

AGREEMENT

BETWEEN

THE CITY OF NORTH MIAMI BEACH

AND

INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO

FOR THE CONTRACT PERIOD OF

October 1, 2021 to September 30, 2024

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## **ARTICLE 1: AGREEMENT**

This Agreement is entered into by the CITY OF NORTH MIAMI BEACH, FLORIDA, hereinafter referred to as the “City,” and the INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO, hereinafter referred to as the “Employee Organization,” “Union” or “IUPA” representing NORTH MIAMI BEACH POLICE OFFICERS’ ASSOCIATION LOCAL 6005, INC.

## **ARTICLE 2: RECOGNITION**

The City hereby recognizes the Employee Organization as the exclusive bargaining representative of all sworn law-enforcement personnel in the City of North Miami Beach Police Department, hereinafter referred to as Police Department, in the classifications of Police Officer, Police Sergeant, and Police Communication Officers, but excluding the Chief of Police, Deputy Chief of Police, Assistant Chief(s), Police Majors, Police Captains, Police Lieutenants, clerical employees, and other non-sworn personnel.

### ARTICLE 3: MANAGEMENT RIGHTS

1. Except as otherwise provided by this Agreement, the Employee Organization recognizes the unilateral rights and obligations of the City to perform certain functions. Those functions include, but are not limited to, the following and are grievable or negotiable only to the extent that the aforementioned specific limitations apply:
  - (a) demote, suspend, discharge, or take other disciplinary actions for just cause, recruit, hire, promote, retire, assign, and retain employees in positions, control, and direct the activities of all employees and determine the standards and qualifications therefore;
  - (b) transfer employees from location to location and from time to time;
  - (c) rehire employees;
  - (d) determine the starting and quitting time and the number of hours and shifts to be worked subject to Article 19 (Hours and Overtime Compensation);
  - (e) maintain the efficiency of employees by communication through supervisory personnel;
  - (f) merge, consolidate, subcontract, expand, or close the Police Department or any part thereof or expand, reduce, alter, combine, assign or cease any job;
  - (g) control the use of equipment and property of the City;
  - (h) fill any job on an emergency or interim basis;
  - (i) determine the number, location, operation of headquarters, annexes, divisions, substations, and departments thereof;
  - (j) increase and decrease the work force, determine work to be accomplished, schedule operations and determine the methods or processes therefore;

- (k) issue policy statements and executive directives that are not inconsistent or in contradiction to the law or this Agreement which explain, clarify or establish practices and procedures not addressed in the law or this Agreement;
  - (l) formulate and implement department policy, rules, and regulations;
  - (m) introduce new or improved services, maintenance procedures, materials, facilities and equipment, and to have complete authority to exercise those rights and powers incidental thereto, including the right to make unilateral changes when necessary;
  - (n) manage the Police Department, jobs, and job locations.
2. If the City fails to exercise any one or more of the above functions from time to time, it shall not be deemed a waiver of the City's right to exercise any or all of such functions. Any right, power, or privilege of the City, not specifically relinquished by the City in this Agreement, shall remain with the City.
3. However, the exercise of such 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 4: NON-DISCRIMINATION**

The parties agree not to interfere with the right of any employee covered by this Agreement to become a member of the Employee Organization, withdraw from membership from the Employee Organization, or refrain from becoming a member of the Employee Organization. There shall be no discrimination against any employee covered by this Agreement by reason of race, creed, color, national origin, sex, Employee Organization membership, or lack of Employee Organization membership.

## **ARTICLE 5: WORK STOPPAGES**

1. There will be no strikes, work stoppages, slowdowns, boycotts, job actions, or refusal to perform assigned work by the employees covered under this Agreement, or picketing in furtherance of any of the above prohibited activities. Notwithstanding the above, there shall be no picketing whatsoever in uniform or readily identifiable, official North Miami Beach insignia, logo, or apparel by the employees covered by this Agreement.
2. Recognizing that Florida law prohibits the activities enumerated in Paragraph 1 above, the parties agree that any member who participates in or promotes any of the aforesaid activities may be discharged or otherwise disciplined by the City.
3. It is recognized by the parties that the activities enumerated in Paragraphs 1 and 2 above are contrary to the ideals of professionalism and to the Police Department's community responsibility. Accordingly, it is understood and agreed that in the event of any violation of this Article, the City shall be entitled to seek and obtain legal and/or equitable relief in any court of competent jurisdiction.
4. For the purpose of this Article, it is agreed that the Employee Organization shall be responsible and liable for any act committed by its officers, agents and/or representatives, which act constitutes a violation of the provisions herein, provided that act has been authorized by the Employee Organization. In addition to all other rights and remedies available to the City in the event of a breach of provisions herein, the City shall have the right to unilaterally and without further notice cease dues deduction, terminate this collective bargaining agreement and/or withdraw recognition from the Employee Organization.



## **ARTICLE 6: DUES CHECK OFF**

1. Any member of the Employee Organization who has submitted a properly executed dues authorization card or statement to the City Manager or his designee in accordance with a format prescribed or approved by the City may, by requesting in writing, have his/her membership dues in the Employee Organization deducted from his/her wages. Dues shall be deducted each pay period, and shall, thereafter, be transmitted to the Employee Organization. However, the City shall have no responsibility or any liability for any monies once sent to the Employee Organization, nor shall the City have any responsibility or any liability for the improper deduction of dues. Further, the Employee Organization shall hold the City harmless for unintentional errors in the administration of the dues deduction system.
2. It shall be the responsibility of the Employee Organization to notify the City Manager or his designee of any change in the amount of dues to be deducted at least sixty (60) days in advance of said change. Under no circumstances shall the City be required to deduct Employee Organization fines, penalties, or assessments from the wages of any member.
3. Any member of the Employee Organization may, on thirty (30) days written notice to the City and to the Employee Organization, withdraw from membership in the Employee Organization and the City shall cease deducting dues from his/her wages.

## **ARTICLE 7: PERSONNEL RECORDS**

1. To the extent permitted by law, personnel records shall be kept confidential and not released to any person except officials of the City, in response to a court order, or as otherwise provided by law. However, individual employees may, at their discretion, waive this right. The IUPA recognizes the City's obligation to comply with Chapter 119, Florida Statutes.
2. No member of the news media, person or entity shall be furnished with the home address, telephone number, social security number, or photograph of an employee without his or her written consent insofar as legally possible.
3. It shall be the right of any employee, at reasonable times, to inspect and make copies of his or her personnel records and all such records shall be made available for inspection.
4. There shall be only one (1) official personnel file for each employee, which shall be maintained in the central personnel office of the employing agency, unless a different location is approved by the Personnel Director. Duplicate personnel files may be established and maintained with an agency. Such duplicate personnel files may contain part or all of the items filed in the personnel file, but may not contain any items which are not filed in the official personnel file.
5. If any derogatory material is placed in an employee's official personnel file, the employee will have the right to answer any such material filed, and his/her answer will be attached to the file copy.
6. Work sheets maintained by the immediate supervisors, inventory listings of clothing, or other issued equipment and internal affairs files shall not be covered by the provisions of this Article.

## **ARTICLE 8: SERVICES TO THE ASSOCIATION**

1. The City agrees to furnish the Employee Organization, through electronic means, the procedural directives pertaining to employer-employee relations, policies and procedures. All procedural directives will clearly indicate the date through which that set of the procedural directives has been updated.
2. The City will furnish the Employee Organization with sufficient Bulletin Board space for up to four (4) Employee Organization notices, size 8-1/2" x 14," in the Squad Room.
3. It is intended, for purposes of interpretation, that the Bulletin Boards indicated shall be provided, primarily for employee information and internal communications and not for the primary purposes of communicating with the general public.
4. The City will provide the Employee Organization, on an annual basis, a complete roster of the bargaining unit, including, name, rank, address, telephone number, present assignment, and current pay scale.

## **ARTICLE 9: ASSOCIATION REPRESENTATIVES DUTIES AND PRIVILEGES**

1. Not more than four (4) members of the Employee Organization who are engaged in the negotiation of this Agreement shall be provided leave with pay, including actual and necessary travel time, during the period of negotiations.
2. The City agrees to recognize four (4) members of the Employee Organization representatives, not more than one (1) per shift appointed by the Employee Organization, whose duties shall be to process grievances from members of the bargaining unit. The City agrees that the Employee Organization representatives shall have access to the City Manager and/or his designee without utilizing the official chain of command.
3. The City agrees to allow the Employee Organization and its representatives reasonable access to the Squad Room of the Police Department, when available, or to another room if Squad Room is unavailable, for the conducting of Employee Organization business.
4. The City will permit representatives of the Employee Organization, whether state, regional or national, to have reasonable access to the premises of the City at any time during working hours to conduct Employee Organization business. The Employee Organization agrees not to use this access for purpose of soliciting members.

