

**COLLECTIVE BARGAINING AGREEMENT**

**CITY OF PALM BAY**

**NATIONAL ASSOCIATION**

**OF**

**GOVERNMENT EMPLOYEES**

**LOCAL R-5-197**

**(WHITE)**

**October 1, 2007 - September 30, 2010**

<b>PREAMBLE.....</b>	<b>1</b>
<b>ARTICLE 1: RECOGNITION.....</b>	<b>1</b>
<b>ARTICLE 2: MANAGEMENT RIGHTS .....</b>	<b>3</b>
<b>ARTICLE 3: PROHIBITION OF STRIKES.....</b>	<b>4</b>
<b>ARTICLE 4: DISCIPLINARY ACTION.....</b>	<b>5</b>
<b>ARTICLE 5: NON-DISCRIMINATION .....</b>	<b>7</b>
<b>ARTICLE 6: ASSOCIATION REPRESENTATION AND SERVICE .....</b>	<b>7</b>
<b>ARTICLE 7: DUES DEDUCTION.....</b>	<b>8</b>
<b>ARTICLE 8: GRIEVANCE PROCEDURE .....</b>	<b>9</b>
<b>ARTICLE 9: BULLETIN BOARDS.....</b>	<b>12</b>
<b>ARTICLE 10: PROBATION.....</b>	<b>13</b>
<b>ARTICLE 11: SENIORITY, LAYOFF AND RECALL.....</b>	<b>14</b>
<b>ARTICLE 12: OFF-DUTY EMPLOYMENT.....</b>	<b>16</b>
<b>ARTICLE 13: RESERVED .....</b>	<b>16</b>
<b>ARTICLE 14: LEAVE WITH PAY.....</b>	<b>16</b>
<b>ARTICLE 15: LEAVES OF ABSENCE WITHOUT PAY .....</b>	<b>17</b>
<b>ARTICLE 16: UNIFORMS .....</b>	<b>18</b>
<b>ARTICLE 17: USE OF PERSONAL VEHICLES .....</b>	<b>19</b>
<b>ARTICLE 18: 401(a) RETIREMENT ACCOUNT.....</b>	<b>19</b>
<b>ARTICLE 19: EDUCATION AND TRAINING .....</b>	<b>20</b>
<b>ARTICLE 20: INSURANCE AND OTHER FRINGE BENEFITS.....</b>	<b>22</b>
<b>ARTICLE 21: SICK LEAVE .....</b>	<b>24</b>
<b>ARTICLE 22: SAFETY AND HEALTH .....</b>	<b>25</b>

<b>ARTICLE 23: JOB CONNECTED DISABILITY .....</b>	<b>26</b>
<b>ARTICLE 24: DEATH OF AN EMPLOYEE.....</b>	<b>27</b>
<b>ARTICLE 25: HOLIDAYS.....</b>	<b>27</b>
<b>ARTICLE 26: BEREAVEMENT LEAVE.....</b>	<b>.28</b>
<b>ARTICLE 27: VACATION LEAVE .....</b>	<b>29</b>
<b>ARTICLE 28: MILITARY LEAVE .....</b>	<b>31</b>
<b>ARTICLE 29: WORK SCHEDULING, WORK PERIOD, OVERTIME &amp;                   COMP TIME.....</b>	<b>32</b>
<b>ARTICLE 30: SHIFT DIFFERENTIAL.....</b>	<b>33</b>
<b>ARTICLE 31: CALL BACK PAY.....</b>	<b>34</b>
<b>ARTICLE 32: ICMA VANTAGECARE RET. HEALTH SAVINGS PLAN .....</b>	<b>34</b>
<b>ARTICLE 33: ACTING PAY AND SPECIAL DUTY COMP. ....</b>	<b>35</b>
<b>ARTICLE 34: WAGES.....</b>	<b>36</b>
<b>ARTICLE 35: SEVERABILITY CLAUSE.....</b>	<b>38</b>
<b>ARTICLE 36: DURATION AGREEMENT.....</b>	<b>38</b>
<b>ARTICLE 37: ENTIRE AGREEMENT OF THE PARTIES .....</b>	<b>38</b>
<b>ARTICLE 38: LABOR MANAGEMENT COMMUNICATIONS .....</b>	<b>39</b>
<b>ARTICLE 39: PUBLICATION OF AGREEMENT .....</b>	<b>39</b>
<b>ARTICLE 40: DRUG FREE WORKPLACE.....</b>	<b>39</b>
<b>ARTICLE 41: VACANCIES, TRANSFERS &amp; PROMOTIONS .....</b>	<b>44</b>
<b>ARTICLE 42: PREVAILING RIGHTS .....</b>	<b>45</b>
<b>GLOSSARY.....</b>	<b>46</b>
<b>SIGNATURE PAGE.....</b>	<b>47</b>

# PREAMBLE

This Agreement is entered into by and between the City of Palm Bay, Florida (the Employer), and the National Association of Government Employees, Local R-5-197 (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 operations, and to set forth the full agreement between the parties concerning wages, hours of work and other terms and conditions of employment.

A wording importing the masculine gender only shall extend and be applied to females as well as to males.

## ARTICLE 1 RECOGNITION

- 1.1 The City of Palm Bay recognizes the National Association of Government Employees (NAGE), Local R-5-197, as the sole and exclusive representative of the bargaining unit, hereinafter identified for the purpose of collective bargaining with respect to the establishing of wages, hours, and terms and conditions of employment for all employees within the bargaining unit.
- 1.2 The bargaining unit covered by this Agreement is specified in the Florida Public Employee Relations Commission (PERC) Certificate Number 712 and Case Number RC-85-065 and includes all full time regular positions in the following classifications:

- Accounts Payable Clerk
- Bookkeeper
- Building Code Enforcement Inspector
- Building Inspector
- Cashier
- Clerk Typist II (Excluding Human Res. and Management/Admin. Serv.)
- Code Enforcement Officer
- Code Enforcement Specialist
- Collections Account Specialist
- Construction Projects Clerk
- Crime Scene Technician I
- Crime Scene Technician II
- Customer Service Clerk
- Customer Service Representative
- Data Entry Clerk
- Desk Booking Specialist
- Desk Booking Specialist II
- Engineering Assistant
- Engineering Inspector

Engineering Technician II  
Engineering Technician III  
General Clerk  
GIS Technician I  
H&ND Accounting Assistant  
H&ND Program Assistant  
Inventory Control Coordinator  
Jr. Accounting Clerk  
Liens Account Specialist  
Mapping Technician  
Material Management Technician  
Permit Technician  
Planning & Environmental Specialist  
Planning Technician  
Police Athletic League (P.A.L.) Coordinator  
Records & Computer Data Supervisor  
Records Specialist  
Recreation Leader  
Secretary (Excluding Human Resources and Management/Admin. Serv.)  
Senior Inventory Control Coordinator  
Senior Recreation Leader  
Switchboard Operator  
Telecommunicator  
Telecommunicator Shift Supervisor  
Traffic/Engineering Technician  
Training Coordinator  
Utilities Assistant  
Utilities Inspector

- 1.3 The inclusion of a newly established classification shall be the subject of a petition filed with PERC by the Association with notification to the City.
- 1.4 It is agreed by and between the parties that the City will voluntarily recognize the classifications listed in 1.2 and that the Association will file the proper paperwork with PERC listing the classifications in 1.2 to update the Association's Certificate and Case Number as stated in 1.2.
- 1.5 All other employees not specifically included in the bargaining unit as certified by PERC are excluded from the bargaining unit including confidential employees, managerial employees, professional employees, and supervisory employees who possess a conflict of interest, temporary, casual, seasonal employees and employees of any other bargaining unit.

**ARTICLE 2  
MANAGEMENT RIGHTS**

- 2.1 The Association recognizes the prerogative of the City, except as expressly restricted by any provision of this Agreement, to exercise exclusively all of the normal and inherent rights of management with respect to the City, including, but not limited to, the right to determine the purpose of its constituent departments, to set standards of service, and to exercise control and discretion over its organization and operations. It is also the right of the City to direct its employees, to take disciplinary action for proper cause, and to relieve its employees from duty, provided in so doing the provisions of this Agreement are not violated.
- 2.2 The City reserves the right:
- 2.2.1 To select and direct the work force in accordance with requirements determined by management.
  - 2.2.2 To establish and change work schedules and assignments, and to determine the number of days constituting a work period for employees. In non-emergency situations employees will be provided no less than twenty-one (21) calendar days notice of change in work schedule or assignment. Employees may appeal changes of work schedules and assignments for reasons of organizational efficiency only; according to section 8.7 except that the City Manager will act as arbitrator.
  - 2.2.3 To assign and distribute available overtime work and to change work schedules in order to minimize overtime work.
  - 2.2.4 To make and enforce standards of quality and quantity of work to be performed.
  - 2.2.5 To make and change reasonable rules and regulations and to determine disciplinary action for the failure to obey such rules and regulations.
  - 2.2.6 To determine job content.
  - 2.2.7 To make and enforce safety rules.
  - 2.2.8 To transfer and promote employees.
  - 2.2.9 To determine the size and composition of the work force.
  - 2.2.10 To lay off employees for lack of work or other legitimate reasons, and to determine "lack of work."
  - 2.2.11 To transfer, subcontract, and eliminate work.

- 2.2.12 To regulate, control, change or eliminate existing work procedures or equipment utilized for duty purposes.
- 2.2.13 To determine procedures which will be observed in exercising any authority under this article and to make appropriate arrangements in accordance with applicable law for unit employees adversely affected by the exercise of any authority reserved to the City.
- 2.2.14 To suspend, discharge, demote, or otherwise discipline employees for just cause as to both non-probationary and probationary promoted employees, and to take disciplinary action and discharge with or without cause as to new probationary employees.
- 2.2.15 To institute and establish new training methods.
- 2.3 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  
PROHIBITION OF STRIKES**

- 3.1 Neither the Association nor its officers, agents, or any employees covered by this Agreement will instigate, promote, sponsor, engage in, or condone any strike, slow-down, concerted stoppage of work, illegal picketing, or intentional interruption of the operations of the City during the term of this Agreement, regardless of the reason for doing so.
- 3.2 Upon the occurrence of a strike, which is neither authorized nor ratified by the Association, the provisions of this Agreement shall cease to apply to any and all striking employees and those acting in concert therewith, but shall remain in force as to all non-striking employees.
- 3.3 The Association agrees that in the event of any strike, work stoppage, illegal picketing, or interference with the operation of the City, a responsible official (i.e. Local Executive Board Member) of the Association shall promptly disavow such strike or work stoppage as violation of Florida Law, and warn members of the consequences of their action.
- 3.4 In the event a dispute exists between the City and the Association as to whether concerted activity by employees constitutes a strike within the meaning of this article, the provisions of paragraph 3.2 shall be held in abeyance until PERC or a court of competent jurisdiction determines that a strike has taken place or is about to take place.

- 3.5 The City shall have the right to discharge or otherwise discipline for cause any or all employees who violate the provisions of this article, as provided by Chapter 447, Part II, Florida Statutes.

