.

5.3 The Employer will permit an accredited representative of the Association to have reasonable access to a specifically designated location at the Police Station for the purpose of conducting grievance investigations. Access shall be allowed only with prior approval of the Chief, and only if such visits will not disrupt routine operations. The Chief shall designate the location to which access will be granted.

5.4 A local representative of the Association will be permitted to attend state and county functions of the Association up to seven (7) days per year. Such days may be taken in increments of not less than four (4) hours at one time.

5.5 The Employer will permit one (1) Association representative to attend (without loss of pay) arbitration hearings conducted to resolve grievances brought forth under the provisions of this contract.

## **ARTICLE 6**

### **SERVICES OF THE ASSOCIATION**

6.1 The Employer will furnish the Association copies of all Police Department rules and regulations and all memoranda pertaining thereto, along with any changes or additions as soon as practicable after they are made.

6.2 The Association may utilize existing bulletin board space in the Squad Room for Association notices relating to official business of the Association and/or contract administration pertaining to the lieutenants' unit.

6.3 The Employer will provide the Association, on a semiannual basis, a complete roster of the bargaining unit members including name, rank, address, telephone number, social security number and current pay scale.

6.4 The Employer will allow the Association and its representatives reasonable access to Police Department facilities for the purpose of conducting Association business relating to the bargaining unit, when those facilities are not in normal use.

6.5 The Employer will provide a mailbox for each employee for use by the Employer and the Association to distribute mail and other communications.

6.6 Any documents provided by the Employer to the Association pursuant to Chapter 119 of the Florida Statutes, will be provided at reasonable cost.

## **ARTICLE 7**

### **PERSONNEL RECORDS**

7.1 All personnel records of the employees shall be kept confidential to the extent permitted by Florida law and shall not be released to any person except: authorized officials of the Employer, or in response to a subpoena from a court of competent jurisdiction, or upon written authorization from the employee.

7.2 At no time shall the news media be directly, or indirectly, furnished with the home address, telephone number or photographs of any employee without his express written consent.

7.3 Upon reasonable request, any employee shall have the right to inspect his official personnel records, wherever kept. The employee shall have the right to make duplicate copies of this record at his expense and for his use. The Employer agrees that no official personnel records shall be concealed from the employee's inspection.

7.4 Employees shall have the right to add to their personnel records written signed refutation of any information contained therein which the employee considers to be derogatory.

7.5 When making a disciplinary decision, the Employer will not use or refer to any prior disciplinary action in the employee's file that occurred more than two (2) years prior to the date on which the incident occurred that gives rise to the Employer's current disciplinary decision.

## **ARTICLE 8**

### **INTERNAL INVESTIGATIONS**

8.1 To insure that all internal investigations take place in a manner conducive to good order and discipline while protecting the rights of all involved, the following rules of procedure shall apply whenever a matter which could lead to disciplinary action, demotion, or dismissal of an employee is referred to the Internal Affairs Division for investigation:

8.1.1 The questioning shall be conducted at a reasonable hour, preferably when the employee is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

8.1.2 The questioning shall take place either at the office of the command of the investigating officer or at the office of the local precinct or police unit in which the incident allegedly occurred, as designated by the investigating officer or agency.

8.1.3 The employee shall be informed on the record of the rank and name of the officer in charge of the investigation, as well as the ranks and names of any others present during the questioning. All questions directed to the employee shall be asked by and through one interrogator at any one time. If the Employee is directed to leave his post to report for questioning, he shall be given an opportunity, reasonable under the circumstances, to notify his Association representative or attorney.

8.1.4 The employee under investigation shall be informed of the nature of the investigation before any questioning begins, and he shall be informed of the names of all complainants. Sufficient information to reasonably apprise the employee of the allegations concerning which the questioning is to be directed will be provided. If it is known that the employee is being questioned as a witness only, he or she must be so informed.

8.1.5 Questioning sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

8.1.6 The employee being questioned shall not be subjected to offensive language, or be threatened with transfer, dismissal, or disciplinary action. No promise of reward shall be made as an inducement to answer questions.

8.1.7 In all cases involving the questioning of an employee concerning matters which may result in the imposition of discharge or some other disciplinary measure upon the employee, he or she shall be afforded a reasonable opportunity and facilities to contact and consult privately with his or her Association representative and an attorney of his or her own choosing before being questioned. The attorney and the Association representative may be present during the questioning, and will be allowed to make any appropriate statements or to ask any questions of the employee, on the record, following the

conclusion of the questioning by the internal affairs investigator(s). The Employer agrees to make a reasonable effort to provide the employee and the Association representative with advance notice of the time and place of the questioning.

8.1.8 The complete questioning of the employee shall be tape recorded or taken down by the stenographer. There shall be no "off-the-record" questions. All recesses called during the questioning shall be noted in the record. During the questioning of the employee, the inquiry must be limited to the circumstances surrounding the alleged violations of Police Department or Employer rules and regulations by the employee(s) who is (are) the subject(s) of the investigation.

8.1.9 No employee who has been placed under arrest or who is a suspect in a criminal investigation shall be compelled to answer questions related to the investigation without his or her consent. Each such employee shall be given his or her rights pursuant to the Miranda decision, as modified.

8.1.10 An employee who executes a written statement during an investigation shall be entitled to receive, upon request, an exact copy of such statement.

8.1.11 The Employer shall not order or require any unit employee to submit to a polygraph (lie detector) test, unless such test is requested by the employee.

8.1.12 Unless required by law, neither the Association nor the Employer will voluntarily make public statements concerning a unit employee's alleged violation before an internal investigation has been completed.

8.1.13 No unit employee shall be compelled to speak or give testimony before any non-governmental agency, except pursuant to a valid subpoena. For purposes of this paragraph, a committee appointed by City Council is considered a governmental agency.

8.1.14 Except as provided for in Article 38 of this Agreement, an employee cannot be ordered to submit to any device designed to determine intoxication or the presence of alcohol in the body.

8.1.15 Employees relieved of duty for alleged violations of the law and Employer and/or Department rules and procedures will remain on full salary and allowances until such time as the charges have been investigated and final disciplinary action taken by the City Manager.

8.2 After the conclusion of the first phase of an internal investigation, the chief shall review the investigative package and, in cases where the employee is likely to receive more than a three (3) day suspension, the matter shall be referred to a Board of Senior officers.

8.2.1 The Board shall be comprised of officers holding the rank of Captain or above in a number which the Chief may designate, but in no event less than three numbers.

8.2.2 The Board may review the information obtained during the initial investigation, provide the officer under investigation an opportunity to respond to any allegations against him, and on that basis recommend to the Chief whether disciplinary action should be taken. The Board will provide at least ten (10) days notice to the officer of the time and place of the officer's opportunity to respond. A copy of this notice will be sent to the Association.

8.2.3 In the event the Board seeks additional information to supplement or clarify information obtained during the initial investigation, the Board may schedule a meeting. Within five (5) days of its initial review under subparagraph 8.2.2 of this section, the Board shall notify the Chief of its decision to schedule a meeting. The Board will provide at least ten (10) days notice of the time and place of the meeting to the Employer, the Association and the officer under investigation.