## **ARTICLE 10: INTERNAL SECURITY**

1. The security of the City and its citizens depends to a great extent upon the manner in which the Police Department perform their varied duties. The performance of such duties involves those members in all manner of contact and relationships with the public.
2. Out of such contacts and relationships may arise questions concerning the actions of employees of the Police Department. Such questions may require investigation by superior officers.
3. The reception and investigation of complaints against employees covered by this Agreement and the purging of internal affairs files shall be governed by the Police Department's Procedural Directive #6-83.
4. To ensure that such investigations are conducted in a manner conducive to good order and discipline, meanwhile observing the protecting of individual rights of each employee of the Police Department, the following rules of procedure will be established:
  - (a) The interrogation of any employee shall be at a reasonable hour, preferably when the employee is on duty;
  - (b) The interrogation shall take place in the police station or the Internal Affairs Office in North Miami Beach;
  - (c) The employees shall be informed of the rank and name of the officer in charge of the investigation, as well as the ranks and names of any others taking part in the interrogation and investigation. All questions directed to the officer under interrogation shall be through no more than two (2) interrogators at any one time. If the employee is directed to leave his/her post to report for interrogation, an Employee Organization representative shall be promptly notified. The Employee

Organization representative will not have the right to interrogate the interrogators, but will protect the rights of the employee;

- (d) The employee shall be informed of the nature of the investigation before any interrogation begins. Sufficient information to reasonably apprise the employee of the allegations will be provided. If it is known that the employee being interrogated is a witness only, he/she must be informed.
- (e) The interrogation shall be completed within a reasonable length of time and reasonable respites will be allowed;
- (f) The employee shall not be subjected to any offensive language, nor shall he/she be threatened with transfer, dismissal, or other disciplinary measures. No promise of reward shall be made as an inducement to answering questions;
- (g) In all cases wherein an employee is to be interrogated concerning an alleged violation of the Police Department's rules and regulations which, if proven, may result in dismissal or in some disciplinary measure, the employee shall be afforded a reasonable opportunity and facilities to contact and consult privately with an attorney of his own choosing and a representative of the Employee Organization before being interrogated. The attorney and the Employee Organization representative may be present during the interview. Where the attorney is not immediately available and conditions permit, the investigation will be postponed for twenty-four (24) hours;
- (h) The complete interrogation of the employee shall be recorded mechanically or by a stenographer. There will be no "off the record" questions. All recesses called during the questioning shall be noted in the record;

- (i) If an employee is under arrest, or is likely to be arrested (i.e., if he/she is a suspect in a criminal investigation), he/she shall be given his/her rights pursuant to United States Supreme Court decisions;
- (j) Under the circumstances described in Paragraph G, supra, the employee shall be given an exact copy of any written statement he may execute;
- (k) The City shall not order or request any employee of the bargaining unit to submit to a polygraph (lie detector) test, unless such test is requested by the employee;
- (l) No police officer will be compelled to speak, or testify before, or be questioned by any nongovernmental agency, unless under proper court subpoena;
- (m) Officers who are under investigation pending possible disciplinary action, if relieved from duty, shall remain on full pay and benefits, until the final disposition of said investigation has been determined. In the alternative, the officer may be reassigned, without advance notice, to duties with the City, pending the final disposition of said investigation.

## **ARTICLE 11: MAINTAINING OF DISCIPLINE**

1. It is recognized that, from time to time, employees may violate rules, regulations and/or policies established for the smooth and proper functioning of the City's operations. The City shall have jurisdiction to determine what, if any, disciplinary action will be taken, as it deems necessary, based on just cause, including discipline involving termination, suspension or demotion. It is understood and agreed by the parties that the procedures contained in Article 29 of this Agreement are intended to be the sole and exclusive method of resolving all grievances including those relating to all levels of discipline. Accordingly, employees covered by this Agreement may not file grievances pursuant to Civil Service Rules, Chapter 13, Section 13.01 and 13.07 nor to the City Charter, Article 13, Department of Personnel, Section 79 (Appeals) and, therefore, the Civil Service Board shall not have jurisdiction to hear any grievance filed by a bargaining unit member whether it is a grievance over discipline or any other matter.
2. The City agrees to provide the employee written notice of the discipline imposed and further agrees to send copies of such notices to the Employee Organization.
3. Copies of all matters involving discipline shall be entered into the employee's personnel file and shall become a permanent part thereof.



## ARTICLE 12: SHIFT EXCHANGE & SUBSTITUTIONS

1. Wherever possible, excepting normal shift changes, the City will notify the employee at least seven (7) days in advance of any contemplated change in an employee member's status, e.g., transfer, reassignment, change of shift, disciplinary action, etc. The seven (7) days' notice may be extended at the sole discretion of the Chief of Police or his designee for a period of time not to exceed seven (7) additional days for a verified hardship.
2. Upon application to the Chief of Police, shift exchanges for the purposes of attendance at advance schools and college courses, as authorized for funding by the City, will be arranged, provided:
  - (a) It does not interfere with the regular and efficient operation of the Police Department;
  - (b) A fellow officer of like rank and experience volunteers for the exchange;
  - (c) It is requested and approved sufficiently in advance so as not to work a hardship on either officer or the City.
  - (d) The approval of the Chief of Police shall not be unreasonably withheld.
3. The City agrees not to use, assign, or detail bargaining unit employees as "substitute employees" in any situation where there exists a labor dispute, except in those cases where lives or property are in imminent danger; for example, a cessation of fire services.
4. The Police Chief or designee, within his/her sole discretion, shall select the first four (4) employees for each shift on a rotating basis. The remaining positions for each shift shall be filled by shift selection on a rotating basis in accordance with seniority. This limit does not apply to K9, FTO, SRT, Motors, discipline, or probationary employees.

### **ARTICLE 13: DEPARTMENTAL RULES & REGULATIONS**

1. It is agreed and understood that each employee will be provided with access to a copy of any computerized departmental manual, which replaces, updates, and/or supersedes the present manual containing the department's rules and regulations. Any such new departmental manual shall be distributed to the employees within sixty (60) days after formal adoption, or as soon thereafter as practical.
2. The employees or the Employee Organization may offer suggestions to the Police Chief as to changes in the Police Department's rules and regulations. The acceptance or rejection of these suggestions shall be at the sole discretion of the Police Chief.
3. The establishment of new work rules (irrespective of the manner of promulgation by ordinance, regulation, or memorandum) which effect wages, hours of work, or conditions of employment, shall be in conformance with this Agreement.

## **ARTICLE 14: VEHICLES & EQUIPMENT**

1. Whenever an employee is authorized in advance to use his/her own vehicle in the performance of official City duties, he/she will be compensated at the rate promulgated by the State of Florida for mileage reimbursement and is entitled to all employee benefits.
2. The City will arrange to have each City vehicle inspected by a qualified mechanic on a scheduled maintenance program, with emphasis on safety features. Due to the number of police units, the City will provide a qualified mechanic to work on police units.
3. Before any police vehicle goes onto the street, the officer to whom it is assigned shall be required to check the following equipment to ensure it is in working order. Emergency lights, siren, loudspeaker (except in detectives' vehicles), a 2-way radio, rifle and shells, first-aid kit, safety equipment, fire extinguisher, flares and spare tire. The City agrees that it will institute a maintenance program to ensure that the above items are in good working order.
4. To protect officers while they are away from their patrol vehicles, or when working private details, the City will provide each officer with a 2-way portable radio during regularly assigned shifts or off-duty assignments only. Radios may be carried when not on duty status if permitted by the Chief. The City will take reasonable steps to secure such additional radios as are necessary.
5. The City will adopt no new equipment which places in jeopardy the health and safety of bargaining unit employees.
6. The City agrees to implement a "take home" police vehicle policy. The City agrees to allow sworn police officers covered by this Agreement to utilize their police vehicles as transportation to and from work from their primary residence. It is expressly understood and agreed that said vehicles shall be utilized only for such transportation to and from work

and that any violation of this policy will immediately and irrevocably result in the termination of the particular officer's privilege to utilize vehicle for such transportation. It is further understood and agreed by the parties that the City may evaluate the "take home" police vehicle policy every six (6) months. The City may, in its sole discretion, terminate said policy. It is also understood and agreed by the parties that any such decision by the City to extend or terminate the aforesaid policy shall not be subject to the grievance/arbitration procedure contained in this Agreement. Guidelines regarding administration of the "take home" police vehicle policy will be promulgated by the City and discussed with a representative of the IUPA thirty (30) days before implementation.