#### **ARTICLE 4 DISCIPLINARY ACTION**

- 4.1 A non-probationary and a probationary promoted employee may be disciplined or discharged only for just cause. An employee under investigation will be notified of the charges prior to the conclusion of the investigation.
- 4.2 Whenever it is alleged that an employee has violated any rule, regulation, or policy, for which he can and/or may be suspended or discharged, the employee and Association President shall be notified within ten (10) working days in writing of the alleged violation(s) unless such notification will jeopardize the City's investigation of the allegations.
- 4.2.1 Prior to a recommendation for discipline being imposed by a Department Head or his designee the following steps shall be taken by the City:
- 4.2.1.1 All material facts shall be gathered by: interviewing employees and others involved, visiting the site if needed, and checking machinery, equipment or vehicles.
  - 4.2.1.2 An identification of the rules and regulations that have been allegedly violated.
  - 4.2.1.3 Provision of a Predetermination Hearing to the employee consisting of the following.
    - 4.2.1.3.1 Notification to the employee and bargaining unit President of a time to meet in a closed door session, to receive the information gathered during the City's investigation. The employee may bring a representative with him to the meeting.
    - 4.2.1.3.2 An opportunity for the employee or his representative to explain his position and to provide any additional information and/or documents.
    - 4.2.1.3.3 Upon request, the employee may have up to seventy-two (72) hours after the hearing to provide additional information and documents to rebut the allegations.
    - 4.2.1.4 Following the Predetermination Hearing, the City may conduct any further investigation it deems necessary.
    - 4.2.1.5 After the City is satisfied that all relevant information and documents have been received, a determination shall be made whether a violation has occurred and where

appropriate, what the discipline shall be. A copy of said determination shall be forwarded to the Association President.

- 4.3 Whenever a bargaining unit employee is questioned and it is reasonable to believe the questioning could lead to disciplinary action, demotion, or dismissal, the following shall apply:
  - 4.3.1 The interview shall be conducted at a reasonable hour, and, if possible, while the employee is on duty, unless the seriousness of the offense requires immediate action.
  - 4.3.2 The employee shall be informed of the identity of the interviewing official and all persons present during the interview. No more than one person shall question the employee at any one time.
  - 4.3.3 The employee shall be informed of the nature of the interview and shall be informed of the names of all complainants. The employee shall be provided a copy of the complaint, all written statements concerning the incident and all audio or video recorded statements prior to answering any questions.
  - 4.3.4 Interview sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.
  - 4.3.5 The employee shall not be subjected to offensive language or be threatened with transfer, dismissal or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.
  - 4.3.6 All sessions shall be tape recorded. A copy of the tape shall be provided at no cost to the employee.
  - 4.3.7 Employees' have a right to representation.
  - 4.3.8 During the interview of an employee, questions will be limited to obtaining information concerning the alleged violation(s). There shall be no "fishing expeditions." Personnel Rules and Regulations, Policies & Procedures, City Administrative Regulations, Ordinances, written regulations, or statutes which have been allegedly violated shall be identified and a copy provided to the employee.
- 4.4 The City agrees that no disciplinary action shall be taken against a bargaining unit employee without prior notice to the employee, with a courtesy copy of that notice being sent to the Association President. No written notice of disciplinary action shall be placed in an employee's personnel file before a copy is furnished to the employee. Each written notice of disciplinary action shall specify the incident or set of circumstances on which it is based.
- 4.5 Bargaining unit employees are entitled to inspect and copy their personnel files. The City will supply these records and documents within the timetable specified by Chapter 119, Florida Statutes.

- 4.6 The City agrees to discipline employees in private except when public disciplinary action cannot reasonably be avoided. To the extent permitted by law and consistent with proper investigative procedure, a disciplinary action shall remain confidential until the affected employee is informed.
- 4.7 Bargaining unit employees shall have the right to prepare for inclusion in their personnel files a written response to any written reprimand. The written response must be provided to the Human Resources Director no later than 7 calendar days after the date of receipt of such reprimand.
- 4.8 Suspension without pay shall not become effective until an employee has completed the appeal process or until the time frame for such an appeal has expired.

**ARTICLE 5  
NON-DISCRIMINATION**

- 5.1 All bargaining unit employees shall have the right to form, join and participate in, or to refrain from forming, joining or participating in any employee organization of their own choosing, including the Association. Neither the City nor the Association shall interfere with, restrain or coerce the public employees in the exercise of any rights guaranteed them under Chapter 447, Part II. Florida Statutes or the provisions of this Agreement.

**ARTICLE 6  
ASSOCIATION REPRESENTATION AND SERVICE**

- 6.1 The Association shall notify the City in writing of the names of its representatives. The City agrees that during the term of this Agreement, it will deal only with the authorized representatives of the Association in matters requiring mutual consent or other official action called for by this Agreement.
- 6.2 Attendance at meetings, grievances, disciplinary hearings, negotiations, etc.
  - 6.2.1 An Association representative, shall be granted reasonable time off during working hours to investigate and settle grievances, or attend grievance or disciplinary meetings. The representative shall give their supervisor advance notice when possible.
  - 6.2.2 Association officials and representatives, up to the maximum of three (3), shall be permitted reasonable time off without loss of pay or benefits to perform the following Association business, so long as it is on City property: attend negotiation sessions and meetings with department heads or city officials.
- 6.3 Official Association representatives shall be permitted to communicate during working hours with bargaining unit employees concerning official Association business only if such communication does not interfere with or hinder the

performance of the duty by the employees involved, as determined by the immediate supervisor. If the City Manager deems this to hinder the performance of duty of employees, he may put a stop to this practice.

- 6.4 The City agrees to furnish to the Association upon request, the following information generated in the previous month.
  - 6.4.1 A list of new employees in bargaining unit classifications, reflecting: name, address, phone number, hire date, department assignment, classification and pay code, except when such information is made confidential by law.
  - 6.4.2 A current list of all bargaining unit employees who have their membership dues in the Association deducted from their pay.
- 6.5 Upon request, the City will furnish the Association with one (1) current copy of all written orders and regulations, including policies and procedures, supervisory directives, memoranda, and special orders, that do or could affect bargaining unit members.
- 6.6 Official interpretation of the Association's position on the content or intent of any of the provisions of this Agreement shall be limited to the International or Local Association President, Association attorney or Association designee. No other member of the Association or any other person has the authority to announce the Association's interpretation of this Agreement, and their response shall be treated as a personal opinion.
- 6.7 Every reasonable effort will be made to limit negotiating session hours to the normal work day.
- 6.8 When negotiation sessions extend beyond regular working hours the Association representatives shall not be entitled to any type of premium pay while engaged in said negotiations.

#### **ARTICLE 7 DUES DEDUCTION**

- 7.1 Any member of the Association who has submitted a properly executed written dues deduction authorization to the Local Association President or designee and the same is forwarded to Human Resources Department for processing and submission to payroll shall 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 office (NAGE, Attention: Comptroller, Fiscal Office, 156 Burgin Parkway, Quincy, MA. 02169-4213), accompanied by a list of those employees' names whose dues are included. The Association will pay an annual lump sum charge of sixty-five dollars (\$65.00) for this service in January of each year. Said sum will be deducted from the January check. It shall be the responsibility of the Association to notify the Human Resources Director or 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 City be required to deduct Association fines, penalties, or special assessments from the pay of any member.

- 7.2 The Association agrees to indemnify and hold harmless the City, its agents, employees, and officials from and against any claims, demands, damages, or causes of action (including, but not limited to claims, etc., based upon clerical or accounting errors caused by negligence), of any nature whatsoever, asserted by any person, firm, or entity, based upon or related to payroll deduction of Association dues. The Association agrees to defend, at its sole expense, any such claims against the City or its agents, employees, and officials. The term “officials” as used herein includes elected and appointed officials.
- 7.3 Any employee may withdraw his dues deduction to the Association upon thirty (30) days’ written request to the Local Association President or designee and forwarded to Human Resources Department for processing and submission to payroll.
- 7.4 No deductions shall be made from the pay of any employee for any payroll period in which the employee's net earnings for that payroll, after other deductions, are less than the amount of dues to be checked off.

## **ARTICLE 8 GRIEVANCE PROCEDURE**

- 8.1 For the purpose of this article, a grievance is a dispute concerning the interpretation or application of the terms of this Agreement.
- 8.2 All references to days in this article are to calendar days. If the last day of any applicable time period called for in this article is Saturday, Sunday, or a holiday, the deadline is automatically extended to the close of business of the next scheduled working day for administrative personnel of the department.
- 8.3 Any bargaining unit employee who believes that he has a grievance may discuss that matter with his immediate supervisor as soon as possible after the employee is aware of a dispute concerning the interpretation or application of this Agreement. If no satisfactory resolution is immediately forthcoming at this level, a bargaining unit employee or their representative may invoke Step I of the grievance procedure in accordance with the requirements set forth below. Provided, however, newly hired probationary employees shall not be entitled to invoke the grievance procedure. All grievances regarding termination shall be submitted at Step III.
- 8.4 In the event that a grievance involves more than one employee and is dependant on a common fact situation, such grievance shall be deemed a class grievance and the grievance procedure may be invoked directly at Step 3, the department head level, by any aggrieved regular employee or the Association. All employees in

the same common fact situation shall be bound by the resolution of the grievance and no further individual grievances concerning or arising out of that common fact situation will be processed.

8.5 Any grievance that has not been submitted to the next step in a timely manner shall be deemed expired and no further action pursued on the matter. Extensions shall be subject to the mutual agreement of the parties and reduced to writing.

8.6 The grievance procedure shall include four (4) steps:

#### STEP I

8.6.1 Step I grievance shall be submitted in writing to the employee's immediate supervisor on the standard grievance form and shall be signed by the grievant. The Step I grievance shall concisely state the facts relied on by the grievant, the article(s), and/or section(s) of the Agreement alleged to have been violated, and the relief requested by the grievant.

8.6.2 Within seven (7) calendar days after the receipt of a timely Step I grievance, the supervisor or designee, shall meet with the grievant, who shall have the right to be represented by the Association, and, shall render a written decision concerning the grievance. If the grievant is not satisfied with the Step I decision, or if no decision is issued within the allotted time, the grievant may invoke Step II of the grievance procedure.

#### STEP II

8.6.3 Within seven (7) calendar days after the date that the Step I decision is issued or due, whichever is earlier, the grievant may invoke Step II of the procedure by submitting the Step I decision to the Department Head or designee along with a written statement of his or her reason for dissatisfaction with the decision.

8.6.4 Within seven (7) calendar days after receipt of a timely Step II grievance, the Department Head or designee shall schedule a hearing concerning the grievance. The Department Head or designee shall render a written decision, within seven (7) calendar days after the hearing, concerning the grievance. If the grievant is not satisfied with the Step II decision, or if no decision is issued within the allotted time, the grievant may invoke Step III of the grievance procedure.

#### STEP III

8.6.5 Within seven (7) calendar days of the date the Step II decision is issued or is due, whichever is earlier, the grievant may invoke Step III by submitting the grievance and all written decisions concerning it to the Human Resources Director or designee who will hear the grievance on behalf of the City Manager.

8.6.6 Within seven (7) calendar days after receipt of the grievance documents, the Human Resources Director or designee will conduct a hearing concerning the grievance. The grievant may present evidence in support of

the grievance at the Step III hearing. Within seven (7) calendar days after the hearing, unless extended by mutual agreement, the Human Resources Director or designee shall render a written decision concerning the grievance. If the employee is unsatisfied with the Human Resources Director's or designee Step III decision, or if no decision is issued within the allotted time, the grievant may request the Association to invoke Step IV, the arbitration step of the procedure.