8.2.4 At the meeting, the Employer and the officer under investigation may make brief opening statements summarizing the information they intend to provide to the Board. Following opening statements, if any, the Employer may

present the information to the Board. The information may be offered by witnesses or presented in any form that is reasonably relied upon by internal affairs investigators, provided the information has not been obtained in violation of Section 112.532 of the Florida Statutes. Following the initial presentation of the Employer, the officer under investigation may respond to any of the information presented by the Employer that tends to adversely reflect on the officer's continued fitness for law enforcement service. The officer may call witnesses or otherwise present information on his behalf to the Board, in the same manner as the Employer. Following the presentation of the officer under investigation, the Employer will be given the opportunity to respond to the information presented by the officer. The Employer and the officer under investigation may make brief closing arguments to the Board.

8.2.5 The Employer and the officer under investigation may be represented by a lawyer or other designated representative of choice at the meeting.

8.2.6 Any interrogation of the officer under investigation at the Board meeting must be conducted in accord with Section 112.532 of the Florida Statutes.

8.2.7 Within five (5) days of the presentations of the Employer and the officer under investigation, the Board shall send its recommendation to the Chief.

The Board may recommend that discipline be imposed against the officer, that no discipline be imposed, or that the matter be sent back to the internal affairs division for further investigation.

8.3 The Chief shall make the final decision on action to be taken following the investigation. The Chief's decision shall be in writing and shall identify material allegations directed at the officer as either "sustained," "not sustained," "exonerated" or "unfounded." In the event the Chief does not accept the Board's determinations or recommendations, he shall give his reason(s) therefore in writing.

8.4 In accordance with the charter of the City of Homestead, the City Manager retains ultimate authority over disciplinary action imposed as a result of an internal affairs investigation.

8.5 An officer disciplined pursuant to this Article may appeal the imposition of that discipline at Step 2 of the grievance procedures set forth in Article 12.

8.6 "Not sustained" "exonerated" or "unfounded" letters of complaint from citizens shall not be made part of an employee's personnel records.

8.7 Nothing in this article shall be construed to limit a superior officer's right to manage in a manner conducive to the safety or well-being of fellow police officers or the citizenry.

**ARTICLE 9**  
**SHIFT EXCHANGE**

9.1 Bargaining unit employees may exchange shifts for any purpose, provided that the decision to grant or not grant the exchange shall be final and that:

9.1.1 The bargaining unit employees seeking to exchange shifts must, prior to the first shift to be exchanged, submit a written request to a Captain responsible for either or both employees setting forth the specific shifts to be exchanged.

9.1.2 The shifts being exchanged must occur within thirty (30) days.

9.1.3 The granting of the shift exchange does not result in additional costs to the Employer.

## **ARTICLE 10**

### **VEHICLES AND EQUIPMENT**

10.1 Whenever an employee is authorized in advance to use his own vehicle in the performance of his official duties, he will be compensated at the amount provided in the Florida Statutes and will be reimbursed for tolls and parking charges.

10.2 Whenever an employee feels that the vehicle in which he has been assigned is unsafe, the employee shall complete a memorandum specifying in detail his reasons therefore. The memorandum will be submitted to the Chief or his designee for the consideration. Any disputes regarding vehicle safety shall be finally resolved by the Chief.

10.3 Before any marked patrol vehicle goes onto the street the Employer will endeavor to insure the following equipment is in working order: Seat belts, siren, loud speaker, spotlight, two-way mobile radio, prisoner cage, first aid kit, flares, spare tire and fire extinguisher. Each lieutenant receiving said vehicle and equipment shall be held responsible for same.

10.4 Employees are permitted to keep the Employer issued shotgun and shells inside the vehicle. Additionally, employees may use personally-owned shotguns and semi-automatic weapons under the following conditions: (1) use of the specific weapon has been approved by the Chief in advance, (2) the lieutenant has qualified with the weapon, and (3) the weapon is in good working order, as determined by the Police

Department. Personally owned shotguns which have been thus approved for use may be kept inside the vehicle; however, personally owned semi-automatic weapons must be kept inside the vehicle's trunk unless the lieutenant has reasonable cause to believe that use of the personally owned semi-automatic weapon is imminent. Automatic weapons shall not be carried or transported without express written authority from the Chief of Police.

10.5 A manual resuscitator ("pocket mask") and surgical-style rubber gloves shall be placed in each vehicle by use by the lieutenants, to be replaced as needed.

10.6 Employees living within two and one-half miles of the main police station may request permission from the police chief to drive to their home in a police vehicle during their assigned lunch break. Such requests may be granted or denied at the sole and exclusive discretion of the police chief. The decision of the police chief shall be final and not grievable.

## **ARTICLE 11**

### **TRAINING**

11.1 The Employer agrees to keep the members of the bargaining unit informed on all changes to the Employer and County ordinances and state statutes, which are within the enforcement responsibility of the Police Department.

11.2 The Employer agrees to provide members of the bargaining unit the minimum training required by state law.

11.3 Where the Employer requires an employee to attend weapons training, or qualify with his service pistol, the Police Department will make every reasonable effort to facilitate the employee attending the firearms range during his normal working hours. In the event the Employer is unable to schedule the employee to attend the firing range during his normal working hours, the employee shall be required to attend the firing range during his off-duty hours; provided, however, that the actual time spent by the employee in acquiring such training during his off-duty hours and his/her portal to portal travel (normal home-to-training and training-to-home travel at the beginning and end of a training day) shall be compensated in accordance with Article 22, "Hours and Overtime." If an employee without good reason misses a scheduled weapons training session during on-duty hours, the employee may be required to attend such training during off-duty hours without receiving additional compensation.

11.4 Where the Employer requires any employee to attend supervisory training or training in specialized police techniques, the Employer will make every reasonable effort to facilitate the employee attending such training during his normal working hours. In the event the Employer is unable to facilitate the employee attending such training during his normal working hours, the employee shall be required to attend such training during his off duty hours; provided, however, that the time spent by the employee in such training during his off-duty hours and his/her portal to portal travel (normal home-to-training and training-to-home travel at the beginning and end of a training day) shall be compensated in accordance with Article 22, "Hours and Overtime," and the employee shall be paid for one-half (1/2) hour travel time each way, at the applicable rate of pay as determined by Article 22. Provided further, that no travel time shall be paid to any employee if the actual time spent in training by such employee is less than a normal work day because the training is concluded early.

11.5 If an employee requests to be sent to a given training program and is given approval by the Police Chief to attend, the employee will receive his/her regular pay if the training falls within employee's normally scheduled work hours. If the approved training falls outside of the employee's normally scheduled work hours, the employee will not be compensated.

11.6 The Employer will consider seniority as one of its criteria when scheduling attendance at State approved career development training. Bargaining unit members shall have priority consideration over the rank and file bargaining unit to attend the FBI

National Academy and the Southern Police Institute supervisory training program.