7. Police Department personnel who will be on any type of leave for more than five (5) working days must leave their respective assigned vehicle at the Police Station or work headquarters. The individual is to give the car keys to his/her immediate supervisor. Specialty vehicles, motors, K-9, Detective Bureau, VIN, will also be left at the station or work headquarters, and the keys will be turned in to their respective supervisor.
8. Officers assigned a "take home" City vehicle will be charged a reasonable fee according to a schedule established by City policy. Officers actively assigned to canine units are exempt from these fees.

## **ARTICLE 15: SAFE AND SANITARY CONDITIONS**

1. The City shall do all in its power to the end that all work areas are maintained in a clean and sanitary condition on a daily basis and sufficient lavatory facilities will be provided for member employees at all times.
2. Many of the officers' varied duties and investigations require that a substantial number of his/her working hours must be spent in the police station; therefore, the City will ensure that adequate working space will be made available.

## **ARTICLE 16: PROMOTIONS**

1. Vacancies will be filled from an existing eligibility list subject to a rule of three. Rule of three means that where there is one (1) vacancy, the vacancy will be filled by any one of the three highest ranked individuals on the eligibility list. Ranking will be by overall grade, including seniority points. If more than one (1) vacancy exists, there shall be an additional person considered for each existing vacancy, (e.g., two (2) vacancies: three (3) highest ranked people on the list plus the next highest ranked person making a total of four eligible candidates). The Police Chief may in his/her sole and exclusive discretion promote any person that is eligible under the above defined rule.
2. The City will take all steps to assure that promotional examinations are properly validated according to acceptable validation techniques.
3. The City will announce promotional examinations at least ninety (90) days in advance. They will also list the areas which the examination will cover, the primary sources from which the examination is drawn, and all such reference material will be made reasonably available to the eligible candidates, at the Police Department Library.
4. Employees receiving an overall passing grade on a promotional examination shall have seniority points for continuous City service based on time in grade added to their overall passing grade as follows: one-half (1/2) point per year above what is necessary to qualify for the exam up to a maximum of ten points.
5. Employees who are veterans can receive a minimum of five (5) points on only one (1) promotional examination.

## **ARTICLE 17: TRAINING**

1. The City will guarantee that each employee will receive at least forty (40) hours of in-service training yearly.
2. Employees promoted to the next highest rank will receive appropriate training from accredited instructors during the probationary period. Insofar as possible, the training must be accomplished during the probationary period. Training will be provided yearly and will meet Florida Department of Law Enforcement (FDLE) standards.
3. Training will be scheduled, where practicable, during normal duty hours. In accordance with current practice, shifts and days off may be changed to accommodate training.
4. Training days are usually scheduled for eight (8) hours, but may be scheduled for longer within the City's discretion. Break times and lunch time of approximately one hour shall not be considered as time worked on training days.
5. The Department will continue to use TDY scheduling so that officers can attend training during duty hours. In circumstances where officers, who are off-duty are required to attend mandatory training, they will be paid at the overtime rate.

## ARTICLE 18: HOLIDAYS

1. Effective October 1, 2016, the City recognizes the following as paid holidays for covered employees:

New Year's Day

Martin Luther King's Birthday

President's Birthday

Memorial Day

Juneteenth

Independence Day (July 4th)

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day

The Day after Thanksgiving Day

Christmas Day

Two (2) Floating Holidays

2. All officers shall receive an additional eight (8) hours or ten (10) hours pay or time at straight rate (depending upon their regularly assigned shift) for any legal holidays whether on duty or not for that day. (For example, an officer will receive eight (8) hours of pay if his or her regularly assigned shift is an eight (8) hour shift and will receive ten (10) hours of pay if his or her regularly assigned shift is a ten (10) hour shift). Officers shall not receive any other additional compensation, other than that provided herein, if a duty day coincides with a holiday. Earned holiday hours may be banked up to a cap of one hundred ten hours (110). Use of banked holiday hours will be in accordance with annual leave procedures.



Banked holiday hours shall not be paid out until termination of employment. Payout of unused holiday banks will be one hundred percent (100%) of the bank value up to the stated cap, at the employee's straight time base rate of pay at the time of separation. Holiday pay is accrued at the time of the holiday, not before, that is, no Holiday time off may be taken nor holiday hours banked nor holiday pay awarded until the holiday in question occurs.

3. The Floating Holidays shall be given and utilized as follows:

- Employees will accrue two (2) days at either eight (8) or ten (10) hours depending on the employee's regular schedule at the time the Floating Holidays are earned.
- Employees hired prior to June 30th, will accrue either sixteen (16) or twenty (20) hours (depending on the employee's schedule when the holidays are given) for the first calendar year. Eight (8) or ten (10) hours may be used (depending on the employee's schedule) during the first six months of employment. The other eight (8) or ten (10) hours should be used within the remaining calendar year ending on December 31st. However, if approved by the Chief of Police, the second eight (8) or ten (10) hours may also be used within the first six (6) months of employment.
- Employees hired after July 1st and prior to November 1st will accrue eight (8) or ten (10) hours (depending on the employee's schedule) during the first calendar year of employment. These hours may be taken at the discretion of the department head.
- Employees who are hired on or after November 1st will not be eligible for any floating holiday hours for the first calendar year of employment.
- Employees may use hourly increments of their annual floating holidays for any purpose, provided it is requested and approved in advance and it does not disrupt the function of the Police Department or Division.

- Floating holidays must be used within the calendar year, January 1st through December 31st. Leave will be forfeited if not utilized.

## **ARTICLE 19: HOURS & OVERTIME COMPENSATION**

1. The parties agree to a Fair Labor Standards Act Section 207(k) plan whereby forty (40) hours in a seven (7) day period shall constitute a normal work period for an employee covered by this Agreement. Nothing herein shall guarantee any employee payment for a forty (40) hour workweek at any time prior to the beginning of the second pay period after ratification. Overtime compensation will not be paid, unless the normal workweek is actually worked in full or substituted by annual leave, military leave, compensatory leave, holiday leave, administrative leave, or approved shift swaps. Overtime shall be compensated at the rate of time and one-half the employee's straight time rate of pay. It is understood and agreed that paid absences for sick leave and disability leave shall not be included as part of the normal workweek for purposes of computing eligibility for overtime payment, but paid absences for annual leave will be included as part of the normal workweek for purposes of computing eligibility for overtime payment.
2. Whenever a shift change occurs, no member shall be forced to work a continuous shift. Employees rotating from the evening or midnight shifts will be entitled to at least eight (8) hours off-duty before returning to work.
3. The City may, in its sole discretion, make compensatory time available, on a week-to-week basis. Should the City make compensatory time available and an employee elects to receive compensatory time, the employee shall receive such compensatory time at the rate of time and one-half the employee's base salary. Compensatory time may be accrued to a maximum of one hundred sixty (160) hours. The City may, in its sole discretion, cash out accrued compensatory time and/or require employees to use compensatory time at any time.

4. When an employee member is called in to work or court at a time outside his/her normal working hours, he/she shall receive a minimum of four (4) hours pay at the rate of time and one-half the officer's regular straight time rate, or at the officer's discretion, a minimum of four (4) hours in compensatory leave (at the rate of time and one-half), except that an employee ordered to report to duty or court one (1) hour or less before or after his/her normal working hours shall not be entitled to four (4) hours of minimum pay but will be paid a one (1) hour minimum. If the officer is required to hold over for any reason, it will be considered an extension of the shift, entitling him/her to be paid for the time actually worked. However, an employee who has not worked a forty (40) hour work week will be compensated for his/her call out or court time at the officer's regular straight time rate.
5. When employees are off-duty and/or on call and they receive a work-related telephone call, they will be compensated for the duration of the call. The employee must keep a record of the person, reason and the duration of the call. This record must be turned in within the pay period.
6. When employees are required to return to work for corrective or disciplinary action, they shall be entitled to overtime compensation.
7. Any employee required to work beyond his/her normal duty hours during riot, hurricane, or other emergency conditions will be paid at the rate of one and one-half times the base rate of pay. An officer will normally be given adequate advance notice of any change in his/her regular hours of work, except where an emergency exists.
8. Bargaining unit employees required by the City or any of its authorized representatives to appear on their off-duty time before a City-designated Board or City designated Committee assigned to inquire into accidents will be paid at the rate of one and one-half times their

base rate of pay. However, an employee who has not worked a forty (40) hour workweek shall be compensated at the regular straight time rate until the forty (40) hours has accrued.

9. Since the City recognizes that the daily witness fee authorized by Florida State Statutes is to reimburse the witness for travel expenses, all bargaining unit employees shall retain witness fees, in addition to their overtime compensation for attending Court, the State Attorney's Office (SAO) or the Grand Jury. All such employees who attend Court, the State, the Grand Jury, or other official functions on duty time and in a City vehicle will turn any and all witness fees over to the City.
10. It is understood and agreed that assignments of all hours, in addition to an employee's normal duty hours, shall be at the City's discretion and shall be mandatory.
11. The Chief of Police will consider seniority in the assignment of days off; however, seniority will not be controlling in such assignments.
12. The City will pay the applicable overtime rate whenever it uses off-duty City police officers for City sponsored events.