#### STEP IV

- 8.6.7 Within seven (7) calendar days of the date the Step III decision is issued or is due, whichever is earlier, the Association or grievant may invoke arbitration by giving the City timely written notice of its intent to arbitrate the grievance in question. Such notice shall be served on the Human Resources Director by certified mail, return receipt requested.
- 8.6.8 The City and the Association shall, within seven (7) calendar days after receipt by the Human Resources Director of the Association's notice of intent to arbitrate, submit a request to the Federal Mediation and Conciliation Service (F.M.C.S.) for a panel of five (5) professional arbitrators who reside in the State of Florida. Representatives of the City and Association shall meet within seven (7) calendar days after receipts of the list of arbitrators and each shall alternately strike, one at a time, two names from the list. The first strike shall be made by the grieving party. The person whose name remains on the list shall be the arbitrator, and the parties shall jointly notify the arbitrator of his selection.
- 8.6.9 Bargaining unit members may proceed to arbitration without the permission of the Union. However, before proceeding to arbitration, the employee shall submit a cash payment to the City equal to the estimated arbitrator's fee and costs for the arbitration proceeding. If the employee prevails, the City shall refund the arbitrator's fee and any unspent costs.

#### ARBITRATION RULES

- 8.7 Arbitration arising under this Agreement shall be conducted in accordance with the following rules:
  - 8.7.1 The issue before the arbitrator shall be mutually agreed upon by the parties and if this is done, the arbitrator shall confine his decision to the particular matters specified. If the parties fail to agree on the issue, both the City and the Association shall submit a written statement of the grievance and the arbitrator shall confine his consideration to the written statement or statements submitted. According to section 2.2.2 the City Manager shall serve as arbitrator for issues under section 2 Management Rights. This section, however, shall not be construed to permit either party to present issues through their written statements that would not otherwise be subject to the grievance and arbitration provisions of this Agreement.
  - 8.7.2 The arbitrator shall have jurisdiction and authority to decide a grievance properly before him.

- 8.7.3 The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement any provision of this Agreement.
- 8.7.4 The arbitrator may not issue any declaratory or advisory opinions and shall confine himself exclusively to the issue properly presented to him for resolution.
- 8.7.5 Each party may be represented at hearings by counsel or other representatives of their choice.
- 8.7.6 Each party shall bear the costs of preparing and presenting its own case. Any party desiring a verbatim transcript of the proceedings shall bear its cost, unless otherwise agreed. If both parties desire a record, its cost shall be shared equally by the parties.
- 8.7.7 All expenses of the arbitrator shall be borne by the losing party. If the arbitrator awards a compromise or split award, the arbitrator's fees and expenses shall be borne equally by the parties to the arbitration.
- 8.7.8 Copies of the arbitrator's written award shall be furnished to the parties within thirty (30) days of the hearing, unless the parties mutually agree to extend the time limit.
- 8.7.9 The arbitrator's award shall be final and binding on both parties.

**ARTICLE 9  
BULLETIN BOARDS**

- 9.1 The City will provide bulletin boards for the purpose of posting Association material. No posted information shall be of a political nature (excluding political material relating to Association elections) or defamatory of the City, its officials, employees, or employee organizations. The NAGE Newsletter may be posted on the bulletin boards in its' entirety.
- 9.2 Each bulletin board will be located in an area mutually agreed upon by the Association and the City. The City will make available space for bulletin boards the size of 24x36 and smaller, but no less than 18x24.
- 9.3 Any matter posted on the bulletin board or placed for distribution which, in the discretion of the City, contravenes this Article may be removed without notice to the Association. Any material so removed shall be given to the Association with a written explanation for its removal, within 24 hours of such removal.
- 9.4 Names of NAGE representatives may be posted on the NAGE bulletin board by the Association.
- 9.5 Non-association material posted on the Association's allocated space shall be brought to the attention of the area supervisor by an Association official. Said supervisor shall take necessary corrective action.
- 9.6 Listed below are the locations where the Association bulletin boards will be placed:

City Hall:	Break Room Customer Service
Police:	Communications Center break room Upstairs break room
Fire:	Library Fire Loss Management Inventory Control/Fire Museum Emer. Operations Center/Fire Headquarters
Utilities:	Troutman Boulevard Administrative Building
Parks and Recreation Department:	Degroodt Community Center
Growth Management Break Room in Bank Building Building Division Code Enforcement Economic Development Housing & Neighborhood Dev.	
Fleet Maint./ T&D:	Break area

**ARTICLE 10  
PROBATION**

- 10.1 All newly hired bargaining unit employees must successfully complete a twelve (12) month probationary period.
- 10.2 Newly hired probationary employees can be disciplined or discharged by the City which action shall not be subject to the grievance or arbitration procedures.
- 10.3 Part-time employees who become full-time regular employees in the same position and in the same department shall be given credit for probationary time served already as a part-time employee on an hour for hour basis. This probationary credit shall not exceed fifty (50%) percent of the probationary period required in Section 10.1 above.
- 10.4 Bargaining unit employees on probation as a result of a position reclassification or upgrade within the bargaining unit shall not have their seniority sick leave or vacation accumulation affected by such change. Employees accepting a new classification shall serve no more than a six (6) month probationary period, assuming an initial probationary period was served. Employees that fail to complete the probationary period following a position reclassification or upgrade shall be transferred to the previously held position.

**ARTICLE 11**  
**SENIORITY, LAYOFF AND RECALL**

- 11.1 Definition: Seniority shall mean an employee's length of continuous employment with the City, within the bargaining unit, measured from the employee's most recent date of hire. If application of the preceding sentence results in two (2) or more employees having the same seniority, the last four digits of the employee's social security number will determine seniority; lowest number being more senior.
- 11.2 Accrual: An employee accrues seniority during all periods of approved leave with pay. An employee accrues seniority during periods of unpaid leave which do not exceed thirty (30) consecutive calendar days in duration. Seniority accrual is suspended on an employee's 31st consecutive calendar day of unpaid leave and remains suspended until the date the employee returns to duty. Probationary employees do not accrue seniority until they obtain regular status, at which time their seniority shall be measured from their first date of regular full-time employment.
- 11.3 Application: Seniority shall govern layoff and recall and shall apply for the purpose of vacation preference.
- 11.4 If a position is eliminated by the City, the employee holding said position may be placed into a vacant position equal to or no more than one (1) pay grade lower without any loss in pay. If the employee is placed into a position that is more than one (1) pay grade lower, the employee's salary will be reduced by three percent (3%) for each additional grade, (i.e. 1 grade-no reduction; 2 grades-3% reduction). The employee must be qualified to hold the vacant position by meeting the minimum job requirements. If no position is vacant, then the provisions of Article 11.7 will apply.
- 11.5 Notice of Layoff: The City shall notify affected bargaining unit employees in writing no less than fourteen (14) calendar days before the effective date of the layoff.
- 11.6 Layoff: The City will determine the timing of layoffs, and the number of employees to be laid off.
- 11.7 Bumping: The conditions under which an employee who is laid off from one department may move to another department by displacing the least senior employee.
- 11.7.1 An employee may bump an employee with less seniority in a department, provided notification in writing is provided within the first five (5) business days after notification of lay off. Bumping by the employee in or within a department can be exercised if the bumping employee has more seniority than the employee he will bump, fulfills the work experience requirement of the position, and has successfully completed one (1) year

of service in that department. The intent of this provision is to prevent an employee who has worked in one department and has not worked in another department from bumping a less senior employee from another department.

- 11.7.2 Recall: Employees in layoff status will be recalled using the procedure set forth in section 11.8 of this article. The names and seniority dates of laid off employee shall be placed on a recall list. A copy of the list shall be supplied to the Association.
- 11.8 Notice of recall shall be given to the employee by the Human Resources Department via certified mail, return receipt requested, sent to the most recent address contained in the laid-off employee's personnel records. It shall be the responsibility of each laid-off employee who desires to be recalled to keep the City continuously advised of his correct current address by submitting a certified letter to the Human Resources Department with a copy to the Association.
- 11.9 An employee who receives a notice of recall must notify the City's Human Resources Department of his desire to return to work no later than the close of the fifth (5th) business day following the receipt of the recall notice, but not more than 10 calendar days from the mailing. If a notice of recall is returned unclaimed, it shall be presumed that the employee has been notified. A laid off employee who fails to notify the Human Resources Department in accordance with this section shall lose his position on the list.
- 11.10 Within ten (10) business days of the date a laid-off employee gives notification to the Human Resources Department of his desire to return to work, the employee must report fit for duty or lose all recall rights.
- 11.11 Employees shall be recalled in the order of their seniority within the classification elected by the City for recall. If, after the City has provided notice of recall in accordance with this Article to all eligible employees on the recall list, vacancies exist because laid-off employees have refused recall or failed to respond to notice within the time allotted, the recall list shall be deemed exhausted and the City shall fill the vacancies through its ordinary hiring process.
- 11.12 Upon the recall and return of a laid-off employee to a bargaining unit position, the recalled employee shall receive the rate of pay applicable under the pay plan in force on the date of recall.
- 11.13 Seniority shall not accrue during layoff. Upon recall, an employee's seniority shall date from the employee's former hiring date, less the period of layoff.
- 11.14 Employees shall lose seniority as a result of the following:
  - 11.14.1 Termination or Resignation
  - 11.14.2 Retirement

- 11.14.3 Layoff exceeding the period of the employee's seniority or 24 months whichever is less.
- 11.14.4 Unexcused absence exceeding three (3) consecutive work days shall result in the loss of seniority for all unexcused days absent.
- 11.14.5 Failure to respond to a notice of recall in accordance with Section 11.8 within five (5) business days of receipt of the recall notice.

**ARTICLE 12  
OFF-DUTY EMPLOYMENT**

- 12.1 An employee may engage in off-duty employment only to the extent that the off-duty employment does not interfere with the performance of the employee's duties for the City, conflict with the interests of the City and does not violate any federal, state, or local laws or ordinances. The employee must submit notification of off-duty employment to the Human Resources Director to be placed in their personnel file.

**ARTICLE 13  
RESERVED FOR FUTURE USE**

**ARTICLE 14  
LEAVE WITH PAY**

- 14.1 JURY DUTY:
  - 14.1.1 Any employee summoned to serve on federal, state, county or circuit court jury may retain only expense fees. All employees serving on jury duty will receive their full pay and allowances. All other payments will be turned into the City.
  - 14.1.2 Employees are required to provide proof of attendance from the court for each day they are required to report for jury duty. The proof of attendance must indicate the date, time reported and time released.
- 14.2 VOTING ON SCHEDULED ELECTIONS:

Employees whose work schedule starts before 8:30 a.m. and extends beyond 5:00 p.m. during local, state or national elections may, upon approval from the department head, be granted up to one (1) hour of compensable time during their regularly scheduled work hours to cast their ballots as long as this release time does not interfere with departmental activities and provided the employee is registered and eligible to vote.
- 14.3 EMERGENCY BLOOD DONATION:

Employees in the bargaining unit may be granted time off with pay for donating blood during emergency replenishment if authorized by the department head.