11.7 Bargaining unit members may request educational leave, not to exceed five (5) calendar days to attend professional training programs and seminars. This will be limited to one such experience per fiscal year and such attendance must be job related to current or anticipated assignment, or be designed to enhance administrative/managerial expertise.

11.7.1 If approved by the Employer, such activity will be at no cost to the Employer.

11.7.2 In reviewing requests for educational leave, the Employer retains the right to consider past training experience as well as applicability to current or anticipated assignment. The Employer reserves the right to approve requests in the manner required for other leaves of absence. The Employer may limit the number of bargaining unit employees receiving educational leave each fiscal year.

## ARTICLE 12

### GRIEVANCE AND ARBITRATION PROCEDURE

12.1 In a mutual effort to promote harmonious working relations between the parties, it is agreed that there shall be a procedure for the resolution of grievances arising from the application or interpretation of this agreement.

12.2 A grievance shall be defined as a dispute concerning the interpretation or application of the specific terms of this Agreement. "Working days" shall mean the calendar days Monday through Friday, exclusive of Employer holidays.

12.3 In cases where disciplinary actions result in up to a one (1) day suspension, employees will be limited to their appeal only to the City Manager; provided further that for this restriction to apply a one (1) day suspension, the employee must have previously received a written reprimand for the same or a similar incident.

12.4 Grievances shall be processed in accordance with the following procedure:

Step 1: The aggrieved employee shall discuss the grievance with the Operations Captain or his designee within five (5) working days of the occurrence which gave rise to the grievance. 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 authorized leave, the five (5) day period shall commence running immediately upon the employee's return from such authorized leave. The

Association representative may be present to represent the employee. The Operations Captain or his designee shall adjust the matter or otherwise respond to the employee within five (5) working days.

Where a grievance is general in nature in that it applies to a number of employees having the same issue to be decided, it shall be signed by the aggrieved employees or the Association representative on their behalf, and presented directly at step 2 of the grievance procedure within the time limits provided for the submission of the grievance, in step 1. All grievances must be processed within the time limits provided unless extended by mutual agreement in writing.

Step 2: If the grievance has not been satisfactorily resolved at step 1, the grievant or the Association representative shall reduce the grievance to writing on a standard form provided for this purpose and present such written grievance to the Chief of Police or his designee within ten (10) working days from the time the supervisor's response was due in step 1. The Chief of Police or his designee shall meet with the grievant and the Association representative, if so requested by the employee, within five (5) working days thereafter. The Chief of Police or his designee shall respond, in writing, within five (5) working days from the date of the meeting. If a meeting is not requested by the employee, the Chief or his designee shall respond, in writing, within five (5) working days from the date the grievance is presented.

Step 3: If the grievance has not been satisfactorily resolved in step 2, the employee may present a written appeal to the City Manager or his designee within ten (10) working days from the time the response was due in step 2. The City Manager or his designee shall meet with the employee and the Association representative within six (6) working days. The City Manager or his designee shall respond in writing within ten (10) working days from the date of the meeting. Any grievance not answered by the Employer in the time limits provided above automatically advances to the next higher step of the grievance procedure. Any grievance not pursued within the time limits above will be considered abandoned.

Step 4: If the grievance has not been satisfactorily resolved at step 3, the Association may request arbitration no later than fifteen (15) working days after the City Manager's response is due in step 3. The parties will attempt to mutually agree on an arbitrator. If this cannot be done within 15 days, the parties or their representatives shall jointly request the names of five (5) arbitrators from the Federal Mediation and Conciliation Services (FMCS). The parties shall select an arbitrator from the list provided by the method of alternate striking of names under which the first selection shall be determined by the toss of a coin. The final name on the list shall be the arbitrator.

12.5 Any grievance not answered by the Employer in the time limits provided

above automatically advances to the next higher step of the grievance procedure. Any grievance not pursued within the time limits above will be considered abandoned.

12.6 All arbitrations shall be conducted in accordance with the following rules.

12.6.1 The rules of the FMCS shall apply to the extent not inconsistent with this article.

12.6.2 It is contemplated that the Employer, the employee, and the Association will be able to mutually agree in writing prior to the hearing as to the statement of the matter to be arbitrated. If this is done, the arbitrator shall confine his decision to the particular matter thus specified. In the event of the failure of the parties to so agree, the arbitrator shall confine his consideration to the written statement and issues raised in the grievance.

12.6.3 The arbitrator shall have jurisdiction and authority to decide a grievance properly before him. The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise supplement or alter the express terms of this agreement, including any subsequent amendments thereto. The arbitrator shall not issue declaratory or advisory opinions.

12.6.4 The fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the cost of its own witnesses and

representatives. Any party requesting a transcript will bear its cost, unless otherwise agreed. The Employer shall select and provide the hearing room.

12.6.5 Copies of the arbitrator's award, made in accordance with the jurisdictional authority conferred under this agreement, shall be furnished to the parties within thirty (30) days of the hearing, unless the parties mutually agree to extend the time limit. The award shall be final and binding on both parties.

12.6.6 Nothing in this article shall be construed to prevent any employee from presenting his own grievance. However, the Association shall be given reasonable opportunity to be present at any meeting called for the resolution of grievances.

12.7 Whenever discipline is imposed in the form of a suspension without pay, an employee may, with the approval of the City Manager, elect to forfeit vacation or compensatory time equal to the suspension, in lieu of serving the suspension; if the employee elects this option, such election shall be conditioned upon full waiver of any and all rights to appeal the suspension.

## **ARTICLE 13**

### **LEGAL PROTECTION**

13.1 Whenever a civil suit in tort is brought against an employee for injuries or damages suffered as a result of any act, event, or omission of action which is alleged to have occurred while the employee was on duty, the Employer will investigate the circumstances to determine whether the employee acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. If the Employer determines that the employee did not act in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety or property, the Employer shall undertake the defense of the employee as required by law. Said defense shall cease upon judicial finding, or finding by the Employer, that the employee acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The Employer may purchase liability insurance in anticipation of providing such a defense. The Employer shall, during the investigation into the employee's conduct as set forth above, ensure that the employee's rights in the civil action are preserved pending any determination on representation.

## **ARTICLE 14**

### **EDUCATIONAL ASSISTANCE AND INCENTIVE**

14.1 The Employer, in its efforts to encourage its police personnel to acquire a greater knowledge of the more complex areas of our social system, agrees:

14.1.1 To bear the cost of accredited specialized law enforcement related training and college tuition. Training to be approved for reimbursement must be offered by an institution located within a fifty (50) mile radius (including Nova University) of the City of Homestead or through correspondence. Reimbursement is subject to the requirement that the employee must satisfactorily complete the course with the equivalent of a grade of C or higher.

14.1.2 To bear the full cost of prescribed textbooks for the courses, which books shall then be the property of the employee. Employees are encouraged to return said texts to the Police Department for use by other employees.