## ARTICLE 20: COMPENSATION

1. Because of the changing requirements of the police officer's job, salaries of Police Officers and Police Sergeants should be based solely on considerations peculiar to, and relevant to the duties and responsibilities assumed by police officers insofar as is fiscally possible.
2. The City recognizes that, in order to recruit and retain high caliber personnel now required by the police service, bargaining unit salaries should be competitive with other police departments which provide police service in this area insofar as is fiscally possible.
3. When an employee of a lower classification is assigned to perform the duties of an employee of a higher classification, or those of a Department Head due to the temporary absence of an employee, or due to a position in a higher classification being vacant (a temporary absence shall be a period exceeding one (1) week), the employee so assigned shall receive a salary differential of five percent (5%) of base pay per week while acting in this capacity. Such assignment shall be upon the recommendation of the Department Head and the approval of the City Manager or his/her designee. Within six (6) months from the ratification of this Agreement, the City shall discontinue its designation and use of police officers as corporals.
4. Special assignment allowances, effective October 1, 1985, shall be provided to bargaining unit employees and are described below. However, it is agreed and understood that under no circumstances shall an employee be entitled to more than three (3) of the special assignment allowances. In the event the Chief of Police creates any additional assignments requiring specialized skills and training, he/she may recommend to the City Manager that such assignment receive a special assignment allowance. The decision to grant or not to grant a special assignment allowance for any new assignment, as well as the amount of such allowance (if granted), shall be within the sole discretion of the City Manager.

Detectives/Street Crimes	\$30.00/week
Field Training Officer	\$25.00/week*
CTO	\$25.00/week
K-9 Team Member	\$20.00/week
SRT	\$20.00/week
Motor Unit	\$20.00/week
Crisis Negotiator	\$10.00/week
Dive Team Member	\$10.00/week
Honor Guard	\$10.00/week
THI	\$10.00/week
Riot Team	\$10.00/week
Social Media	\$10.00/week

\* **Training Officer Pay.** Effective the first full pay period following the execution of this Agreement, Field Training Officers (FTOs) and Communications Training Officers (CTOs), engaged in active training of a probationary police or communication officer for a minimum of five (5) hours in a single shift, shall receive additional differential pay in the amount of twelve percent (12%) of their base pay for the entire shift. Any FTO or CTO engaged in less than five (5) hours of active training in a single shift, shall be paid on a per hour basis. In no instance shall two FTOs or CTOs receive differential pay for training the same employee on a single shift. FTO and CTO Supervisors will receive a three percent (3%) increase in their base rate so long as they hold such positions.

5. Officers accepting off-duty employment shall be paid in accordance with the provisions of Resolution R73-18, as amended, which shall be further amended to provide that effective sixty (60) days after ratification, the off-duty rate charged to entities wishing this service

shall be \$48.00 per hour with the officers receiving \$40.00 and the City retaining \$8.00. All officers shall have equal opportunity to work off-duty jobs in accordance with established written policy of the Chief of Police. Officers who have performed off-duty jobs shall be compensated by the City at the end of the second pay period following the date of said assignment. The City agrees to require employers hiring an employee for off-duty assignments to compensate said employee for minimum of four (4) hours. In cases where four or more officers are requested to work an off-duty detail, the supervisor working in a supervisory capacity on the off-duty detail will receive an extra dollar per hour that will be paid by the off-duty employer. Additionally, in cases where off-duty employers are willing to pay a higher off-duty rate the City will receive 17% and the officer will receive 83% of the rate. Additionally, on any holiday, the off-duty minimum rate will be set to \$72.00 per hour; the City will retain \$12.00 per hour and the Officer will retain \$60.00. Rates are effective 60 days after ratification. However, officers are prohibited from individually or as a group soliciting a higher off-duty rate. Only the City Manager or his/her designee may negotiate a higher off-duty rate than that established by this Agreement. The City reserves the City's sole discretion to continue administering off-duty assignments. If the City discontinues administering off-duty assignments, then it is within the officer's discretion to continue to work off-duty assignments provided that the City's policies and standard operating procedures are met.

6. Any officer who may be injured while on an assigned off-duty law enforcement assignment shall be entitled to the same rights, privileges and benefits as if he/she were injured while performing for the City.
7. At its discretion, the City shall have the option of paying members on a weekly or bi-weekly basis while maintaining the existing forty 40 hours per week pay period.



8. Employees whose permanent regular work is assigned to the “B” shift will receive ten dollars (\$10.00) additional compensation above their regular pay per week. Employees whose permanent regular work is assigned to the “C” shift will receive fifteen dollars (\$15.00) additional compensation above their regular pay per week. It is understood and agreed that the shift differential applies as follows:

- Shift differential applies to only “B” and “C” shifts.
- Shift differential will be granted only if the majority of an officer’s worked hours are on shift “B” or “C.”
- If an officer has been temporarily assigned to the “B” or “C” shift, and the majority of his/her hours worked are “B’ or “C” shift, he/she would be entitled to the shift differential.

Shift differential does not apply to time not worked (i.e., leave of absence or unpaid leave).

## **ARTICLE 21: GROUP INSURANCE**

1. Health: The City shall provide group health insurance for its regular full-time employees covered by this Agreement. The employee's contribution rate and benefits levels to the health care program will be the same as that offered to all general employees of the City during the term of this Agreement. If no successor agreement is reached on expiration of this Agreement, the contribution and benefits shall be equal to that of the general employees.
2. Life: The City shall provide a term life insurance policy for each regular full-time employee at no cost to the employee equal to the next \$1,000.00 over his/her annual base salary.
3. Disability: The City shall provide a weekly disability insurance program for each regular full-time employee at no cost to the employee. Benefits provided shall be within the sole discretion of the City.

**ARTICLE 22: LEAVE**

1. **ANNUAL LEAVE:** All full-time employees will earn ninety-six (96) hours of annual leave each year, at the rate of eight (8) hours per calendar month. Leave may be utilized for vacation or personal purposes by the employee, after it has been earned; an employee may not draw upon future leave to be earned. All use of annual leave, other than in a bona fide emergency situation, must be requested and approved by the employee's Department Head in advance of use. Prepayment of salary for vacation purposes will be made, provided there is sufficient leave accrued to cover the entire vacation period, if it is approved by the Department Head, and is submitted to the Personnel Department not less than three (3) weeks in advance of the date requested for the advance payment, bona fide emergency situations excepted. Probationary employees will earn leave at the rates indicated above; however, during the first six (6) months of employment they may not utilize any accrued annual leave. Further, in the event of termination prior to receiving regular status, all leave so earned is forfeited.
  
2. **LONGEVITY LEAVE and PAYMENT:** Full-time employees will receive the following longevity hours after ratification of this Agreement, on their service dates.

<u>LENGTH OF SERVICE</u>	<u>LONGEVITY</u>
6 THROUGH 9 YEARS	15 HOURS
10 THROUGH 14 YEARS	35 HOURS
15 THROUGH 19 YEARS	45 HOURS
20 PLUS	55 HOURS

Full-time employees who have completed ten (10) years of continuous service with the City will earn an additional payment beginning the second year of this contract, according

to the schedule below. The payment will be paid on the anniversary of the employee's service date.

<u>LENGTH of SERVICE</u>	<u>LONGEVITY PAYMENT</u>
6 THROUGH 9 YEARS	\$250.00
10 THROUGH 14 YEARS	\$500.00
15- THROUGH 19 YEARS	\$800.00
20 PLUS	\$1,200.00

3. **CARRYOVER OF ANNUAL LEAVE:** All employees may accumulate up to three hundred and twenty (320) hours but will not be allowed to add further to it; it may be utilized under normal leave procedures. (Note: If leave is denied by department, waiver of limits of time may be considered on a case by case basis). Once an employee accumulates three hundred and twenty (320) hours, he/she must use all annual leave in the year that it is earned. Employees will not be allowed to cash in any unused annual leave.
4. **REPORTING OF LEAVE:** Each employee will receive an annual balance sheet indicating leave earned, leave used, and any balance left. The employee will also be required to execute and sign the proper form for any leave requested and will be given a copy of that completed form, after the leave is used and has been posted to his/her account. If an employee contends that an error has been made in reporting leave, the employee may request a review of the account in the Personnel Office within thirty (30) calendar days of receipt of the completed form. No changes or corrections will be made after that period.