**ARTICLE 15**  
**LEAVES OF ABSENCE WITHOUT PAY**

- 15.1 Upon the recommendation of the Department Head and the Human Resources Director, and approval by the City Manager, a regular employee shall be granted a leave of absence for a course of study, extended illness, disability, or other valid reasons.
- 15.2 Leave of absence may be authorized for extended absences, normally not exceeding six months. Each instance shall be reviewed on its merits by the department head, Human Resources Director and the City Manager upon receipt of a formal written request submitted to the department head. In exceptional cases, leave of absence may be extended beyond six months. If extended leave is for illness, it must be recommended by a physician.
- 15.3 The approval of leave shall indicate the total period of time an employee expects to be away from duty. The approval shall also reflect whether the employee will be entitled to his former position upon return, or whether he may be reinstated to positions in the same class when one is available.
- 15.4 When a leave of absence without pay is granted, the employee, upon written request, will be paid for unused vacation leave and compensatory time (not to exceed the length of the leave) that would otherwise be due under normal separation from the City. The employee will not be permitted to return to work until the expiration of their leave.
- 15.5 The date the leave begins shall be the first work day following the last day on duty. Leave without pay shall be computed on calendar days rather than work days.
- 15.6 An employee shall not be eligible to accrue annual or sick leave while on leave without pay.
- 15.7 All leaves of absences without pay (except military) in excess of thirty (30) calendar days will not be counted toward the employee's seniority
- 15.8 An employee on leave of absence without pay may not accept outside employment during the leave. However, upon written request by the employee at the time the leave of absence is requested, with the affirmative recommendation of the Department Head and approval of the Human Resources Director and the City Manager, an employee may be permitted to work. The employee's request must contain the reason and type of outside employment they will be performing. Each request will be considered on a case by case basis.

- 15.9 Retention of cafeteria sheet benefits in effect at the time of the leave of absence, will be at the employee's expense if said leave exceeds six (6) months, inclusive of sick leave, vacation, compensatory leave, worker's compensation, short term disability and leave without pay. The employee is responsible for keeping their bi-weekly deductions current at all times. Failure to keep the deductions current will result in coverage being cancelled and the employee will be required to re-apply for benefits as a new employee upon return from the leave of absence.

## **ARTICLE 16 UNIFORMS**

- 16.1 The City shall determine which employees/departments shall be required to wear a city issued shirt. The City shall provide shirts for employees required to wear them for the term of this agreement without charge to the employee.
- 16.1.1 The Desk Booking Specialist and Desk Booking Specialist II who are required to wear a uniform, and employees required to wear a city issued shirt shall be furnished without cost to that employee the appropriate number of shirts or uniforms with a minimum number that corresponds to the number of days per week that the employee is regularly scheduled to work.
- 16.1.2 The color, style and material of uniforms may be suggested by the bargaining unit; however the final decision shall be made by the City and is not subject to grievance or arbitration.
- 16.1.3 Equipment required of an employee by the City shall be furnished to that employee at no cost to that employee.
- 16.2 Employees who are issued required uniforms and who have completed their initial probationary period shall be entitled to receive an annual payment of \$75.00 for footwear, payable the first payday in December of each year. Effective October 1, 2009 annual payment will be \$100.00.
- 16.3 Bargaining Unit members that are required to wear safety toe shoes shall be entitled to reimbursement up to \$100.00 upon the recommendation of their Department Head and approval of the Risk Manager. Effective October 1, 2009 annual payment will be \$125.00.
- 16.4 Employees shall be responsible for taking reasonable care of all issued equipment. Shirts and uniforms furnished to employees are still considered City property and as such, any intentional or negligent damage, excluding normal wear and tear, of the clothing is considered willful damage to City property and is subject to disciplinary action. Based upon supervisor's approval, the City shall repair or

replace, at no cost to the employee, issued shirts or uniform components or equipment which are damaged, destroyed or worn out in the course of work.

- 16.5 The City shall repair or replace, at its option and at no cost to the bargaining unit member, a member's personally-owned utility equipment, including sunglasses, corrective lenses, watches, etc. (not to include jewelry), that is damaged or destroyed in the performance of their job. The City agrees to repair or replace such equipment within a reasonable time at a cost not to exceed \$50.00, provided that a replacement limit of \$100 shall apply to frames and up to \$250 for corrective lenses destroyed in the performance of their job. Repair or replacement will be made by the City only if all safety and preventive steps had been taken by the employee at the time the damage is suffered.
- 16.6 Appropriate deductions will be made from the employee's pay check(s) if items of shirts, uniforms or equipment are not surrendered upon termination of employment or are lost due to employee negligence.
- 16.7 Employees shall be permitted to display an Association pin on their shirt or uniforms.
- 16.8 The City will no longer provide full uniforms to employees, with the exception of Desk Booking Specialist and Desk Booking Specialist II. Senior Inventory Control Clerks, Inventory Control Clerks, Crime Scene Technicians and Material Management Technicians will receive coveralls if deemed necessary by the Department Head in order for them to perform their job duties.
- 16.9 As compensation for the City discontinuing the issuing of uniforms, Bargaining Unit Members, with the exception of Desk Booking Specialist and Desk Booking Specialist II, will receive a \$50.00 clothing allowance annually to be paid the last payday of October. Effective October 2007 annual amount will be \$65.00, October 2008: \$75.00, and October 2009: \$100.

## **ARTICLE 17 USE OF PERSONAL VEHICLES**

- 17.1 The City will make every reasonable effort to see that employees will not normally be required to use their personal vehicles in the performance of assigned duties.
- 17.2 Where an employee is required to use his personal vehicle for the performance of an assigned duty, he will be compensated for mileage at the rate established in the City's Travel Policy.

**ARTICLE 18**  
**401(a) RETIREMENT ACCOUNT**

- 18.1 The City will provide a defined contribution plan to all employees of the bargaining unit. Individual retirement accounts will be established through a plan provider approved by the City.
- 18.2 Effective October 1, 2007, the employee will contribute five and one-half percent (5 ½%) of base pay and the City will contribute eight and one-half percent (8 ½%) to each member's individual retirement account.
- 18.3 Effective October 1, 2008, the employee will contribute six percent (6%) of base pay and the City will contribute nine percent (9%) to each member's individual account.
- 18.4 October 1, 2009 the contract will be reopened exclusively for purpose of determining the 2009-2010 contributions by letter of agreement.
- 18.5 Other provisions of the City's Retirement Plan will be as found in the Money Purchase Plan & Trust Adoption Agreement between the City and the International City Management Association-Retirement Corporation.

**ARTICLE 19**  
**EDUCATION AND TRAINING**

- 19.1 Education and Training:
  - 19.1.1 Employees who attend any educational or training program as directed by the City will do so without loss of pay or benefits.
  - 19.1.2 Employees desiring to enroll in an accredited educational institution and who will be required to attend classes during work hours may, in advance of the commencement of said classes, make arrangements with the City for an adjustment of work hours to permit class attendance or for reasonable leave without pay for class attendance.
  - 19.1.3 Release on leave without pay status or adjustment of work scheduling shall be at the discretion of the City and shall be dictated by the City's need for the employee to perform work duties during normal work hours.
  - 19.1.4 All employees of the bargaining unit will receive their full pay and allowances while attending seminars and educational training as directed by the City as part of their official job function. If available, the City will provide the employee(s) with a city vehicle. Travel time from portal to portal will be considered hours worked.
  - 19.1.5 When employees are attending seminars, educational programs, or traveling to such activities, which necessitates them to be out of the City for longer than one day, the Employer will provide the employee with the per diem amount. The per diem shall be paid in advance of travel where

possible, and the employee shall not be required to submit receipts for meal expenses. Per Diem shall be based upon departure and return times in accordance with Chapter 112, Florida Statutes.

The employee shall be responsible for submitting receipts for reimbursement for expenses other than meals.

- 19.2 Employees may be requested to attend such training programs as directed by the City. The City will endeavor to schedule training programs during normal working hours. All employees required to attend educational or training programs shall do so at no expense to the employee and shall receive a reasonable allowance for transportation if the employee is required to use his or her own vehicle for transportation. Employees attending such programs in a group shall not individually receive transportation reimbursement and shall reasonably be required to pool with respect to transportation.
- 19.3 A regular employee who desires to obtain reimbursement from the City for a job-related college or technical certification course (or prerequisite for such course) shall, prior to enrolling in such course and paying registration fees, submit an Educational Program Approval Form to the City Manager through appropriate department channels. The City will not reimburse for Ph.D. courses. This request shall state:
- 19.3.1 The institution, course of study, and job-related purpose of the course;
  - 19.3.2 The degree major/certificate sought;
  - 19.3.3 The total number of semester/quarter hours for which reimbursement is sought and the approximate cost thereof;
  - 19.3.4 The estimated completion date for the program or semester.
- 19.4 Two courses per semester may be reimbursed.
- 19.5 The City Manager, after receiving the recommendation of the department head (or designee), shall grant or deny the request for reimbursement. The City Manager's decision shall be final, except as provided in this article.
- 19.5.1 If the City Manager has not responded to an Educational Program Approval Form approved by the department head within two weeks from the date of submission to the department head, the request shall be deemed approved.
  - 19.5.2 An employee may submit an Educational Program Approval Form for a plan of education which exceeds one semester in length. Approval for such a plan shall not be governed by subsection A. above. Approval for such a plan of education may be revoked for any succeeding semester if notice of revocation is provided not less than thirty (30) days prior to the last day for registration for that semester.
- 19.6 An employee who has received the City Manager's approval for educational reimbursement shall, at the end of the course of study, or of the semester (in the

case of a continuing degree program), submit to the department head (or his designee) the following documents:

- 19.6.1 Itemized receipts showing payment for tuition (including enrollment fees) and books utilized during each course of study.
  - 19.6.2 Transcript reflecting the grade(s) achieved by the employee for the completed course(s).
- 19.7 The Employer shall provide reimbursement for approved educational expenses according to the following schedule (up to the per credit hour charge made by the University of Central Florida).
- 19.7.1 100% reimbursement for courses and books in which a final grade of "A" is achieved; or for courses in which a grade is not issued but the employee presents documentation of successful completion of the course;
  - 19.7.2 80% reimbursement for courses and books in which a final grade of "B" is achieved;
  - 19.7.3 60% reimbursement for courses and books in which a final grade of "C" is achieved;
  - 19.7.4 No reimbursement for courses in which the final grade of less than "C" is achieved, or from which the employee has withdrawn or been issued an Incomplete.

If the employee receives the tuition reimbursement from any other source, the reimbursement provided by the City shall be reduced by the amounts received from those other sources. Employees shall be required to inform the City of tuition reimbursement received from any other source.

- 19.8 In order to receive educational reimbursement, an employee must execute a formal contractual agreement with the City which provides that:
- 19.8.1 The employee agrees to remain in the City employment for a minimum of one year from the end of the course or semester for which the employee receives reimbursements, and;
  - 19.8.2 The employee agrees to repay, pro-rata, amounts received for education reimbursement if the employee's City employment terminates within one year from the end of the course or semester for which the employee receives reimbursement, and;
  - 19.8.3 The employee agrees that any funds, including accrued vacation and sick leave balances, held for the employee by the City on the date of an employee's termination may be applied to satisfy the employee's liability for education reimbursement repayment under the agreement.
- 19.9 Any training or seminars a department head feels may benefit employees within that department shall be posted in a central location within that department.
- 19.10 Any problems with this article may be addressed through the Labor Management Communications Article (Article 38).

19.11 The City and the Union may agree to changes to the tuition reimbursement requirements that would enhance the program for bargaining unit members. The Union acknowledges that if the City and the Union are not successful in agreeing to the changes, it would not be subject to impact bargaining or any other form of redress.

**ARTICLE 20**  
**INSURANCE AND OTHER FRINGE BENEFITS**

20.1 For the duration of this contract, the City agrees to provide a Plan of Benefits for all full-time regular employees as described in this article.