14.1.3 To attempt to arrange the working schedule of employees attending advanced schools and college courses so that there will be no interruption of their studies, to the extent feasible in light of the command responsibilities of unit members. No additional expense in the form of overtime, premium pay, etc. shall be incurred by the Employer as a result of such schedule changes.

14.2 Reimbursement will be for a maximum of the equivalent of six (6) semester credit hours at State University System of Florida rates per semester. The employee shall repay this reimbursement to the Employer if his employment is terminated within two (2) years of his completion of the course work.

## **ARTICLE 15**

### **HOLIDAYS**

15.1 The Employer will recognize the following as paid holidays for members of the bargaining unit.

New Year's Day

Martin Luther King's Birthday

President's Day

Memorial Day

Independence Day

Labor Day

Thanksgiving Day

Christmas Day

Employee's Birthday

Two (2) Floating Holidays

15.2 Employees whose day off coincides with such holidays shall be credited with eight (8) hours pay or eight (8) hours holiday time.

15.3 Employees working a holiday shall be paid for all hours worked and shall, in addition, be entitled to eight (8) hours of holiday pay at base hourly rate or eight (8) hours holiday time.

15.4 The holidays defined above will be taken at the mutual convenience of the

employee and the Employer.

15.5 All excess unused holiday time shall be liquidated by payment to the employee at the end of each fiscal year, in accordance with Article 33.

15.6 The employee's birthday and the two (2) floating holidays referred to above shall be used by the employee within one year of the date they are accrued or they shall be forfeited.

## **ARTICLE 16**

### **SICK LEAVE**

16.1 Employees will earn thirteen (13) days of sick leave each year at the rate of 1.08 days for each month of service. There will be no limit to the amount of sick leave which may be accumulated by each employee.

16.2 That portion of the first six (6) days of sick leave which is not used as sick leave may be added to the employee's paid vacation time at the employee's option. The remaining days of the employee's unused sick leave shall be accumulated in the employee's sick bank.

16.3 Sick leave may be used by employees for the following reasons:

16.3.1 Non-occupational personal illness or non-occupational physical incapacity to such an extent as to be rendered thereby unable to perform the duties of the employee's present position. This statement should not be construed to limit the Employer from requiring the employee to perform other police related duties he is able to perform within the limits of his injury.

16.3.2 Attendance upon members of the immediate family within the household of the employee whose illness requires such care. Immediate family is defined as wife, husband, or children of wife or husband, mother, father, mother-in-law, regardless of whether they reside within the household.

16.3.3 Enforced quarantine when established by competent governmental authority, for the period of such quarantine.

16.4 An employee or his heirs shall, at the time of retirement or death, be paid a lump sum equal to one hundred percent (100%) of his accumulated sick leave hours, not to exceed a maximum of one hundred and ten (110) days. Such compensation shall be calculated at the employee's base rate of pay at the time of his retirement or death.

16.5 When an employee leaves the employment of the Employer, his accumulated sick leave, to a maximum of one hundred and ten (110) days, will be paid to said employee in a lump sum, except for when an employee is terminated for cause, in accordance with the following schedule and limitations:

<b><u>Minimum years of Full Time Continuous Employment With Employer</u></b>	<b><u>% of Accumulated Sick Time To a Maximum of 110 Days Time that will be Paid</u></b>
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<b><u>YEARS</u></b>	<b><u>PERCENT</u></b>
15	50%
16	60%
17	70%
18	80%
19	90%
20	100%

Example: An employee accumulated 120 days after 18 years of service at time of termination. Calculation for payment would be  $120 \times .80 = 96$  days of pay. Such compensation shall be calculated at the employee's base rate of pay at the time of his termination.

16.6 An employee shall be required to use all accumulated sick leave with pay before sick leave without pay is granted.

16.7 Once an employee provides the Employer with notice of his/her intent to resign from employment, he/she will not be permitted to use any accrued sick leave.

16.8 An employee's prompt and regular attendance at his/her workstation is a condition of his/her employment with the Employer. An employee's failure to comply with this condition shall affect his/her employment with the Employer, including entitlement to promotions

16.8.1 Sick leave taken for the purpose of attending a physician's appointment shall not be considered to be an occurrence, if advance approval as to date and return time is received prior to such appointment.

## **ARTICLE 17**

### **BEREAVEMENT LEAVE**

17.1 When a death occurs in the immediate family of an employee, that employee may be granted up to forty (40) consecutive hours off, as necessary, without loss of pay or benefits, to be used within (60) days of the death giving rise to the leave.

17.2 Bereavement leave will not be charged against sick leave, vacation, holiday pay or accumulated overtime.

17.3 "Immediate family," as cited above shall be defined as spouse, children, father, mother, brother, sister, grandparents, grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, domestic partner who has cohabitated with the employee for more than one (1) year at the time of the domestic partner's death (provided the employee provides the City with an affidavit certifying that the employee and his/her partner have cohabitated for more than one year at the time of the domestic partner's death) or other relatives of the employee in the immediate household of the husband or wife.

## **ARTICLE 18**

### **LEAVES OF ABSENCE**

18.1 A leave of absence without pay for a period not to exceed thirty (30) days may be granted by the Chief of Police with the approval of the City Manager for a reasonable purpose. Such leave may be renewed or extended.

18.2 No leave of absence shall be granted to any employee with less than twelve (12) months of continuous service with the Employer.

18.3 An employee who is granted a leave of absence without pay shall not be guaranteed a job with the Employer at the conclusion of his or her approved leave of absence, but shall be accorded first priority to be selected to fill any vacancy for which he or she is qualified which exists on the date the leave of absence concludes.

18.4 An employee who is a member of the National Guard or the Military Reserve Forces of the United States and who is ordered to serve an annual training period shall be granted a leave of absence with pay for that period of training, not to exceed seventeen (17) working days, in accordance with Section 115.07 of the Florida Statutes.

18.5 Employees may obtain a leave of absence with or without pay (at the discretion of the Chief) for police oriented educational purposes to include attendance

at conferences, seminars, or briefing sessions that are intended to improve or upgrade individual skills or professional ability.

18.6 Any employee on a non-paid leave of absence will reimburse the Employer for life and health insurance premium contributions and any other fringe benefit expenses incurred on his behalf. Any employee who is on duly authorized paid leave of absence shall continue to maintain all benefits, including seniority, longevity, and health benefits.

18.7 Except as provided in paragraph 18.5, employees may be required to exhaust their paid leave balance before becoming eligible for an unpaid leave of absence.

## ARTICLE 19

### VACATIONS

19.1 Rate of Accrual. Vacations shall be granted to employees in the following manner:

<u>Tenure with Employer</u>	<u>Annual Leave Per Year</u>
1 to 5 years	11 work days
6 to 10 years	13 work days
11 to 20 years	16 work days
20 years and over	18 work days

19.2 Employees shall submit to the Chief for approval written requests for vacation leave. In scheduling vacations, employees with seniority in a classification may be given a preference. This seniority preference will only apply to the first vacation period selected each year. Employees who avail themselves of military leave for training purposes shall not be given preference on the initial selection of vacation periods. If an employee splits his vacation, he will take his remaining vacation leave at a time available after other employees, in order of seniority in the classification, have exercised their choice of dates. Vacation days may be utilized in increments as short as one hour at a time, with the prior approval of the Chief.