5. SCHEDULING OF LEAVE: Annual leave (including longevity leave) will be scheduled in accordance with the desires of the employee the department's leave policy as outlined in Procedural Directive #27-89 to the foregoing:
  - (a) Leave must have been earned prior to the date of utilization;
  - (b) The needs of the department must be met;
  - (c) Subject to Procedural Directive #27-89, departmental seniority between employees within the same rank will be the determinant factor in choice of leave dates between unit employees. An employee's scheduled leave cannot be "bumped" within 14 calendar days of the beginning of the scheduled leave date.
  
6. SICK LEAVE: All full-time employees will earn ninety-six (96) hours of sick leave each year at the rate of eight (8) hours per calendar month effective third pay period after ratification. Leave may be utilized for the following purposes only:
  - (a) For bona fide personal illness or injury, verification of same will be required by the Chief of Police for any such absence. Written verification of illness by a certified physician may be required for any absence due to illness or injury; absences in excess of three days shall require medical certification prior to return to work;
  - (b) For personal visits to a physician or dentist that cannot otherwise be arranged during off-duty hours;
  - (c) For bereavement reasons, due to a death in the employee's immediate family — immediate family is defined as parent (by blood or legal adoption), spouse, child (by blood or legal adoption), brother or sister;
  - (d) For any reason covered under the Federal Family & Medical Leave Act (FMLA) and the corresponding Dade County Ordinance. All leave used will be charged on an hour-for-hour basis.

7. **SICK LEAVE ACCUMULATION & CONVERSION:** All unused sick leave shall be accumulated in a “Sick Leave Bank”. Employees may accrue unlimited sick leave hours but may only be paid out at time of separation a percentage of a maximum of six hundred (600) hours. On December 1st of each year employees with a full year of service or more, may elect to cash out the remaining balance of the *first* forty hours of the preceding calendar year. Employees with over six hundred (600) hours accrued as of May 17, 2016, will have their sick leave banks frozen as of that date for payout at separation; less any time used from the bank in the future. Examples, employee had eight hundred (800) hours as of May 17, 2016, but at time of separation had seven hundred (700) hours, the payout would be based on seven hundred (700) hours. Further, if the employee had one thousand (1,000) hours accrued at time of separation, the payment would be based on the eight hundred (800) hours accrued as of May 17, 2016. In the event an employee is separated for any reason, the employee shall receive payment for up to a maximum of six hundred (600) hours for sick leave as indicated below and at the rate of pay upon separation:

Date of hire to 9 years of service	0%
10 years to 14 years of service	40%
15 years to 20 years of service	60%
Over 20 years of service & Retirement	100 %

8. **SICK LEAVE DONATION:** All aspects of Sick Leave Donation shall be governed by established departmental and City policies and procedures.

9. **OFFICIAL LEAVE:** Full-time employees will be granted Official Leave (time off with pay) for the purposes of jury duty service and to attend official or educational meetings, as directed by the City only. Such time off will not be charged against the employee’s Annual or Sick leave accounts. Jury fees may be retained by the employee.

10. MILITARY LEAVE:

- (a) Employees ordered to annual military training as a member of any of the U.S. Armed Forces Reserves, will be granted leave and other rights in accordance with governing regulations, statutes, and ordinances.

11. DISABILITY LEAVE: In the event a full-time regular employee suffers an injury arising out of and/or in the course and/or scope of his/her employment, the employee shall be entitled to receive disability leave subject to the following conditions:

- (a) The injury must be attributable to the employee's occupation in the City and be considered as such under the administrative code and rules and regulations of the Workers' Compensation Statute of Florida.
- (b) Leave will be provided with full pay, less any payments made by the Workers' Compensation, up to thirty (30) days from the date of injury;
- (c) Extension of disability leave beyond thirty (30) days may be made by the City Manager, based upon recommendation of the Chief of Police; if such recommendation is made, disability leave may be extended up to one (1) year from the date of injury;
- (d) An employee receiving disability leave under the provisions of subparagraphs 11(b) and (c), above, shall continue to accrue annual leave and sick leave. However, once an employee is no longer receiving disability leave under the provisions of subparagraphs 11(b) and (c), above, the employee will no longer accrue annual leave or sick leave;
- (e) If the employee has not recovered sufficiently to return to work at the end of the one (1) year period described above, he/she may be allowed leave without pay up to one (1) additional year for such recovery, if recovery cannot be accomplished within that

time, enabling the employee to return to some form of duty, if otherwise eligible, the employee may be retired under the disability provisions of the Pension program;

- (f) If the injury was caused by the gross negligence of the employee, or is intentionally self-inflicted, no disability leave of any kind will be granted; a determination of such gross negligence may be made by the City Manager, based upon the recommendation of the immediate supervisor, the Department Head and the Personnel Director. Such ruling of gross negligence shall be appealable, pursuant to the established grievance procedure in this Contract.

12. LEAVE WITHOUT PAY:

- (a) A regular employee normally may be granted Leave of Absence without pay for a period not to exceed six (6) months, provided it is requested and approved in advance by the Department Head and Human Resources Director. Extensions for up to an additional six (6) months may be made, subject to these same prior approvals. Under no circumstances will a Leave of Absence without pay exceed one (1) year, except where as provided by federal law for Military Service.
- (b) Leave without pay, up to four (4) weeks may be granted by the Department Head.
- (c) For the purpose of use of sick leave (Article 22, paragraph 6); annual leave Article 22, Paragraph 1); weekly Disability Insurance (Article 21, Paragraph 3); and leave without pay (Article 22, Paragraph 11(a)), absences for maternity purposes shall be treated according to the City's Family Medical Leave policy.
- (d) Leave of absence may be granted to a regular employee to enable him/her to take an appointment in the exempt service. Leave may be granted for sickness or disability (in accordance with the Federal FMLA and Dade County Ordinance), to engage in a



course of study, or other good and sufficient reasons which are considered to be in the best interests of the City's service.

13. **LAW ENFORCEMENT APPRECIATION LEAVE:** Effective May 1st of each year, all employees will be given one (1) Law Enforcement Appreciation day, which must be used within six (6) months. Approval for this leave will be treated the same as a request to use annual leave.

## ARTICLE 23: EDUCATION ASSISTANCE

The City, in its efforts to encourage its officers to seek to acquire a greater knowledge of the more complex areas of the social system today, agrees:

1. To assist with the cost of tuition for specialized educational courses to better equip the officers for the performance of the particular job and/or position in which they are employed. Maximum limitation on reimbursement under this provision shall be \$4,000 for undergraduate or graduate studies per fiscal year.
2. The eligibility requirements for education assistance are as follows:
  - (a) Must be a full time employee;
  - (b) Must have completed one (1) year of service;
  - (c) Must be an employee when course is completed;
  - (d) The course must be approved by the employee's department head prior to the employee registering for the course;
  - (e) The course, whether undergraduate or graduate level, must be job-related or degree-related.
3. Every application shall be subject to the prior approval of the City Manager or designee. The decision of the City Manager/designee shall be final in all respects.
4. Reimbursement will be made at the conclusion of a successfully completed course, pursuant to the following schedules, and up to the maximum limitation listed in paragraph 1.
  - "A" grade -- 100% of the tuition and book costs
  - "B" grade -- 75% of the tuition and book costs
  - "C" grade -- 50% of the tuition and book costs
  - Grades lower than a "C" -- no reimbursement
  - PASS -- The City will reimburse 100% of the tuition and book costs
  - FAIL -- The City will reimburse 0% of the tuition and book costs

Requests for reimbursement must be submitted to Human Resources no later than ninety (90) days after completion of the eligible educational course. Requests must be accompanied by paid receipt for tuition and books, and a copy of the grade report.

5. Tuition and book costs will be recovered by the City should an employee separate from the City within one (1) year of reimbursement of the course(s) paid for by the City. Employees will be required to execute an agreement stating that the City may recover tuition and book costs should the employee leave the employ of the City within one (1) year of reimbursement of the course(s) paid for by the City.

## **ARTICLE 24: LAYOFF AND RECALL**

1. Layoff is defined as the separation of an employee for any reason other than disciplinary reasons. The City agrees to provide the Employee Organization with a list of the names of the employees being laid off and such notice shall be sent at the time it is issued to the employees so affected.
2. Employees to be laid off shall be notified as soon as possible after the decision for layoff has been made. The City agrees to give such employees two (2) weeks' notice or two weeks' pay, in lieu of notice.
3. Whenever it becomes necessary to reduce the number of employees in a given Civil Service class, for any of the foregoing reasons, seniority within that particular classification shall govern the order of layoffs. An employee in a higher classification including Police Lieutenants, Police Captains and Police Majors may "bump" to a lower classification in which he/she held regular rank. Seniority will then be counted from the original date of rank of the lower classification.
4. Employees who have been laid off shall be re-employed, by classification, in the reverse order to which they were laid off, provided not more than twenty-four (24) months has elapsed from the date of layoff. Within that twenty-four (24) month period, any employee who is re-employed shall have restored any job benefits forfeited at the time of layoff. After more than twenty-four (24) months from the date of the layoff, any employee that is rehired shall be considered the same as a new employee. It shall be the employee's responsibility to ensure that their required law enforcement certifications are maintained and kept up to date during this time.
5. When a probationary employee is laid off for economic reasons, he/she will be paid for accrued Annual Leave to date of the layoff.