20.2 The Plan of Benefits is separated into benefits called Core benefits and those called Cafeteria Plan benefits.

20.3 Any increases in premiums to the core benefits during the term of this agreement, shall be paid by the City. The Core levels of benefits are:

- 1.) Individual Employee Health;
- 2.) Basic Employee Life/AD&D;
- 3.) Basic Long Term Disability
- 4.) Dependent Life

Cafeteria benefits are elective for all employees. Any increases in premiums to the Cafeteria Plan benefits during the term of this agreement, shall be paid by the Employee. The Cafeteria Plan level of benefits are:

- 1.) Employee Dental
- 2.) Dependent Dental
- 3.) Short Term Disability
- 4.) Supplemental Employee Life
- 5.) Employee Vision
- 6.) Dependent Health
- 7.) Supplemental Dependent Life
- 8.) Dependent Vision

20.4 The City will contribute \$13.74 bi-weekly per member toward cafeteria benefits or \$23.66 bi-weekly per member toward cafeteria benefits for members with dependents.

20.5 The City and the Association will continue to participate in an Insurance Committee for the purpose of monitoring the financial integrity of the Insurance Plan and to advise the City's Human Resources Director of the insurance needs of City personnel. One (1) representative of the Association shall be a member of the Committee. A representative of the Human Resources Department shall also be a member of the Committee. This Committee shall meet when necessary.

- 20.6 New employees will be eligible for insurance coverage and the City's financial contribution to the Cafeteria Plan on the first day of the month following ninety (90) calendar days continued full time regular employment with the City.
- 20.7 Bargaining unit members who are not covered under the City's health insurance program (20.3.1, PPO or HMO), either as an employee or dependent, shall have added an additional \$520.00 per year, to be paid in bi-weekly increments, to their cafeteria sheet credits. The balance of the cafeteria sheet credits not spent will be paid to the employee (after tax dollars) in their bi-weekly paycheck.
- 20.8 Recognizing that an employee contribution rate increase has not occurred since prior to December 1996, the City and the Union agree to meet to negotiate the plan benefits to be effective any benefit year. The Insurance Committee will be provided an opportunity to make recommendations.

**ARTICLE 21  
SICK LEAVE**

- 21.1 Full-time regular employees are eligible to earn sick leave credits according to the following schedule:
 

0 - 10 years of service	8 hours per month
10+ years of service	10 hours per month
15+ years of service	12 hours per month

  - 21.1.1 Employees may accrue up to the maximum accumulation of 1,152 hours of sick leave.
  - 21.1.2 Any member who has in excess of 1152 hours remaining of unused sick leave on December 31<sup>st</sup> of any year shall be allowed to place the remaining unused sick leave hours in an ICMA Vantage Care Retirement Health Savings Plan at the rate of four to one (50% of the total hours remaining). See Article 32 titled ICMA VantageCare Retirement Health Savings Plan.

Sick leave may be taken during an illness of the employee or the serious illness of a member of his immediate family. All employees are required to notify their supervisor or designee one hour prior to their scheduled reporting time on each day of absence due to illness. Should an employee be absent due to illness and fail to comply with the rules and regulations covering sick leave, such employee may be subject to disciplinary action. Absences under sick leave conditions may be subject to investigation by the appropriate supervisor.

- 21.2 Sick leave will be charged only against an employee's regular workday and shall not be charged for absences on pre-arranged overtime work days, unscheduled call in, overtime work days or holidays unless the holiday is a regularly scheduled workday for said employees.

- 21.3 Sick leave may be used by an employee when incapacitated and unable to perform his duties due to sickness or injury, or for doctor's appointments.
- 21.4 All full-time regular employees may "trade back" up to eighty (80) hours annually (over a retained eighty hours credit) of unused earned sick leave. This leave may be "traded," at a rate of one hour for one hour, for additional vacation.
- 21.5 Payment upon separation:
- 21.5.1 Employees who retire or resign in good standing or are separated in good standing shall receive pay for their accrued and unused sick leave at a rate of fifty percent (50%) for all hours and shall have the option of a lump sum payment on their final check or placing the payout of sick leave in the ICMA VantageCare Retirement Health Savings Plan.
- 21.5.2 Employees terminated for cause, employees who resign during the pendency of an investigation by the City of their conduct or performance, employees who terminate during their original probationary period or employees who leave without notice shall be not eligible for payment of their accrued and unused sick leave.
- 21.5.3 Employees who resign during the pendency of an investigation by the City of their conduct or performance shall be entitled to pay for sick leave under the following conditions:
- 21.5.3.1 The Employee is exonerated of all charges.
- 21.5.3.2 The investigation is discontinued with no findings of guilt.
- 21.6 For the purposes of calculation, new employees beginning work between the first and fifteenth of the month will begin to earn sick leave as of the first of the month. If employed after the fifteenth, an employee will begin earning leave on the next calendar month. Employees terminated before the sixteenth of a month will not be credited with leave for the month of termination. Employees terminating on the sixteenth or later, will be credited with leave earned for the terminating month.
- 21.7 After completion of six (6) months of continued regular full time employment, newly hired employees shall be eligible to use sick leave as earned.

## **ARTICLE 22 SAFETY AND HEALTH**

- 22.1 The City will make every reasonable effort to provide and maintain safe working conditions. To this end the Association and the City will cooperate. A forty-eight (48) hour notice may be given when maintenance or cleaning is to be done in which hazardous or toxic chemicals may be used that would create an unsafe working environment or may be hazardous to the employee.

- 22.2 Department heads, with input from the Department Safety Coordinator and Risk Manager will determine the proper and necessary safety equipment and devices for employees engaged in work where such special equipment and devices must be used. Failure by employees to utilize provided equipment or devices will make them subject to disciplinary action.
- 22.3 Employees shall not be required to use or operate a vehicle, or piece of equipment for which the employee has not been adequately or properly trained. No employee shall remove from any vehicle or equipment any safety device which has been installed by the manufacturer or the City. Employees shall promptly report vehicle or equipment malfunctions to the employee's supervisor or department head as appropriate, to the extent that same interferes with the safe operation of the vehicle or equipment. The supervisor or department head shall investigate the report and thereafter take appropriate action.
- 22.4 The City may institute an annual physical examination program for bargaining unit employees during this contract period, which may include drug and/or controlled substance testing.

### **ARTICLE 23 JOB CONNECTED DISABILITY**

- 23.1 Any employee covered by this Agreement who sustains a temporary disability as a result of and arising out of employment by the City, shall receive wage replacement benefits payable under the Workers' Compensation Law of the State of Florida, beginning on the eighth (8th) day of disability.
- 23.2 Benefits will be paid for the first seven (7) calendar days only if the disability extends beyond 21 calendar days. If an employee is not out of work for 21 calendar days, days 1-7 of the disability may be taken as sick and/or annual leave if accumulated leave is available.
- 23.3 Sick leave, annual leave and seniority will continue to accumulate during the period of disability.
- 23.4 Any employee injured as a result of and arising out of employment by the City may be required by the City to be examined by a medical doctor, specified and provided by the City, who shall determine the employee's condition and fitness for full or partial return to duty.
- 23.5 If a doctor verifies that an employee can perform "light" duty, the City reserves the right to review the operational impact of maintaining that employee on "light" duty. Assignment to "light duty" shall be considered a temporary assignment, without reduction in pay and shall involve duties commensurate with medical and mental fitness, availability of suitable work, and his qualifications for the position.

If an employee is determined to be able to perform "light duty," refusal of such assignment by the employee may result in the loss of position and/or of job-connected disability leave supplemental benefits.

- 23.6 No employee will be entitled to job-connected disability leave with the herein described benefits when the injury has been determined to have been intentionally self-inflicted or where the disability or illness continues as a result of the employee's failure to cooperate with the medical advice or corrective therapy.

#### **ARTICLE 24 DEATH OF AN EMPLOYEE**

- 24.1 When a bargaining unit employee dies, all accrued leave and any other monetary benefits due the employee at the time of death shall be paid to the employee's designated beneficiary. In the absence of a designated beneficiary, the benefits shall be paid pursuant to any order issued by a court of competent jurisdiction in the State of Florida or pursuant to statute where applicable.

#### **ARTICLE 25 HOLIDAYS**

- 25.1 The following days shall be observed as holidays for all employees subject to this Agreement:

New Year's Day	Veteran's Day
Martin Luther King's Birthday	Thanksgiving Day
Presidents Day	Day following Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	Employee's Birthday
Labor Day	

25.1.1 Floating Holiday. Employees receive a floating holiday, effective October 1<sup>st</sup> of each year. This holiday must be taken within the current fiscal year.

25.1.1.1 Eligibility – Bargaining unit members shall be entitled to a floating holiday with pay as provided for in this Article. Employees shall not be eligible to use the floating holiday until satisfactory completion of six (6) months of service.

25.1.1.2 Scheduling of Floating Holiday – Bargaining unit members requesting use of the floating holiday shall submit their request in advance. Emergencies and special situations shall be handled on a case by case basis.

25.1.1.3 Employees shall not be paid in lieu of taking the floating holiday.

- 25.2 The Employee's Birthday must be taken within one (1) year of earning, and cannot be taken prior to the actual birthday.

- 25.3 The City Manager will determine which departments or operations will be closed in observance of the particular holiday and what day will be observed as the holiday. If the holiday, such as Christmas, falls on a Saturday, it shall be observed the following Monday, or on the preceding Friday at the option of the City Manager.
- 25.4 Probationary employees (new hires) are not eligible for holiday pay for the first thirty (30) calendar days of employment.
- 25.5 An employee who is required to work on a day observed as a paid holiday (except for their Birthday) shall receive pay for all hours actually worked on the holiday at the rate of time and one half (1 1/2) the employee's base hourly rate of pay. In addition, the employee will receive a full day of holiday pay.
- 25.6 A holiday is those hours an employee is normally scheduled to work on the day observed as a holiday.

Example:       8 hour Employee = 8 hour Holiday  
                   10 hour Employee = 10 hour Holiday  
                   12 hour Employee = 12 hour Holiday

The City agrees if the scheduled work hours for shift employees, on the weekly work schedule, is different than the employee's normally scheduled work hours, the employee will be entitled to holiday pay for the hours indicated and worked on the weekly schedule to a maximum of twelve hours.

- 25.6.1 The City agrees if an employee is mandated to work a holiday over and above their normally scheduled work hours, the employee will be entitled to holiday pay for all hours worked on the holiday.
- 25.7 Employees who work shifts and are not normally scheduled to work the holiday shall receive the hours for their normally scheduled day in compensation for the holiday.
- 25.8 Shift employees shall observe the holidays listed in 25.1 (except for their Birthday) on the actual holiday.
- 25.9 Non-shift employees shall observe the holidays listed in 25.1 (except for their Birthday) in accordance with those observed by the City.

**ARTICLE 26**  
**BEREAVEMENT LEAVE**

- 26.1 In the event of death of an employee's spouse or child, or step-child living in the employee's household, the employee will be granted sixty-four (64) working

hours Bereavement Leave. In the event of a death in the employee's immediate family, the employee will be granted twenty-four (24) working hours if the funeral occurs in state and forty (40) working hours if the funeral occurs out of state.

- 26.2 Bargaining unit members shall be granted, upon approval of the Human Resources Department when proof of residency is submitted, bereavement leave in the event of the death of any person who is an actual member of the employee's household. Employees shall be granted twenty-four (24) working hours bereavement leave.
- 26.3 "Immediate Family" shall be defined as the employee's father, mother, step-children living outside the employee's household, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, grandparents, grandchild, son-in-law, daughter-in-law, step-father, step-mother, legal guardians and/or ward.
- 26.4 Should an employee require additional time other than provided for by 26.1, additional time may be requested from the department head and shall be charged to the employee's accrued annual leave, sick leave or compensatory leave.
- 26.5 The employee is required to present proof of loss in the form of an obituary notice or other proof approved by the Human Resources Director.