19.3 Holiday or regular days off immediately preceding, falling within, or immediately following an employee's vacation shall be excluded in computing vacation time.

19.4 Upon termination of an employee for any reason other than conviction of criminal charges, or in the event of death, the employee or his heirs shall be entitled to an immediate lump sum payment for all vacation time earned and accrued, to be paid at the employee's base rate of pay.

19.5 An employee may request his vacation pay checks in advance of his scheduled vacation by submitting a request in writing to the Employer's payroll office at least two (2) weeks prior to starting his vacation.

19.6 Employees shall be permitted to accrue and carry over three hundred and eighty (380) hours of vacation time into the following calendar year. Employees must make a reasonable attempt to utilize any vacation time accrued above the three hundred and eighty (380) hour maximum allotment within the year in which it is earned. In the event the employee is not permitted by the Employer to take vacation time in excess of the three hundred and eighty (380) hour maximum allotment during the year in which it was earned, the employee will be given the opportunity, at the discretion of the City Manager, to either carry over the additional hours or be paid for the hours in excess of the three hundred and eighty (380) hour maximum allotment. In the event that the Employer determines the employee's attempts to take vacation time in excess of the three hundred and eighty (380) hour maximum allotment were not reasonable the time shall be forfeited. The employee shall be afforded the right to grieve that decision pursuant to Article 12.

## **ARTICLE 20**

### **OFF-DUTY EMPLOYMENT**

20.1 Any employee injured while acting in the scope of such employment shall be entitled to the same rights, privileges, benefits and workers' compensation as if on duty.

20.2 The Employer will furnish, if available, a hand-held radio unit to any employee working an approved off-duty detail.

20.3 Hours spent by lieutenants in outside employment are not hours worked for purposes of calculating Employer compensation for officers, and shall not be considered compensation or included in an employee's average final compensation for the purpose of calculating retirement contributions and benefits. Lieutenants are allowed by the Employer to accept outside employment, as approved by the Chief. The outside employment is neither required nor desired by the Employer, and is not for the benefit of the Employer.

20.4 Any employee who accepts an off-duty employment assignment is required to conduct themselves in accordance with professional law enforcement standards and those failing to do so may be subject to disciplinary action up to and including dismissal.

## **ARTICLE 21**

### **HEALTH BENEFITS**

21.1 The Employer will provide full medical, surgical and hospitalization benefits not less than those paid to other City employees.

21.2 Employees electing either PPO or HMO health insurance coverage will contribute ten dollars (\$10.00) per week towards the cost of the single coverage premium during the life of this Agreement. Employees electing any dependent health insurance coverage shall contribute fifty dollars (\$50.00) per week for the life of this Agreement towards the coverage premium regardless of whether the coverage is a PPO or an HMO.

21.3 The Employer agrees that, if an employee covered by this agreement chooses not to join or desires to discontinue the Employer health program, he shall sign a card provided by the Employer to this effect. If the employee chooses to join a hospitalization program sponsored by the Association, the Association shall inform the Employer. The Association shall be remitted an amount equal to the employee's individual coverage as determined by the Employer program (provided that the Employer's insurance policy shall not be jeopardized by a member's withdrawal from said policy).

21.4 As authorized by Section 112.0801 of the Florida Statutes, an employee who retires from the service of the Employer may elect to continue participation in the Employer's group health insurance plan by paying the full premium for individual and

dependent coverage (if applicable).

21.5 The City agrees that it will provide the Union with written notice prior to implementing any changes to the cost or level of health insurance benefits in the second year of this Agreement (i.e., October 1, 2009 through September 30, 2010).

## **ARTICLE 22**

### **HOURS AND OVERTIME**

22.1 The basic weekly tour of duty for each employee shall be forty (40) hours, consisting of four (4), ten (10) hour work days or five (5), eight (8) hour work days.

22.2 No member shall be forced to work a continuous shift whenever a shift rotation occurs. Employees rotating shifts will be entitled to at least one shift off-duty before returning to work (with the exception of extreme emergencies).

22.3 All time actually worked in excess of forty (40) hours in a work period of seven (7) consecutive days shall be considered overtime for which employees shall, at their option, receive overtime pay or compensatory time at the rate of one and one-half (1 1/2) times their normal base hourly rate. Compensated leave shall be treated as time worked in determining overtime.

22.4 When it is necessary for the Employer to require an employee to return to work, not contiguous to his/her assigned shift, the Employer agrees to compensate the employee for a minimum of three (3) hours pay at the employee's overtime rate of pay. When the Employer requires an employee to report for work contiguous to his assigned shift, the employee will be compensated at the applicable rate of pay (straight or overtime) pursuant to the provisions of this article.

22.5 When an employee is required to attend court not on his regular shift, the Employer will provide the employee with a minimum of four (4) hours compensation for court appearances outside of Homestead and Cutler Ridge, or three (3) hours compensation for court appearances in Homestead and Cutler Ridge, whichever is applicable. The time actually spent in court must be counted toward satisfaction of the 40 hour threshold for overtime calculation and paid at the applicable rate as determined by paragraph 22.3. The court time minimum not worked in court shall either be paid to the employee at the appropriate rate, or accrued as special leave, as selected by the employee upon return from the court attendance in question. If the employee elects to accrue special leave, the court time minimum shall be credited at time and one-half. If the employee elects to receive pay, the court time minimum shall be paid at the applicable rate of pay as determined by paragraph 22.3.

22.6 An employee in an acting capacity, or temporarily filling a position in a higher or different rank, for a period exceeding three shifts (24 hours) during a weekly tour of duty, shall receive the minimum base pay of the rank being filled or his normal rate of pay, whichever is higher.

22.7 Whenever possible an employee will be given forty-eight (48) hours advance notice of any change in his regular hours of work.

22.8 When required by the Employer to attend training, an employee will be compensated for off-duty training at the applicable rate of pay, as determined by

paragraph 22.3.

22.9 An employee will be compensated at the applicable rate, as determined by paragraph 22.3, for all hours he is ordered to be on stand-by at a specified location.

22.10 No employee shall be permitted to accumulate more than two hundred (200) hours of unused compensatory time. Once an employee has accumulated two hundred (200) hours of unused compensatory time, the employee may not accumulate anymore compensatory time and must receive monetary compensation in lieu of compensatory time. Upon ratification of this Agreement, employees who have accumulated more than two hundred (200) hours of unused compensatory time shall receive a one time payment for all unused compensatory time over two hundred (200) hours. This one time payment shall be calculated using the employee's regular pay rate at the time of the ratification of this Agreement. Employees who wish to cash out any unused compensatory time under two hundred (200) hours may elect to do so each January 31<sup>st</sup> through a written request to the Human Resources Department. Payment for such requested time shall be issued within the following two (2) pay periods.