## **ARTICLE 25: UNIFORMS, SUPPLIES & EQUIPMENT**

1. The City agrees to furnish the following uniform issue to each bargaining unit employee:
  - Three (3) pairs of trousers;
  - Two (2) pairs of shorts;
  - One (1) long sleeved shirt;
  - Five (5) short sleeved shirts;
  - One (1) thermal jacket;
  - One (1) hat with shield;
  - One (1) badge;
  - One (1) name tag;
  - One (1) Traffic Vest
  - One (1) set of leather equipment, to include: belt; handcuffs and case; pistol holster;
  - One (1) semi-automatic pistol and ammunition for up to three (3) reloads:
  - One (1) set of rain gear; flashlight batteries, as needed; other uniform equipment as required by the City.
  - One (1) Ballistic Vest Level IIIA, every time it becomes expired, up to the cost of a first level IIIA – See Section 4 below.
  - Sworn Officers and police communications officers will receive a uniform chit (voucher) of up to \$100.00 for shoes per fiscal year effective October 1, 2019.
  
2. The City agrees to replenish all of the above as they become torn, worn or unserviceable due to normal wear and tear. Any officer who damages, destroys, or loses any of this equipment due to his/her own gross negligence, shall replace the article at his/her own expense.

3. Uniform officers shall receive a cleaning allowance of \$500 annually. Sworn police officers who are required to wear non-issue clothing in the course of their job shall receive a clothing allotment of \$700 per year, payments to be made at the end of the year earned.
4. The City will provide all police personnel with Concealable Bullet Resistant vest, or one of equivalent quality, selection to be made in consultation with the Labor Management Committee. Such vests, when issued, will be worn by all officers in uniform while on duty and during off-duty assignments; non-uniformed personnel shall use their discretion or as directed by their immediate supervisor. Any officer not wearing the vest when so required will be subject to appropriate discipline. Uniformed personnel assigned to duty in Police Headquarters shall or shall not be required to wear these vests, at the discretion of the Chief of Police.

## **ARTICLE 26: PROTECTION AND INSURANCE**

1. The City will undertake the defense of any employee covered by this Agreement against civil damage suits and will file counter-suits arising out of lawful actions in the line of duty, if deemed appropriate by the City.
2. The City will indemnify all member employees against any judgments levied against them, as a result of their lawful actions while acting in the scope of their employment; i.e., in the line of duty.
3. The City and its related programs will provide life insurance to pay to the immediate family of a law enforcement officer killed in the line of duty in the sum of at least \$300,000.00. The City and its related programs will provide life insurance to pay to the immediate family of a Police Communications Officer killed in the line of duty in the sum of at least \$50,000.00.

## **ARTICLE 27: AWARDS**

The City will provide a formal system of awards for various degrees of service from saving life to awards for courtesy. These awards will be in the form of medals, campaign ribbons, letter of commendation; the form of the award to be determined by the City.



## **ARTICLE 28: BENEFITS AND SAFETY AWARDS**

1. Unless specifically provided for, or abridged by this Agreement, all benefits currently in effect shall remain in effect.
2. **SAFETY AWARDS:** The parties recognize the need for flexibility in the administration of the safety program. Accordingly, where modification of the safety program is necessary, the City agrees to give the Union notice of any intended modification and to meet and confer with the Union prior to implementation of such modification.

## **ARTICLE 29: GRIEVANCE & ARBITRATION PROCEDURE**

1. In a mutual effort to provide a harmonious working relationship between the parties to this Agreement, it is agreed and understood that there shall be a procedure for the resolution of grievances between the parties and that such procedure shall cover grievances involving the application or interpretation of this Agreement.
2. Every effort will be made by the parties to settle any grievances as expeditiously as possible. Should the grieving party fail to observe the time limits as set out in the steps of this Article, his grievance shall be considered conclusively abandoned. Any grievance not answered by Management within the prescribed time limits shall automatically advance to the next higher step.
3. Grievances shall be presented in the following manner, with the following limitations  
Discipline matters below the level of suspension shall end at Step 3. Suspensions up to twenty hours shall end at Step 4.

**STEP 1:** The employee shall first take up the grievance with his/her immediate supervisor/Captain within seven (7) days of the time when the employee knew or should have known of the occurrence of the event(s) which gave rise to the grievance. This first step (between the employee and immediate supervisor) shall be on an informal and oral basis and shall not involve the Employee Organization or any other representative of the employee.

**STEP 2:** Any grievance which cannot be satisfactorily settled with the immediate supervisor shall be reduced to writing by the employee and shall next be taken up with the Division Major and or Deputy Chief (DC). Such grievance shall be presented to the Division Major or DC in writing, within seven (7) days of the deadline date for completion of Step 1. The Division Major or DC shall, within seven (7) days after the presentation of the grievance (or such longer period of time as is mutually agreed upon), render his/her decision on the grievance in writing.

**STEP 3:** Any grievance which cannot be satisfactorily settled with the Division Major or DC shall next be taken up with the Chief of Police or his/her designee, either through a representative of the Employee Organization and the employee, or by the employee personally at the employee's option. The grievance as specified in writing in Step 2 shall be discussed by and between the employee (or the representative of the Employee Organization and the employee) and the Chief of Police, or his/her designee, within seven (7) days after the completion of Step 2. The Chief of Police, or his designee,

shall within seven (7) days after this discussion (or such longer period of time as is mutually agreed upon), render his decision in writing, with a copy to the Employee Organization.

**STEP 4:** In the event the employee is not satisfied with the disposition of the grievance in Step 3, he/she shall have the right to appeal the Chief of Police's decision to the City Manager or designee within seven (7) days of the date of issuance of the Chief of Police's decision. Such appeal must be accompanied by the filing of a copy of the original written grievance together with a letter signed by the employee, or, at the employee's option, the representative of the Employee Organization, requesting that the Chief of Police's decision be modified. The City Manager shall, within ten (10) days of the appeal (or such longer period of time as is mutually agreed upon) render a decision in writing with a copy to the Employee Organization.

4. Where a grievance is general in nature in that it applies to a number of employees rather than a single employee, or if the grievance is directly between the Employee Organization and the Police Department or the City, such grievance shall be presented directly to the Chief of Police within ten (10) days of the occurrence of the event(s) which gave rise to the grievance. The grievance shall be signed by the aggrieved employees or the President or the representative of the Employee Organization. Thereafter, the grievance shall be processed in accordance with the procedures set forth in Step 3 and Step 4.
5. In the event a grievance processed through the grievance procedure has not been resolved at Step 4 above, either party may request that the grievance be submitted to arbitration within fifteen (15) days after the City Manager, or designee, renders a written decision on the grievance. The arbitrator may be an impartial person mutually agreed upon by and between the parties. However, in the event the parties are unable to agree upon said impartial arbitrator, the parties shall jointly request the Federal Mediation and Conciliation Service to furnish a panel of seven (7) names from which each party shall have the option of striking three (3) names in alternation fashion, thus leaving the seventh (7th), which will give a neutral or impartial arbitrator. Either party may strike one (1) entire panel.
6. The City and the employee (or the Employee Organization) shall mutually agree in writing as to the statement of the grievance to be arbitrated prior to the arbitration hearing, and the

arbitrator, thereafter, shall confine his/her decision to the particular grievance thus specified. In the event the parties shall fail to agree on the statement of the grievance to be submitted to the arbitrator, the arbitrator will confine his consideration and determination to the written statement of the grievance presented in Step 2 of the grievance procedure. The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this Agreement or any part thereof or amendment thereto. The arbitrator shall have no authority to consider or rule upon any matter which is stated in this Agreement not to be subject to arbitration or which is not a grievance as defined in this Agreement; nor shall this collective bargaining agreement be construed by the arbitrator to supersede applicable laws in existence at the time of signing this Agreement, except to the extent as specifically provided herein.