**ARTICLE 27  
VACATION LEAVE**

27.1 VACATION LEAVE:  
Only full-time regular employees will be entitled to earn and accrue vacation leave with pay. Under no circumstances will temporary, part-time or other non-regular employees be eligible under this provision.

27.2 ACCRUAL OF VACATION LEAVE:  
Vacation leave for full-time regular employees will be earned in accordance with the following formula:

Years of Employment	Hours Per Month
• First through fifth (1-5)	8
• Sixth through tenth (6-10)	10
• Eleventh through fifteenth (11-15)	12
• Sixteenth and over (16+)	14

27.2.1 When there has been a break in service of fifteen (15) working days or more, upon reinstatement or re-employment the employee will begin earning vacation leave as a new employee.

27.2.2 For purposes of calculation, new employees beginning work between the first and fifteenth of the month will begin to earn vacation leave as of the first of the month. If beginning work after the fifteenth, the employee will begin earning leave on the first of the next calendar month. Employees terminated before the sixteenth of a month will not be credited with leave for the month of termination. Those employees terminating on the sixteenth or later will be credited with leave earned for the terminating month. Vacation leave earned in excess of 240 hours must be used before the end of the calendar year or it shall be forfeited. Provided, however, if an employee requests annual leave more than sixty (60) days prior to the end of the calendar year and such leave request is denied by management, the employee shall be permitted to carry forward to the next year those hours of accrued annual leave in excess of 240 hours up to the amount of leave that was denied. Carry over hours must be used by April 1<sup>st</sup> of the next calendar year, or they are forfeited.

27.3 USE OF VACATION LEAVE:

After completion of six (6) months of service, the newly hired employee shall be eligible to use such leave as earned, subject to approval of the Department Head. Vacation leave may be granted for the following purposes:

27.3.1 Vacation.

27.3.2 Absence for transaction of personal business.

27.3.3 For uncovered portion of sick leave when such leave has been exhausted through illness.

27.3.4 Any absences from work not covered by another type of leave provision established by the City Council.

27.3.5 Employees shall be allowed to sell up to forty (40) hours of vacation time at the current hourly rate once each calendar year of the contract provided that the employee has used 80 hours of vacation during the calendar year, 40 of which must be consecutive. Employees qualified to sell vacation time may, at the employee's option, place the time being sold in the ICMA Retirement Health Savings Plan (See Article 32).

27.4 HOLIDAYS OR ILLNESS DURING VACATION:

Holidays occurring while an employee is on vacation leave will not be charged against his vacation leave balance. Illness on vacation may be charged to sick leave. An employee making such claim should be prepared to verify such illness.

27.5 SCHEDULING VACATION LEAVE:

27.5.1 All vacation leave must be approved in advance by the department head or designee. The department head or designee shall make provisions annually for vacation leave of employees at such time as will least interfere with the efficient operation of the department.

27.5.2 An employee who requests vacation leave up to ninety (90) calendar days in advance shall be approved or denied within fourteen (14) calendar days from the date of receipt of the request by the department head or designee.

- 27.5.3 Employees will be given preference in the scheduling of vacations based upon City wide seniority. All pre-approved vacations are not subject to bumping, unless agreed to by all parties.
- 27.6 VACATION LEAVE PAY UPON TERMINATION:
- 27.6.1 Employees who resign shall receive pay for their accrued and unused vacation leave.
- 27.6.2 Vacation leave pay will be computed upon the employee's current base rate of pay at time of separation.
- 27.6.3 Employees who resign or retire shall at their option be allowed to place their vacation payout in the ICMA VantageCare Retirement Health Savings Plan. This plan shall be administered in accordance with the Plan Document.
- 27.7 RESTRICTIONS:
- Vacation leave, as a recognized benefit extended by the City to its employees, will be subject to the following restrictions:
- 27.7.1 The minimum charge for vacation leave shall be in half hour units.
- 27.7.2 Vacation leave may not be taken until earned.
- 27.7.3 Vacation leave shall not be earned by an employee during a leave of absence without pay, a suspension, or when the employee is otherwise in a non-pay status.
- 27.7.4 Vacation leave pay shall not exceed 240 hours.
- 27.8 All newly hired probationary employees will be eligible to use their accrued sick and vacation leave after completing six (6) months of their twelve (12) months probationary period. However, leave time will begin to accrue upon date of hire.
- 27.9 Employees who have not completed six (6) months of the twelve (12) months probationary period will not be eligible to receive vacation leave pay.

## **ARTICLE 28 MILITARY LEAVE**

- 28.1 Employees who are members of the reserve components of the Armed Forces of the United States, or of the Florida National Guard, shall be entitled to a leave of absence from their respective duties without loss of pay for such times as they are in military service for field training, not to exceed seventeen working days per year.
- 28.2 When requesting military leave, the employee will submit a copy of his orders from the appropriate military commander through appropriate department channels.
- 28.3 Employees called, recalled or drafted to active duty shall retain whatever job rights may be provided for by federal law or state law. An employee returning to

work after such military service will be credited with seniority accrued prior to and during such military service. However, the employee will not accrue any additional vacation or sick leave benefits during the leave.

**ARTICLE 29**  
**WORK SCHEDULING, WORK PERIOD, OVERTIME & COMP TIME**

29.1 The standard work week shall consist of forty (40) hours in a seven (7) day cycle. Seven day cycle is Saturday through Friday.

29.1.2 The Department Head shall determine starting work hours using the following guidelines-

29.1.2.1. Commencement of the work day for employees working an eight (8) hour shift is:

- first shift shall be between 6:00 a.m. and 10:00 a.m.;
- second shift shall be between 3:00 p.m. and 6:00 p.m.;
- third shift shall be between 11:00 p.m. and 2:00 a.m.

29.1.2.2 Commencement of the work day for employees working a ten (10) hour shift is:

- day shift shall be between 6:00 a.m. and 9:00 a.m.
- evening shift shall be between 4:30 p.m. and 7:30 pm.

29.1.2.3 Due to the type of work required in the Parks and Recreation Department, bargaining unit members work a flexible schedule. The starting times will vary from the start times in 29.1.2.1 and 29.1.2.2. The schedule for each employee is posted two (2) weeks in advance on every other Friday.

29.1.2.4 Any change in the above starting times including shifts on a new work day may be amended by a Letter of Understanding.

29.2 Employees shall receive overtime pay or compensatory time at the rate of one and one-half times their regular rate for all hours actually worked in excess of forty (40) hours in a work week at the employee's sole discretion. Compensatory time shall be taken upon written request approved by the City. The maximum accrual of comp time shall not exceed 80 hours. Compensatory time shall be approved under the same conditions as vacation time and the use of compensatory time may be denied because of lack of manning. An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation for any additional overtime hours of work. Sick leave, holidays, and regularly scheduled training time, will be considered as hours worked for overtime purposes. Compensatory time and vacation time shall not be considered as hours

worked for overtime purposes unless the employee is mandatorily required to work. Mandatory overtime must be approved in advance by the employee's Department Head or Department Head's designee.

- 29.3 Payment for accrued compensatory time upon termination of employment shall be calculated at the current base rate of pay.
- 29.4 There is no time limit for usage of compensatory time.
- 29.5 All employees shall be entitled to an unpaid meal period of one-half hour's duration.
- 29.6 Each employee shall be allowed a fifteen (15) minute break during the first half of his work day and a fifteen (15) minute break during the second half of the work day. If so desired, these two fifteen (15) minute breaks can be combined with the meal period at the discretion of the employee's supervisor.
- 29.7 Under ordinary circumstances, no employee shall be required to work a split shift. Except under exigent circumstances, when an employee is assigned to a different shift schedule as a result of a shift rotation or assignment to a different unit, the employee shall be entitled to at least eight hours off duty before being required to resume work.
- 29.8 Operation requirements permitting, the City agrees to give employees twenty-one (21) working days notice of work and shift changes, except under emergency situations.
- 29.9 The City will distribute overtime work among the regular employees as equally as practicable, giving consideration to job classifications.
- 29.10 No employee may authorize overtime for himself, but shall be entitled to receive overtime when authorized by his supervisor.
- 29.11 Telecommunicators work day shall not exceed sixteen (16) consecutive hours per day and no more than two (2) consecutive sixteen (16) hour work days. Overtime worked on the Telecommunicator's scheduled day off shall be limited to no more than a ten (10) hour day.

### **ARTICLE 30 SHIFT DIFFERENTIAL**

- 30.1 Shift Pay:
  - 30.1.1 If a shift starts between the hours of 6:00 a.m. and 10:00 a.m. no shift differential will be paid. (First shift)

- 30.1.2 If an employee's regular shift includes more than 4 hours worked after 3:00 p.m., said employee will be paid \$.45 per hour shift differential pay for the entire 8 hour shift. (Second shift)
- 30.1.3 If an employee's regular shift includes more than 4 hours worked after 11:00 p.m., said employee will be paid \$.60 per hour shift differential pay for entire 8 hour shift. (Third shift)
- 30.1.4 October 1, 2009 the contract will be reopened exclusively for the purpose of determining shift differential for the 2009-2010 fiscal year by letter of agreement.
- 30.2 When circumstances necessitate the scheduling of bargaining unit employees to work ten (10) or twelve (12) hour shifts and that scheduled shift requires more than 50% of hours worked beginning in either second or third shift, shift differential compensation shall be paid for hours actually worked on the specified shift.

### **ARTICLE 31 CALL BACK PAY**

- 31.1 An employee who is recalled to work while in off-duty status shall receive a minimum of two (2) hours pay or pay for all hours actually worked after recall, whichever is greater. For the purpose of this article, actual time of travel to the duty station, not to exceed one (1) hour, shall be considered as hours worked.
- 31.2 An employee who is recalled to work while in off-duty status and works four (4) or more hours shall receive, in addition to pay for all hours actually worked, an additional compensation of one (1) hour compensatory

### **ARTICLE 32 ICMA VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN**

- 32.1 Employees may enroll in the ICMA VantageCare Retirement Health Savings Plan at their option. The ICMA VantageCare Retirement Health Savings Plan is a program that allows employees to accumulate pre-tax funds for post-employment medical expenses. Various types of funds may be contributed to the Plan. (See Articles 21 and 27 for information on vacation and sick leave accrual contributions.)
- 32.2 The ICMA VantageCare Retirement Health Savings Plan shall be administered in accordance with the Plan Document. The Plan Document shall be available for review in the Human Resources Department during normal business hours.
- 32.3 The City may agree to further benefits, that do not have a cost, or will not in the future become a cost to the City, in the Plan Document for benefits that are not already provided for in the Collective Bargaining Agreement. The City is not

required to agree to any benefit not provided for in the Collective Bargaining Agreement and the decision of the City to not allow an additional benefit shall not be subject to negotiations or impact bargaining for the duration of this Contract.