**ARTICLE 23**  
**COMPENSATION**

23.1 Attached as Addendum A is the new Salary Schedule for members of the bargaining unit in effect from October 1, 2008 through September 30, 2009 (“2008-2009 Salary Schedule”). The 2008-2009 Salary Schedule includes a three and one half percent (3.5%) cost of living adjustment (“COLA”).

23.2 Attached as Addendum B is the new Salary Schedule for members of the bargaining unit in effect from October 1, 2009 through September 30, 2010. (“2009-2010 Salary Schedule”). The 2009-2010 Salary Schedule includes a three and one half percent (3.5%) COLA.

23.3 Effective October 1, 2004, a sergeant who is promoted to lieutenant and is at Step 6 of the Step Pay Plan at the time of the promotion shall start at Step 2 of the lieutenant’s Step Pay Plan.

23.4 Effective October 1, 2004, police lieutenants that have worked at least one full year at Step 5 shall advance one step within the Step Pay Plan to Step 6.

23.5 All other employees will advance to the next step on the employee’s anniversary date based upon the employee’s appointment, promotion or demotion by the Employer to a position.

23.6 Police lieutenants shall always be placed in a salary step which exceeds the base pay of any subordinate employee.

23.7 All permanent employees in the bargaining unit shall receive longevity bonuses according to the following schedule:

23.7.1 Three percent (3%) of base pay after the fifth year of continuous employment.

23.7.2 Four percent (4%) of base pay after the tenth year of continuous employment.

23.7.3 Six percent (6%) of base pay after the fifteenth year of continuous employment.

23.7.4 Seven percent (7%) of base pay after the twentieth year of continuous employment.

23.7.5 Eight percent (8%) of base pay after the twenty-fifth year of continuous employment.

## **ARTICLE 24**

### **SAFETY DAYS**

24.1 Employees may earn one (1) safety day for each one year period of safe work performance. Safe work performance is defined as having no "preventable" accidents. Whether an accident is "preventable" shall be determined in the context of the mission required of the police officer. Safety days, when earned, shall entitle the employee, at his or her option, to eight (8) hours pay at the applicable base hourly rate, or eight (8) hours leave credited to the employees holiday leave which must be used by the employee within the year that it is earned or it shall be forfeited.

## **ARTICLE 25**

### **FUNERAL EXPENSE BENEFIT**

25.1 The Employer will defray reasonable expenses of funeral and burial not to exceed the amount of two thousand dollars (\$2,000.00) of any bargaining unit employee killed in the line of duty. This cost may be funded by the purchase of insurance by the Employer.

## **ARTICLE 26**

### **NO STRIKE**

26.1 In mutual recognition of the command responsibilities exercised by unit employees in the interest of the Employer, both the Employer and the Association agree that in accordance with Section 447.505 of the Florida Statutes, there shall be no strike for action in sympathy or furtherance thereof by unit employees. Any employee who instigates or participates, in any way, in a strike by a public safety personnel of the Employer shall be subject to all penalties allowed by law.

26.2 Upon the occurrence of a strike by any unit employee, the provisions of this agreement shall become null and void.

## **ARTICLE 27**

### **ADDITIONAL RETIREMENT BENEFITS**

27.1 Each bargaining unit employee who retires on length of service or medical disability shall receive a one grade promotion (non-economic), shall be issued a badge and identification card clearly marked "retired," and shall receive assistance in obtaining a county issued permit to carry a concealed firearm. The Employer assumes no liability for the misuse of said firearm.

## ARTICLE 28

### UNIFORMS, SAFETY AND EQUIPMENT

28.1 Upon appointment all employees, shall receive from the Employer at no cost to the employee a new uniform. The uniform shall consist of one (1) dress shirt with pin-on name tag, and three (3) pairs of trousers, one (1) hat, six (6) short, sleeved shirts with sew-on name tags badge, basket weave leather goods and accessories to include handcuff case, cartridge case and holster, handcuffs, one (1) pair of shoes, and one (1) windbreaker. All work equipment and uniforms shall be replaced as needed by the Employer and the worn equipment and uniforms shall be returned to the Police Department.

28.2 Any employee who incurs any breakage or damage to his uniform or personal utilitarian equipment or loss of such items in the line of duty, shall have it replaced at no cost to the employee, as provided herein, unless it is established that such damage or loss has been caused by the employee's negligence and/or intentional misconduct. Personal utilitarian equipment shall include prescription eyeglasses, contact lenses, sunglasses, and watches, but shall not include jewelry. The Employer shall provide the replacement or repair cost of personal utilitarian equipment damaged or lost in the line of duty in accordance with the following schedule:

Prescription Eyeglasses	Full replacement/repair cost (excluding designer frames)
Contact Lenses	Full replacement cost
Watches	Replacement/repair cost up to \$75.00
Sunglasses	Replacement/repair cost up to \$20.00

28.3 Employees who are required to wear non-issued clothing in the course of their job shall receive a clothing allotment of forty dollars (\$40.00) per month.

28.4 To protect employees, the following measures shall be taken:

28.4.1 An incident sheet shall be established which would briefly highlight the crimes and incidents which have occurred in the preceding twenty-four (24) hours. The sheet shall be posted for the oncoming shifts.

28.4.2 To protect employees while they are away from their patrol cars, the Employer will provide each man with a two-way, hand-held portable radio, if available. On-duty personnel shall have priority over employees on approved off-duty jobs.

28.5 Effective October 1, 1997, employees who are required to wear uniforms shall receive a cleaning allowance of eighty dollars (\$80.00) for each month worked.

28.6 Any employee absent from work for more than a three (3) month period shall not be entitled to either a clothing or cleaning allowance.

## **ARTICLE 29**

### **AWARDS**

29.1 The Employer and Association agree to consult with respect to the institution of an appropriate award program to be considered in future negotiations.

## **ARTICLE 30**

### **WELLNESS PROGRAM AND WORKERS' COMPENSATION BENEFITS**

30.1 Employees will receive a complete LifeScan physical evaluation every two years, performed by a LifeScan Wellness Center. Such evaluation shall occur on an annual basis for employees over the age of 45. Scheduling of the above will become part of the employee's permanent record. The Employer will pay the cost of the examination. Employee family members may, at their own expense, utilize this LifeScan evaluation program at the same cost to the City.

30.2 The Employer will arrange and undertake the cost of eye examinations for each employee by a licensed optometrist every two (2) years. Such examination shall occur on an annual basis for employees over the age of 45. If a problem requiring referral is noted, the Employer will pay for an initial examination by a licensed ophthalmologist.

30.3 In the event of an on-the-job injury, not resulting from negligence by the employee, the employee will be carried at full pay (minus workers' compensation benefits) to a maximum of one hundred eighty (180) days, not to be charged against any existing type of leave time. Such maximum may be extended upon request to the City Council. For purposes of this paragraph, an injury to an employee which occurs when an employee is engaged in law enforcement duties within the scope of employment (on or off duty) in accordance with approved procedure shall not be

deemed to result from negligence on the part of the employee.