7. Consistent with the provision of the Florida Public Employees Relations Act, Chapter 447, et seq., it is mutually acknowledged and agreed that this collective bargaining agreement shall be administered within the amounts appropriated by the City Commission for funding of the collective bargaining agreement, the arbitrator shall have no authority, power, or jurisdiction to construe any provision of law, statute, ordinance, resolution, rule or regulation or provision of this collective bargaining agreement to result in, obligate, or cause the City to have or bear any expense, debt, cost, or liability which would result, directly or indirectly, in the City exceeding the amounts initially appropriated and approved by the City Commission for the funding of this collective bargaining agreement as agreed upon by the parties. Any such award which contravenes or is not in compliance with the provision of this paragraph shall be null and void.
8. Each party shall bear the expense of its own witnesses and of its own representatives for purposes of the arbitration hearing. The impartial arbitrator's fee and related expenses of

obtaining a hearing room, if any, shall be equally divided between the parties. Any party desiring a transcript of the hearing shall bear the cost of such transcript unless both parties mutually agree to share said cost.

9. The parties shall make their choices of the impartial arbitrator within five (5) days after receipt of the panel from the Federal Mediation and Conciliation Service. Copies of the arbitrator's award made in accordance with the jurisdiction and authority under this Agreement shall be furnished to both parties within thirty (30) days of the close of the arbitration hearing. The arbitrator's award shall be final and binding on the parties.
10. No part-time, limited term or temporary employee shall be entitled to utilize the grievance and arbitration procedures set forth in this collective bargaining agreement.

### **ARTICLE 30: RETIREMENT BENEFITS**

Retirement benefits and employee contributions for police officers covered by this Agreement shall be as provided in the City of North Miami Beach Retirement Plan for Police Officers and Firefighters (the "Plan") before the adoption of Ordinance No. 2013-20, except as provided below. Ordinance No. 2013-20 shall be repealed in its entirety, and an ordinance containing the following provisions shall be adopted by the City:

1. The benefit multiplier shall be 3.0% for all years of service for all police officers.
2. The definition of basic compensation for members employed on January 31, 2016 will be revised to include overtime payments up to 300 hours per calendar year, effective February 1, 2016. The definition of basic compensation for members hired on or after February 1, 2016 will be revised to include overtime payments up to 100 hours per calendar year. The parties mutually agree that all accumulated Ch. 185 premium tax revenues that have not been allocated to fund benefits (approximately \$93,000 as of October 1, 2015) will be used to offset the participant pension contributions on overtime payments between January 1, 2014 and the effective date of the ordinance implementing the pension changes contained in this article. The remaining balance of the participant pension contributions on overtime payments between January 1, 2014 and the effective date of the ordinance shall be paid by the City.
3. The cost of living adjustment (COLA) for normal retirement benefits shall be revised as follows:
  - (a) For members with 10 or more years of credited service on January 31, 2016: 2.5% annual COLA commencing 3 years after the later of retirement or DROP exit for benefits earned on or before January 31, 2016; and 1.8% annual COLA

commencing 4 years after the later of retirement or DROP exit for benefits earned after January 31, 2016.

(b) For members who are employed with less than 10 years of credited service on January 31, 2016: 2.5% annual COLA commencing at age 62 for benefits earned on or before January 31, 2016; and 1.5% annual COLA commencing at age 62 for benefits earned after January 31, 2016.

(c) For members hired after January 31, 2016: 1.5% annual COLA commencing at age 62.

4. The cost of living adjustment (COLA) for early retirement benefits shall be revised as follows:

(a) For members with 10 or more years of credited service on January 31, 2016 who retire after completing at least 20 years of credited service: 2.5% annual COLA commencing 3 years after attaining age 52; and 1.8% annual COLA commencing 4 years after attaining age 52 for benefits earned after January 31, 2016.

(b) For members who are employed with less than 10 years of credited service on January 31, 2016 and retire after completing at least 20 years of credited service: 2.5% annual COLA commencing at age 62 for benefits earned on or before January 31, 2016; and 1.5% annual COLA commencing at age 62 for benefits earned after January 31, 2016.

(c) For members hired after January 31, 2016 who retire after completing at least 20 years of credited service: 1.5% annual COLA commencing at age 62.

5. The normal retirement date for members with ten (10) or more years of credited service on January 31, 2016 will be age 52 with ten (10) or more years of credited service, or twenty (20) years of credited service regardless of age. The normal retirement date for members

who are employed with less than ten (10) years of credited service on January 31, 2016, and members hired after that date, will be age 55 with ten (10) or more years of credited service or twenty-five (25) years of credited service regardless of age.

6. The DROP plan shall be revised as follows:

(a) For members with ten (10) or more years of credited service on January 31, 2016: eight (8) year maximum DROP with 4.5% annual interest on DROP balance.

(b) For members who are employed with less than ten (10) years of credited service on January 31, 2016: five (5) year maximum DROP with 3.5% annual interest on DROP balance.

(c) For members hired on or after January 31, 2016: five (5) year maximum DROP with 1.5% annual interest on DROP balance.

(d) Members will be eligible to enter the DROP as follows:

i. For members with ten (10) or more years of credited service on January 31, 2016: Age 52 with fifteen (15) years of credited service, or twenty (20) years of credited service regardless of age.

ii. For members who are employed with less than ten (10) years of credited service on January 31, 2016, and members hired on or after that date: Age 55 with fifteen (15) years of credited service, or twenty-five (25) years of credited service regardless of age.

7. The foregoing provisions shall not apply to any member who is employed on January 31, 2016 and has attained age 52 with ten (10) years of credited service, or twenty (20) years of credited service regardless of age on that date.

8. The member contribution shall be 11.1% for all sworn police officers.



9. The procedure for Plan amendments will be revised to provide for amendment by ordinance of the City Commission subject only to applicable requirements of federal and state law, and to the parties' rights to collective bargaining and to eliminate the requirement that amendments be approved by sixty percent (60%) of active participants as well as the exception to that requirement. In addition, the Plan will be amended to provide that the City Commission may consider the report and recommendation of the City Manager, actuary and/or pension board or consultant prior to amending the Plan.
10. The Plan provisions providing for purchase of credited service for prior military or law enforcement service, purchase of permissive service credit, and voluntary supplemental benefit will be as provided in the Plan before the adoption of Ordinance No. 2013-20. In addition, the Plan will be amended to allow police officers who were laid off in 2011, received a refund of their pension contribution and were subsequently reemployed by the City to purchase their past service as a City police officer by paying the full actuarial cost of that service, such that there is no additional cost to the Plan or the City. Police officers who elect to purchase their past service as a City police officer must complete the purchase by making full payment within twelve (12) months following ratification of this contract.
11. The early retirement incentive provided in section 6.01(f) of the Plan is outdated and will be deleted.
12. The parties mutually agree that all annual premium tax revenues received pursuant to Chapter 185, Florida Statutes, shall be used to reduce the City's annual required contributions to the Plan, and the accumulated balance of premium tax revenues that have not been allocated to fund benefits on the effective date of this ordinance shall be used to offset the participant contributions on overtime payments included in compensation for the

purpose of this Plan between January 1, 2014, and the effective date of the ordinance implementing the pension changes contained in this article.

13. If during the term of this Agreement Chapter 185, Florida Statutes is amended or interpreted in a manner that results in the loss of future premium tax revenues, or that allows a normal retirement date of age 62 or older, the normal retirement date provided in paragraph 5 above for police officers with less than ten (10) years of credited service on January 31, 2016, and police officers hired after that date, will be the first day of the month coincident with or next following the earlier of attainment of age 62 with ten (10) or more years of credited service, or twenty-five (25) years of credited service regardless of age.
14. In accordance with section 185.35(6), F.S., a defined contribution plan component (“share plan”) is hereby established as part of the Plan. However, the City and Union have mutually agreed that no Ch. 185 premium tax revenues will be allocated to the share plan during the term of this Agreement. The City and union have further agreed that the share plan shall not be activated until Ch. 185 premium tax revenues are allocated to the share plan. At such time as Ch. 185 premium tax revenues are allocated to the share plan, the parties will negotiate the details of the share plan.

**ARTICLE 31. RETIREMENT BENEFITS FOR POLICE COMMUNICATION OFFICERS**

Retirement benefits and employee contributions for Police Communications Officers covered by this Agreement shall be as provided in the City of North Miami Beach General Employees Retirement Plan, as amended by Ordinance No. 2013-19.

## **ARTICLE 32: PHYSICAL MEDICAL EXAMINATIONS**

1. The City may evaluate employees to determine if they are fit for duty as permitted by applicable federal, state and local laws. Any employee found to be unable to perform the essential functions of his or her position, as those functions are determined by the City of North Miami Beach and the State of Florida, shall be given a reasonable time to meet those standards. The City will comply with all federal, state and local laws regarding reasonable accommodation.
2. Examinations and drug screens will be conducted by a doctor or medical facility chosen by the City.
3. Refusing to submit to a physical examination or a drug screen shall constitute insubordination and subject the employee to disciplinary action up to and including termination.
4. Failure on the part of the employee to submit to the fitness for duty examination or who is unable to perform the essential functions of the employee's position with or without reasonable accommodation shall result in:
  - a. The employee shall be retired, if he/she meets the requirements of the Retirement Plan; or
  - b. The City shall attempt to place the employee in another position elsewhere in the City, which position is open and for which the employee can perform the essential functions of with or without accommodation; or
  - c. The employee shall be terminated.