### **ARTICLE 33 ACTING PAY AND SPECIAL DUTY COMPENSATION**

- 33.1 With the exception of Telecommunicators, when an employee is qualified for and is officially assigned to perform the duties, responsibilities and authority of a position allocated to a higher classification (not for training), the employee shall receive an additional seventy-five cents (\$.75) per hour for every actual hour worked in excess of forty (40) consecutive hours in the higher classification. When the forty hours is exceeded, payment will commence with the first day the employee assumed the position. Should the assignment exceed forty-five (45) calendar days, the employee shall receive the higher of seventy-five cents (\$.75) or the minimum pay of the higher classification beginning on the forty-sixth (46<sup>th</sup>) calendar day. (Not applicable in section 33.2, 33.3, and 33.4)
- 33.2 A bargaining unit member who is qualified for and is officially assigned to perform the duties, responsibilities and authority of a Telecommunications Shift Supervisor will receive one dollar (\$1.00) per hour over their current hourly rate, for actual hours worked (except for training). (NOTE: The 45 day rule and /or minimum of the higher classification contained in sec. 33.1 does not apply to this section.)
- 33.3 The City agrees to pay an incentive pay to the designated Lead Permit Technician (Building Division) an additional \$.45 per hour for all hours worked as a Lead Permit Technician. Lead Permit Technician is not a classification; it is a special assignment only.
- 33.4 The City agrees to pay designated trainers an additional \$125.00 per month (pro-rated) for each month of assigned training duty in these special assignments. To receive this special pay, trainers must be designated by the Department Head and must train and complete daily written evaluations on employees being trained.
- 33.5 Supplemental pay provided under Section 33.4 and 33.7 shall be paid in the second pay check of each month.
- 33.6 Employees shall receive two (2) hours of straight-time pay for each day they are required to be on call/stand-by/or required to wear a pager after normal work hours. Employees so compensated shall not receive additional call-back pay. The two hours earned under this article shall not count toward overtime accrual. "On Call" shall be defined as the period of time an employee must remain within a 30 minute distance of the City of Palm Bay, be ready for recall to duty, and continually be available by pager, telephone, or radio.

Employees will be selected to wear a pager or be on call from a voluntary sign-up sheet. If an insufficient number of employees volunteer to wear a pager for “on call”, management shall have the right to require the least senior qualified employee in that classification to wear a pager and/or be “on call.”.

- 33.7 Articles 33.2, 33.3 and 33.4 will be reopened exclusively for review and determining current appropriate amounts for the 2009-2010 fiscal year by letter of agreement.

## **ARTICLE 34 WAGES**

- 34.1 Effective October 1, 2007, October 1, 2008 and October 1, 2009, those employees covered by this Agreement will have their base salary increased by the annual average percent change in the Consumer Price Index for All Urban Consumers (CPI-U) for all U.S. Cities and all items not seasonally adjusted published by the Bureau of Labor Statistics (BLS), for 2007, 2008 and 2009 respectively, the previous calendar year. With a minimum of 2% and a maximum of 5.0 %. If the CPI-U exceeds 5%, the City or the Association may request to reopen this article.

In the event that the CPI-U index base is changed from the current standard reference base of 1982-84 = 100 or other changes in the structure of the index are made by the BLS, the Association and the City agree to make any adjustments recommended by BLS in the following fiscal year. BLS recommendations for calculating index changes shall be considered.

- 34.1.1 Effective October 1, 2006, the City will implement a step pay plan in accordance with the following:

34.1.1.1 Grade 76 in the current pay plan will no longer be utilized.

34.1.1.2 Employees will be placed at the step closest to the salary they would have received on 10/01/06 if the City had not implemented a step pay plan.

- 34.2 Employees covered by this Agreement who have completed 10 years of continuous service shall be entitled to annual longevity payments in accordance with the following schedule:

Upon completion of:	Payments
10 to 14 years of service	\$ 750.00
15 to 19 years of service	\$1,250.00
20 or more years of service	\$1,750.00

Said longevity payment shall be payable on the employee’s anniversary date.

- 34.3 A 3% step increase shall occur on the employee's anniversary date, providing the employee achieves a satisfactory or higher rating on his performance evaluation.
- 34.4 Each employee's anniversary date, for payroll purposes, shall be twelve months, to the date, following an original appointment, a reinstatement appointment, or a promotion/demotion appointment.
- 34.4.1 When an employee is promoted to a higher classification, the employee's anniversary date shall be changed to reflect the date of the appointment;
- 34.4.2 When an employee is demoted, for cause, the employee's anniversary date shall be changed to reflect the date of the effective date of the demotion.
- 34.4.3 When an employee is demoted or reclassified to a lower classification, without cause, all previously served time shall be counted towards the anniversary date. Demotions without cause shall include voluntary demotions, demotions prior to attaining regular status as a result of a promotion, reduction in force, or reclassification of a position to a lower classification.
- 34.4.4 When an employee is absent without pay for thirty (30) consecutive calendar days, except for job related injuries, the anniversary date shall be changed by deducting all days in excess of thirty days. (See Section 15.7)
- 34.5 Progression through the pay grade of the pay plan.
- 34.5.1 Satisfactory (Meets Expectations) Job Performance:  
When an employee receives a satisfactory (meets expectations) job performance, upon the employee's anniversary date, the employee shall be advanced to the next step in the salary plan for the classification to which the position is allotted, unless the pay is the maximum for the salary range, in which case there will be no increase.
- 34.5.2 Unsatisfactory (Below Expectations) Job Performance:  
If the employee's overall job performance, is rated at less than satisfactory (below expectations) during the time period involved, step movement may be delayed until the employee is rated as satisfactory (meets expectations) or above.
- 34.5.3 Employee's who have had their pay increase delayed shall be re-evaluated at least quarterly in the areas where needs for improvement have been noted. During the re-evaluation period, the employee's immediate supervisor shall conduct periodic verbal reviews with the employee at least once per month. At the completion of a quarterly re-evaluation period, the supervisor shall conduct another written performance evaluation. Once the performance evaluation is rated as satisfactory (meets expectation) or better, the employee shall be advanced 2.25% of base pay in the salary range for the classification to which the position is allotted, unless the pay was the maximum for the salary range, in which case there will be no increase. The effective date of the advancement shall be the date of the satisfactory job performance evaluation. The anniversary date shall not change because of later date of advancement.

- 34.5.4 Employees who receive two consecutive quarterly re-evaluations with a rating of unsatisfactory (below expectations) may be subject to termination.
- 34.5.5 Employee's who have had their advancement delayed shall be notified in writing, by the department head, not later than seven (7) working days following the original anniversary date. If the employee feels the rating given was not justified, the employee may within ten (10) working days, appeal directly to a performance evaluation Peer Review Panel. The Peer Review Panel will consist of three city employees, including one chosen by the requesting employee, one chosen by the City and third chosen by the first two appointees.

The peer review panel shall meet within 30 calendar days of receipt of the appeal and shall hear the appeal by taking evidence by all parties concerned and shall have the authority to upgrade the evaluation and allow the step advancement or deny the appeal. The decision of the Peer Review Panel is final and no further appeal (grievance, binding arbitration, etc.) is allowed.

#### **ARTICLE 35 SEVERABILITY CLAUSE**

- 35.1 Should any part of this Agreement be rendered or declared illegal or unenforceable by a court of competent jurisdiction, such invalidation of such part of this Agreement will not invalidate the remaining portions thereof; and in the event of such occurrence, the parties agree to meet immediately and to negotiate substitute provisions for such parts or portions rendered or declared illegal or invalid. If no solution is reached, the matter shall be resolved in accordance with Chapter 447, State Statute.

#### **ARTICLE 36 DURATION OF AGREEMENT**

- 36.1 Both parties agree that this Agreement shall remain in effect for a period of three (3) years (from October 1, 2007, through September 30, 2010).

#### **ARTICLE 37 ENTIRE AGREEMENT OF THE PARTIES**

- 37.1 The parties acknowledge and agree 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 included by law within the area of collective bargaining and that all understandings and agreements arrived at by the parties after the exercise of the right and opportunity are set forth in this Agreement, each voluntarily and unqualifiedly waives the right to require further collective bargaining, and each agrees that the other shall not be obligated to bargain collectively with respect to any matter or subject specifically referred to

or covered by this Agreement. This Agreement contains the entire contract, understanding, undertaking, and agreement of the parties hereto and finally determines and settles all matters of collective bargaining.

- 37.2 The parties agree that, upon the exercise of a management prerogative that requires impact bargaining, and in the absence of exigent circumstances or a waiver of bargaining, upon request of the Association, both parties will negotiate the impact. If the parties are unable to agree, the change will not be implemented until the City has met the minimum requirements for impact bargaining then in existence under the Public Employees Relations Act.

**ARTICLE 38  
LABOR MANAGEMENT COMMUNICATIONS**

- 38.1 The City agrees that periodic meetings, mutually agreed upon, between Association representatives, the employee's supervisor or department head, and representative(s) of the City's Human Resources Department will be held to discuss problems and objectives of mutual concern involving the implementation and administration of this Agreement.

**ARTICLE 39  
PUBLICATION OF AGREEMENT**

- 39.1 The City will provide one disk and two executed copies to the Association and will place this Agreement on the City's intranet for access to all Association members.

**ARTICLE 40  
DRUG FREE WORKPLACE**

- 40.1 PURPOSE: To make every reasonable effort to provide a safe workplace for the City of Palm Bay's Employees.

40.2 POLICY

40.2.1 It is the City's policy that employees present themselves for duty, free of the influence of illegal drugs or other intoxicants. The use of illegal drugs and the abuse of alcohol by City employees constitutes a danger to the employee, fellow employees, and the general public. The use, sale, or possession of an illegal drug or alcohol in the workplace may negatively affect the City's efficiency in providing service to its citizens and can have an adverse impact on how the public perceives the City and its employees.

40.2.2 The use, consumption, possession, distribution, manufacture, or being under the influence of illegal drugs or alcohol by employees while performing job duties for the City is specifically prohibited.

40.2.2.1 Employees are prohibited from possessing, using, distributing or being under the influence of alcohol while on the

job or on City property. City property includes such areas as parking lots, vehicles, break rooms and locker rooms.

40.2.2.2 The use, consumption, possession, distribution or sale of illegal drugs, whether on or off duty, is prohibited as it may affect on-the-job performance and the confidence of the public in the City's ability to provide services and meet its obligations.

40.2.2.3 If an employee has knowledge of the use and/or presence of alcohol or illegal drugs in the workplace, he/she should immediately report this information to his/her supervisor or to the Human Resources Department. Reports, complaints and investigations will be kept confidential to the extent permitted by law.

40.2.3 All applicants selected for hire and returning employees will be subject to a mandatory test to detect the presence of illegal drugs.

#### 40.2.4 DEFINITIONS:

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

40.2.4.2 Initial drug test means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens. All initial tests shall use an immunoassay procedure or an equivalent, or shall use a more accurate scientifically accepted method approved by the Agency for Health Care Administration as such more accurate technology becomes available in a cost-effective form.

40.2.4.3 Confirmation test, confirmed test, or confirmed drug test means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. This confirmation method must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

40.2.4.4 "Illegal drug" means any narcotic, barbiturate, marijuana, central nervous system stimulant, hallucinogen, cocaine or any controlled substance as defined by Section 893.03, Florida Statutes, as amended from time to time, not possessed or used in accordance with a lawful prescription.

40.2.4.5 Specimen means a tissue, hair, or product of the human body capable of revealing the presence of drugs or their metabolites.

40.2.4.6 Adulterated or tampered specimen means a specimen reflecting the presence of a foreign substance, reflecting clinical signs or characteristics not associated with a normal specimen, or if an endogenous substance is present at a concentration greater than the normal physiological concentration. An adulterated or

tampered with test, or a test that is unable to be tested due to tampering or adulterants will be considered as a refusal to submit to the test and the employee will be subject to disciplinary action, up to and including dismissal.