30.4 Any employee injured on the job shall be paid a full shift's pay for the day of the accident if the treating physician advises that he could not or should not return to work that day.

30.5 Employees suffering on-the-job injuries, compensable under Chapter 440 of the Florida Statutes, shall be permitted initially to select their own physician for the treatment of such injury from a list of practitioners approved by the Employer or its insurance carrier. The Employer reserves the right to require an examination by an Employer appointed physician.

30.6 Any employee who is able to work after a job-related injury, shall be reinstated to his former job, provided he is physically and psychologically qualified to fully perform the work.

30.7 Any employee found to have fraudulently utilized the State Workers' Compensation program and procedures, or is found to have falsified an on-the-job injury, will be subject to immediate dismissal.

## **ARTICLE 31**

### **SENIORITY**

31.1 Seniority shall consist of continuous accumulated paid service within the Police Department. Seniority shall be computed from the date of appointment. Seniority shall accumulate during authorized absences because of illness, injury, vacation, military leave, or other authorized leave. Such seniority shall govern the following matters:

31.1.1 In the event of a vacancy in any division or unit (not a promotional vacancy), seniority and employee's ability will be considered.

31.1.2 Seniority preference may be used to obtain a desired shift, but only if the employees involved have equal job skills and qualifications, and are able to perform efficiently and effectively in the assignment.

31.1.3 Seniority shall be considered along with other factors in determining employees selected to special assignments.

31.2 In the event of a layoff for any reason, employees shall be laid off in the inverse order of their seniority in their classification. Any employee to be laid off who has advanced to his present classification from a lower classification in which he held a

permanent appointment, shall be given a position in a lower classification in the Police Department. His seniority in the lower classification shall be established according to the date of his permanent appointment to that classification. Employees shall be called back from layoffs according to the seniority in the classification from which the employee was laid off. No new employee shall be hired in any classification until all employees on lay-off status in that classification have had an opportunity to return to work (for which they are qualified). Employees will be notified by certified mail, return receipt requested, sent to their home address of record, and shall be given fourteen (14) calendar days from date of receipt to return to work. An employee will be kept on the call backlist for one year. After this period, the Employer will no longer be obligated to request that the employee return to employment.

31.3 In all matters where seniority is at issue, it shall be calculated as follows:

31.3.1 Seniority shall be determined by the total uninterrupted time within the Police Department and within the separate ranks. For lieutenants the time shall begin with the date of promotion.

31.3.2 When a conflict occurs between an employee within a special unit and one outside a unit, time within the Police Department shall prevail.

## **ARTICLE 32**

### **LIABILITY IN AUTOMOBILE ACCIDENTS**

32.1 The Employer recognizes that a police employee must devote a considerable amount of attention to the assigned mission. Each employee shall be required, however, to exercise due caution in the care and handling of any police vehicle that may come into his custody or under his control. Employees will not be required to pay for damage to an Employer vehicle involved in an automobile accident unless it is established that the damage was caused by the employee's negligence and/or intentional misconduct.

32.2 Employees not in their course and scope of employment will be responsible for the property damage and other liability if it is established that the officer was negligent.

## **ARTICLE 33**

### **HOLIDAY TIME AND SPECIAL LEAVE**

33.1 No employee shall be permitted to accumulate more than seventy (70) hours of unused holiday or special leave time. Hours in excess of seventy (70) shall be liquidated by payment to the employee at his base hourly rate of pay.

33.2 Effective upon ratification by the parties, Employees who bid on and are assigned to the 4:00 p.m. to 12:00 a.m. and midnight to 8:00 a.m. shift shall be paid an additional five percent (5%) pay differential.

33.3 Upon ratification, all bargaining unit members shall receive an additional allocation of sixteen (16) hours leave on a quarterly basis which must be used during the fiscal year in which it is earned. This leave shall be allocated on October 1, January 1, April 1, and July 1 of each year. Leave granted under this section shall not be paid out on separation or death, nor shall any unused leave be rolled over into the next fiscal year.

## **ARTICLE 34**

### **PROBATIONARY PERIOD**

34.1 The initial probationary period shall extend for one (1) year from the date of an employee's promotion to the rank of lieutenant. An employee shall not be considered permanent until successful completion of the initial probationary period. However, this period shall be tolled and extended during any time period that a bargaining unit employee is on no pay status or otherwise not at work performing his/her regular duties for more than fifteen (15) consecutive calendar days (e.g., sick leave, light duty, worker's compensation leave and/or any other period of paid or unpaid leave).

34.2 The probationary period may be extended one time, for a period not to exceed three (3) months, with the mutual consent of the affected employee and the Chief of Police, with the approval of the City Manager. If a probationary employee rejects an offer of extended probation, he or she will be reduced to previous permanent rank within the Police Department.

## **ARTICLE 35**

### **MEAL BREAKS**

35.1 On-duty employees who are authorized to take a meal break during their tour of duty may do so in commercial dining establishments located within the city limits. In addition, employees on meal break may pick up food for consumption from take out food establishments located within one-half mile of the Employer's limits or eat at their own homes if the homes are located within the one-half mile limit.

## **ARTICLE 36**

### **RETIREMENT**

36.1 During the life of this agreement the Employer agrees to pay four percent (4%) of the employee contribution for police employees to the City of Homestead Municipal Police Officers Retirement Plan (the "Plan"). The Association acknowledges that due to income tax consequences; the economic value of the Employer paying four percent (4%) of the employee retirement contribution is equivalent to an increase in base pay of greater than four percent (4%).

36.2 The City agrees to comply with applicable provisions of Chapter 185 of the Florida Statutes.

36.3 Section 22.5-68(e) of the City of Homestead's Code (i.e., Police Officers Retirement Plan) shall be amended in accordance with the decision of the Florida Supreme Court in Barragan v. City of Miami, 545 So.2d 252 (Fla. 1989) stating that benefits under this section shall be reduced to the extent that the sum of Workers' Compensation payments and benefits under this section exceed the employee's average monthly wage.

36.4 On June 5, 2000, the City implemented a Rule of 64 retirement option; a five (5) year deferred retirement option plan ("DROP" plan); and a two percent (2%)

cost of living increase for both new and current retirees, effective upon the retiree's fifth (5<sup>th</sup>) year of retirement. On August 11, 2003, the DROP plan was extended to eight (8) years.

36.5 Effective April 21, 2003, the Employer implemented a twenty (20) year normal retirement within the Homestead Municipal Police Officers' Retirement Plan. The City agrees to pay for the costs of implementation of this benefit.

36.6 On August 2, 2005, the City raised the current police pension cap from seventy five percent (75%) to eighty percent (80%).

36.7 Effective October 1, 2005, the employee contribution to the Police Pension Plan shall be reduced by two percent (2%) to an amended employee contribution of 7.65%. The Employer will be responsible for this additional two percent (2%) reduction on behalf of its covered employees.

36.8 Within ninety (90) days of the date on which this Agreement is fully ratified, the City agrees to take appropriate steps to amend the City of Homestead Municipal Police Officers' Retirement Plan and implement the following change:

36.8.1 Employees will be allowed to include up to 254 hours of overtime pay in his/her average final compensation for benefit calculation purposes.

## **ARTICLE 37**

### **SEVERABILITY CLAUSE**

37.1 Should any provision of this agreement or any part thereof, be rendered or declared invalid by reason of any existing or subsequently enacted State or federal legislation, or by any decree by a court of competent jurisdiction, said provision shall be subject to collective bargaining negotiations by the parties, and all other articles and sections of this agreement shall remain in full force and effect for the duration of this agreement.

**ARTICLE 38**  
**DRUG TESTING**

38.1 It is understood and agreed that in keeping with the Employer's zero tolerance for the use of illegal substances, the employees are prohibited from using illegal drugs on or off duty. "Illegal drugs" means any controlled substance as defined in Section 893.03 of the Florida Statutes, not used in accordance with a lawful prescription.

38.2 It is understood and agreed that the employer may subject employee urine specimens, obtained either randomly or in the course of regular physical examinations scheduled in accordance with this Agreement, to laboratory analysis for the presence of illegal drugs. Random drug tests will be implemented at the discretion of the Chief of Police from a computer-generated list of randomly selected employees.

38.3 All employees who are involved in a vehicular accident regardless of Sections 38.7 and 38.8 shall submit to a drug and alcohol test.

38.4 Whenever the Employer or any of its managerial or supervisory employees, has a reasonable suspicion that an employee has reported for duty under the influence of alcohol or illegal drugs, or has used alcohol or illegal drugs while on duty, it is understood and agreed the Employer may require that employee to submit to a breath analysis or furnish a urine specimen for chemical analysis to determine the

presence of alcohol or illegal drugs. The Employer agrees that requiring employees to submit to testing of this nature shall be limited to circumstances where two (2) police department supervisory employees have reasonable grounds to suspect that the employee has recently used or is under the influence of alcohol or illegal drugs. The Chief of Police or his designee shall approve any mandatory test for the presence of alcohol or illegal drugs pursuant to this paragraph. An employee required to submit to a mandatory test for the presence of alcohol or illegal drugs shall be entitled to have P.B.A. or other employee representative present when the breath analysis is conducted or when the urine specimen is obtained. However, under no circumstances will the breath analysis or taking of a urine specimen be delayed for more than one (1) hour to allow for the presence of a P.B.A. or other employee representative.

38.5 All tests for the presence of illegal drugs shall be conducted in medical laboratories using recognized technologies. In the event an employee's initial test results are positive (i.e., indicate the presence of an illegal drug), a second test utilizing a different procedure, preferably the Gas Chromatography/Mass Spectrometry (G.C.M.S.) or comparable testing method, shall be conducted on the same specimens to verify the initial test results. Copies of the test results shall be made available to the employee, at the employee's request, at the City of Homestead Police Station within 12 hours after the Employer has received the test results. Additionally, if the employee so requests, within 12 hours after the test results have been made available, he/she shall be given a sample of the specimens tested, if available. An employee testing positive

shall be subject to appropriate discipline up to and including termination.

38.6 The results of such tests shall be handled as if part of an internal affairs investigation, and the employee involved shall be afforded all the rights enumerated in Section 112.532 of the Florida Statutes. The taking of a breath analysis or urine specimens from an employee does not constitute an interrogation within the meaning of Section 112.532, of the Florida Statutes, unless questions are asked at the time the breath analysis or urine specimen is taken.

38.7 Testing for the presence of illegal drugs or alcohol shall not be conducted if an officer receives an injury while chasing, subduing, pursuing or actually arresting a subject.

38.8 This Article shall not supersede state law which requires that drug or alcohol testing shall be conducted when a death or serious injury occurs.

38.9 An officer shall not be tested for the presence of alcohol or illegal drugs if an officer is involved in a shooting where either the officer is shot or the officer shoots a suspect.

38.10 For the purposes of this article, "injury" is defined as any condition which requires professional medical attention.

**ARTICLE 39**

**TERM OF AGREEMENT AND ZIPPER CLAUSE**

39.1 This Agreement shall be effective as of the date ratified by both parties and shall be valid through September 30, 2010, unless otherwise provided in the Agreement.

39.2 During the negotiations which led up to the execution of this Agreement, each party had an unlimited right and opportunity to raise and bargain concerning any negotiable subject it desired. Accordingly, the parties agree that neither will be obligated to bargain further during the life of this Agreement concerning any matter referred to or covered by this Agreement, except as provided within the agreement or by law.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**FOR THE EMPLOYER:**

**FOR THE ASSOCIATION:**

\_\_\_\_\_  
Mike A. Shehadeh, P.E.  
City Manager, City of Homestead

\_\_\_\_\_  
John Rivera  
DCPBA President

\_\_\_\_\_  
Marcie Heese  
Director of Human Resources  
City of Homestead

\_\_\_\_\_  
PBA Representative

\_\_\_\_\_  
Vivian Mañach  
Asst. Director of Human Resources  
City of Homestead

\_\_\_\_\_  
PBA Representative

\_\_\_\_\_  
Brett J. Schneider, Esq.  
Special Labor Counsel

\_\_\_\_\_  
PBA Representative

Attest:

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Sheila Paul Shedd, CMC  
City Clerk

## ADDENDUM A

### 2008-2009 SALARY SCHEDULE – *Effective Date 10/1/2008*

#### **PBA - POLICE LIEUTENANTS**

3.5% COLA INCREASE AS PBA AGREEMENT

\*These steps are 4% higher than next lowest step as per PBA Agreement, 2000-2002, Article 23, Section 23.1

^This step is 5% higher than next lowest step and can only be reached after 10 years of service, as per PBA Agreement, 2004-2006, Article 22, Section 22.2

STEP	Hourly	Annually
1	35.13	73,070.40
2	36.89	76,723.92
3	38.73	80,560.12
4	40.67	84,588.12
*5	42.29	87,971.65
^6	44.41	92,370.23

## ADDENDUM B

### 2009-2010 SALARY SCHEDULE – *Effective Date 10/1/2009*

#### **PBA - POLICE LIEUTENANTS**

3.5% COLA INCREASE AS PBA AGREEMENT

\*These steps are 4% higher than next lowest step as per PBA Agreement, 2000-2002, Article 23, Section 23.1

^This step is 5% higher than next lowest step and can only be reached after 10 years of service, as per PBA Agreement, 2004-2006, Article 22, Section 22.2

<b>STEP</b>	<b>Hourly</b>	<b>Annually</b>
<b>1</b>	36.36	75,628.80
<b>2</b>	38.18	79,410.24
<b>3</b>	40.09	83,380.75
<b>4</b>	42.09	87,549.79
<b>*5</b>	43.77	91,051.78
<b>^6</b>	45.96	95,604.37