40.2.5 The City Manager, or designee, may require an employee to submit to drug and/or alcohol testing as required by the Federal Highway Administration (FHWA) Controlled Substances & Alcohol Use & Testing Program, 49 CFR 382 et seq. This federal regulation also known as “CDL Testing” requires testing for alcohol as well as for controlled substances. Drug and alcohol threshold levels and procedures for CDL testing shall be as specified in 49 CFR 382, et seq. The City Manager, or designee, may also require an employee to submit to testing when the City Manager, department head, or the employee's immediate supervisor has a reasonable suspicion to believe that the employee has possessed, used, distributed or been under the influence of illegal drugs or alcohol in violation of this policy. A reasonable or founded suspicion is an opinion which is based on specific and articulable facts and reasonable inferences drawn from those facts in light of experience. A supervisor may suspect that an employee is using or under the influence of illegal drugs or alcohol by observing symptoms or behavior, including but not limited to:

- Excessive absenteeism or chronic lateness.
- Drowsiness or sleepiness.
- Alcohol on breath.
- Slurred or incoherent speech.
- Unusually aggressive behavior.
- Unexplained change in mood.
- Lack of manual dexterity or coordination.
- Unexplained work related accident or injury.
- Arrest for drug or alcohol related crime.
- Vehicle accident with death or injury to employee or another.
- Any DOT related incident resulting in injury or property damage (for drivers with CDL licenses, under DOT guidelines).
- Suffered a worker’s compensation injury (City is designated a Drug Free Workplace under the city’s worker’s compensation program).

The decision to require the employee to submit to testing in the case of suspected alcohol abuse, or in the case of suspected drug abuse, will require the approval of the City Manager, or designee, upon recommendation of the department head for employees below department head level, prior to any test taking place. The cost of such test shall be the City's responsibility. Employees who are using a lawfully prescribed drug are encouraged to notify their department head and/or the Human Resources Department in advance of taking a drug test. The Police Department will be notified if illegal drugs are found or involved. The

City, in coordination with law enforcement officers, reserves the right to search City property and facilities.

40.2.6 All test samples will be collected at a designated facility as arranged through the Human Resources Department. Chain of custody procedures, security procedures, and specimen collection (access to authorized personnel only, privacy, and integrity and identity of specimen) at the designated facility shall be in accordance with Chapter 59A-24.005, Florida Administrative Code as amended or renumbered from time to time.

40.2.6.1 Employees who are required to submit to a test for the presence of alcohol or illegal drugs shall sign an authorization releasing all test results and records to the City. Any employee who refuses to sign such authorization, or who refuses to submit to alcohol or drug testing in accordance with this policy, shall be subject to disciplinary action, up to and including discharge.

40.2.6.2 While awaiting the results of the test, the employee will be removed from active duty and may be placed on annual leave, sick leave, or leave without pay. If test results are negative leave time will be reimbursed to the employee.

40.2.7 In testing for the presence of alcohol, testing that provides quantitative results showing the amount of alcohol present in the blood will be utilized. The threshold level for a determination that an employee is under the influence of alcohol shall be in accordance with the appropriate Florida State Statute.

40.2.8 In testing for the presence of illegal drugs, the following procedures shall be followed:

40.2.8.1 The employee shall be required to provide two specimens at the time of collection.

40.2.8.2 The first of the samples shall be submitted for the initial drug test. The City shall comply with the initial drug testing parameters set forth in Chapter 59A-24.006(4)(e) 1. and 2 Florida Administrative Code, as may be amended or renumbered from time to time. If the results of this test are negative, no further testing will be conducted, unless the city determines the confirmation test is necessary.

40.2.8.3 If the results of the initial test are positive, the sample will be submitted for the confirmation test to verify the initial test results. The City shall comply with the confirmation drug testing parameters set forth in Chapter 59A-24.006(f)(f) 1. And 2., Florida Administrative Code, as may be amended or renumbered from time to time.

40.2.8.4 If the results of the second test are positive, the City shall notify the employee of the results. At that time, the employee may

elect to have the second sample subjected to testing. If the tests on the second sample are positive, or if the employee does not request testing of the second sample, the City may take corrective and/or rehabilitative action as provided below, including disciplinary action where appropriate.

40.2.9 Any employee found to have possessed, used, or been under the influence of illegal drugs or alcohol while on duty shall be subject to discipline, up to and including discharged.

40.2.10 Any employee who is convicted of a crime involving substance abuse is required to notify the City's Human Resources Department no later than five days after such conviction. Employees who are convicted of a crime involving substance abuse will be subject to disciplinary action, up to and including discharge.

### 40.3 VOLUNTARY ASSISTANCE PROGRAM.

Employees who voluntarily seek help (step forward prior to taking a test for alcohol or substance abuse) for their alcohol or substance abuse problem, will be given whatever assistance possible in being placed in an alcohol/substance abuse program, through the EAP program, or program approved by the City and Association until released by the program for return to work. While in the program, the employee may use his sick leave, vacation, compensatory time, or leave without pay, if necessary to take time off to attend the program. The employee will be allowed to return to work when approved by the EAP approved counselor or other authorized program. Participation in such a program shall not be the basis for disciplinary action, or grounds for testing. The only exception would be testing pursuant to the requirements of the alcohol/substance abuse program or other authorized rehabilitation program.

40.3.1 Nothing in this Article shall prevent the City from disciplining an employee for acts that, without regard to whether an employee was using drugs or alcohol, would merit discipline.

### 40.4 REHABILITATION

40.4.1 The City may refer an employee who has tested positive for the presence of alcohol or illegal drugs to the City's Employee Assistance Program (EAP). An employee shall be required, as a condition of continued employment, to complete any course of rehabilitation or treatment. The cost of such rehabilitation or treatment shall be the employee's responsibility. While in the program the employee will be allowed to return to work, if the authorized program or EAP administrator and the City Manager approves; if not, the employee may be placed on sick leave, vacation, compensatory time, or leave without pay until approved to return to work. This paragraph shall not be construed to limit the City's right to

take appropriate action when an employee tests positive for the presence of alcohol or illegal drugs.

40.4.2 If the employee does not complete the approved treatment program/plan, or refuses to enter the rehabilitation program, he may be disciplined up to and including discharge. If the employee successfully completes the approved treatment program/plan as determined by the authorized program or EAP administrator, the employee will be permitted to return to work.

40.4.3 An employee who successfully completes a course of treatment or rehabilitation will be subject to unannounced testing for alcohol or drugs for a period of one year following completion of the treatment/rehabilitation program. A test result indicating the presence of alcohol or illegal drugs, or an adulterated or tampered specimen, during this period will result in the employee's discharge from City employment. One rehabilitation only will be permitted.

40.5 In the event this Article is interpreted as being insufficient to afford the City a reduction in its worker's compensation rates under Florida Statutes, the parties shall meet to renegotiate this Article.

#### **ARTICLE 41 VACANCIES, TRANSFERS & PROMOTIONS**

41.1 When the City decides to fill a vacancy in a recognized bargaining unit position, the City will follow the procedure set forth below. For purposes of this Article, a vacancy includes the creation of recognized new positions in the bargaining unit and/or the replacement of a previous incumbent as a result of a termination, promotion or demotion.

41.2 All vacancies and positions covered by this Agreement unless posted in accordance with, 41.2.1 shall be posted for a period of seven (7) calendar days for outside postings and fourteen (14) calendar days for in-house postings on the city's internet before the City acts to fill such vacancies. If an employee is on vacation during the entire posting, and said position has not been offered, then the employee may submit a bid to Human Resources within three (3) working days after their return.

41.2.1 The City may elect to post for a specific classification (i.e. Data Entry Clerk, Clerk-Typist, Secretary, etc.) and establish a list of qualified applicants. Subsequent vacancies shall be filled from the list of qualified applicants. The City may repost the position if a sufficient number of applicants do not remain on the established list or after six (6) months, whichever occurs first.

41.2.1.1 An applicant on the list of qualified applicants shall be entitled to three (3) refusals of interview and/or a position before their name would be removed from further consideration.

41.2.2 Employees who hold the classification of Data Entry Clerk, Clerk-Typist or Secretary may request to be considered for a lateral transfer to another Department under the following conditions:

41.2.2.1 When a position for Data Entry Clerk, Clerk-Typist or Secretary is posted in accordance with Section A above, the employee may submit, in writing to the Human Resources Department, a request to be considered for a lateral transfer should a vacancy exist during the life of the eligible list currently in effect.

41.2.2.2 When a vacancy occurs and the position is to be filled, the affected Department will be advised of employee(s) requesting a lateral transfer. The Department Head may choose to interview an employee requesting the lateral transfer or interview from the eligible list.

41.3 Employees who desire to be considered for appointment to any such vacancy must submit their application to the Human Resources Department. An Association Representative may submit an application in the name of any bargaining unit employee who is absent from work during the posting period. The City has the right to post vacant position(s) both internally and externally to the outside. The City further, has the right to determine which applicant is best qualified and may appoint the applicant who possesses the greater skill and ability, including but not limited to, reliability and demonstrated performance, based upon a written exam performance exam, and/or an interview and past employment record (if applicable). If two applicants are determined to be equal in skill and ability as determined by the City, the applicant with the greatest seniority in the bargaining unit may be offered the position, or be given to a full time employee over a part-time employee, subject to the federal provision of Veteran's Preference.

41.4 An Employee who is promoted or transferred shall serve a six (6) month probationary period. If he is removed from the new position during the probationary period the employee shall be returned to his former position without loss of seniority or other benefits at their former pay and shall not serve a new probation period. Probationary periods shall be extended by the amount of leave days the employee uses during the above probationary period, if the leave is in excess of eighty (80) hours.

## **ARTICLE 42 PREVAILING RIGHTS**

42.1 Wages, hours, benefits, and conditions of employment in effect on the effective date of this agreement shall, except as modified herein, be maintained during the term of this agreement.

## **GLOSSARY**

**ACCRUAL** shall mean that an employee accrues seniority during all periods of approved leave with pay, which do not exceed thirty (30) consecutive calendar days in duration.

**ANNIVERSARY DATE BUMPING** the conditions under which an employee laid off from one seniority pool may move to another seniority pool by displacing the least senior employee in another seniority pool.

**GRIEVANCE** is a dispute concerning the interpretation or application of the terms of this Agreement.

**ILLEGAL DRUGS** means any narcotic, barbiturate, marijuana, central nervous system stimulant, hallucinogen, cocaine or any controlled substance as defined by Section 893.03, Florida Statutes, as amended or renumbered from time to time, not possessed or used in accordance with a lawful prescription.

**SENIORITY** shall mean an employee's length of continuous service with the City, within the bargaining unit, measured from the employees most recent date of hire.

# SIGNATURE PAGE

IN WITNESS WHEREOF THE PARTIES HAVE CAUSED THIS AGREEMENT TO  
BE SIGNED BY THEIR DULY AUTHORIZED REPRESENTATIVE ON THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

**FOR THE EMPLOYER**

**FOR THE UNION**

\_\_\_\_\_  
**Lee R. Feldman**  
City Manager

\_\_\_\_\_  
**Marjorie Will**  
National Representative  
N.A.G.E.

\_\_\_\_\_  
**George Hunt**  
Human Resources Director

\_\_\_\_\_  
**Bonnie Graham**  
N.A.G.E., Local R-5-197

**THIS AGREEMENT HAS BEEN RATIFIED BY THE CITY COUNCIL OF THE  
CITY OF PALM BAY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
2007.**

\_\_\_\_\_  
**John J. Mazziotti**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**Alice Passmore**  
City Clerk

\_\_\_\_\_  
**Date**