### **ARTICLE 33: INJURY IN THE LINE OF DUTY**

1. Employees injured in the line of duty shall receive Leave in accordance with the provisions as outlined in Article 22.
2. The City agrees that employees able to work while partially disabled because of an on-the-job injury will be assigned temporary light duty status within the department, the duties and schedule to be determined by the Chief of Police, with concurrence of the City-approved physician as to duty status.

### **ARTICLE 34: LABOR MANAGEMENT COMMITTEE**

The City will form a Labor Management Committee, which will consist of three (3) members of the bargaining unit to be selected by IUPA and three (3) management representatives to be selected by the City Manager. The function of the committee shall be to meet regularly, as needed, to confer and recommend resolution of problems related to employee relations in the administration of the Agreement and also to explore ideas for improvement in systems, procedures and equipment and ideas for improvement in methods of personnel training, development, selection, promotions or reassignment. Time used for this purpose shall be considered as duty time and shall not be charged to regular leave time.

## **ARTICLE 35: PROBATIONARY PERIOD**

1. The standard probationary period for all new employees shall be one (1) year of full duty service after the date of hire or graduation from the Academy, whichever is later, with a possible extension of the probationary period for an additional period of six (6) months at the discretion of the Chief of Police. Upon the expiration of the one (1) year time period, the Department Head shall do one of the following: recommend retention of the employee, at which time the employee shall be granted regular status; recommend extension of the probationary period for a period of six (6) months; or, in the event the Department Head shall fail to make a positive recommendation or extend the probationary period, the employee shall be separated from the Classified Service. Extension of the probationary period or separation from employment under this provision shall be final, with no rights of appeal under this Agreement. At the end of any extended probationary period, the Department Head shall either recommend retention of the employee, at which time the employee shall be granted regular status; or, in the event the Department Head shall fail to make a positive recommendation, the employee shall automatically be separated from the Classified Service; such separation shall be final, with no rights of appeal under this Agreement.
2. Any employee who is granted regular status at the end of the probationary period (or extended probationary period, if applicable), shall be entitled to advance to pay step B, and shall, thereafter, fall within all the provisions and coverages of this collective bargaining agreement.
3. In the event an employee receives a promotion from a lower to a higher position, that employee shall serve a probationary period of one (1) year of full duty service from the date of promotion. Upon the expiration of this time period, the Department Head shall

recommend retention of the employee in the position to which he/she was promoted; in the event the Department Head shall fail to make a positive recommendation, the employee shall automatically revert to the lower position from which he/she had been promoted; such reversion shall be final, with no rights of appeal under this Agreement.



## ARTICLE 36: WAGE AND SALARY PROVISIONS

1. Employees covered by this Agreement will be subject to the following schedule of payments and wage increases:

a) Year One:

- i. Effective retroactive to the first full pay period that started on or after October 1, 2021, and continuing for the remainder of Year One of this Agreement, there shall be an across-the-board COLA increase of three percent (3.0%) for all eligible bargaining unit employees. This COLA increase shall increase the value of each step of the pay plan by three percent (3.0%).
- ii. Police Officers and Police Sergeants that are not at the top step of their respective range shall receive an annual step increase either on their date of hire or promotion date. For the step increase to be processed, the IUPA member must receive a satisfactory performance evaluation.

b) Year Two:

- i. Effective at the beginning of the first full pay period that starts on or after October 1, 2022, there shall be an across-the-board COLA increase of three percent (3.0%) for all eligible bargaining unit employees. This COLA increase shall increase the value of each step of the pay plan by three percent (3.0%).
- ii. Police Officers and Police Sergeants that are not at the top step of their respective range shall receive an annual step increase either on their date of hire or promotion date. For the step increase to be processed, the IUPA member must receive a satisfactory performance evaluation.

c) Year Three:

- i. Effective at the beginning of the first full pay period that starts on or after October 1, 2023, there shall be an across-the-board COLA increase of four percent (4.0%) for all eligible bargaining unit employees. This COLA increase shall increase the value of each step of the pay plan by four percent (4.0%).
- ii. Police Officers and Police Sergeants that are not at the top step of their respective range shall receive an annual step increase either on their date of hire or promotion date. For the step increase to be processed, the IUPA member must receive a satisfactory performance evaluation.

The Chief of Police continues to have discretion on the starting salaries of police officers transferring from other agencies.

2. The step plan is as provided below.

	Step	Current Step	3% COLA Effective First Full Pay Period After Ratification	3% COLA Effective First Full Pay Period After 10/1/22	4% COLA Effective First Full Pay Period After 10/1/23
<b>Communications Officer I</b>	<b>A</b>	\$46,165.43	\$47,550.39	\$48,976.90	\$50,935.98
	<b>B</b>	\$48,011.93	\$49,452.29	\$50,935.86	\$52,973.29
	<b>C</b>	\$49,932.38	\$51,430.35	\$52,973.26	\$55,092.19
	<b>D</b>	\$51,929.55	\$53,487.44	\$55,092.06	\$57,295.74
	<b>E</b>	\$54,006.76	\$55,626.96	\$57,295.77	\$59,587.60
	<b>F</b>	\$56,166.55	\$57,851.55	\$59,587.09	\$61,970.58
	<b>G</b>	\$58,413.38	\$60,165.78	\$61,970.75	\$64,449.59
	<b>H</b>	\$60,749.82	\$62,572.31	\$64,449.48	\$67,027.46
	<b>I</b>	\$63,179.62	\$65,075.01	\$67,027.26	\$69,708.35
	<b>J</b>	\$66,162.99	\$68,147.88	\$70,192.32	\$73,000.01
<b>Police Officer</b>	<b>A</b>	\$56,666.31	\$58,366.30	\$60,117.29	\$62,521.98
	<b>B</b>	\$59,499.70	\$61,284.69	\$63,123.23	\$65,648.16
	<b>C</b>	\$62,474.65	\$64,348.89	\$66,279.36	\$68,930.53

	<b>D</b>	\$65,598.41	\$67,566.36	\$69,593.35	\$72,377.09
	<b>E</b>	\$68,878.23	\$70,944.58	\$73,072.91	\$75,995.83
	<b>F</b>	\$72,322.30	\$74,491.97	\$76,726.73	\$79,795.80
	<b>G</b>	\$75,938.33	\$78,216.48	\$80,562.97	\$83,785.49
	<b>H</b>	\$79,735.22	\$82,127.28	\$84,591.09	\$87,974.74
	<b>I</b>	\$83,721.86	\$86,233.52	\$88,820.52	\$92,373.34
	<b>J</b>	\$88,377.44	\$91,028.76	\$93,759.63	\$97,510.01
<b>Sergeant</b>	<b>A</b>	\$89,179.96	\$91,855.36	\$94,611.02	\$98,395.46
	<b>B</b>	\$95,038.38	\$97,889.53	\$100,826.22	\$104,859.27
	<b>C</b>	\$100,896.79	\$103,923.69	\$107,041.40	\$111,323.06
	<b>D</b>	\$106,754.97	\$109,957.62	\$113,256.35	\$117,786.60
	<b>E</b>	\$112,613.16	\$115,991.55	\$119,471.30	\$124,250.15
<b>Communications Officer II</b>	<b>A</b>	\$53,368.25	\$54,969.30	\$56,618.38	\$58,883.11
	<b>B</b>	\$60,140.09	\$61,944.29	\$63,802.62	\$66,354.73
	<b>C</b>	\$66,910.99	\$68,918.32	\$70,985.87	\$73,825.30
	<b>D</b>	\$73,682.37	\$75,892.84	\$78,169.63	\$81,296.41
	<b>E</b>	\$80,453.51	\$82,867.12	\$85,353.13	\$88,767.25

## **ARTICLE 37: COMPLETE AGREEMENT AND WAIVER OF BARGAINING**

1. It is agreed and understood that this Agreement constitutes the complete understanding between the parties, terminating all prior Agreements, memoranda of understanding and concluding all collective bargaining during its term.
2. The Employee Organization specifically waives the right to bargain during the term of this Agreement, with respect to any subject matter referred to or covered in this Agreement. In case of financial urgency requiring modification of the Agreement, IUPA may request that the Agreement be reopened for negotiations.
3. Should any part of this Agreement, or any portion therein contained, be rendered or declared illegal, legally invalid, or unenforceable by a Court of competent jurisdiction, or by the decision of any authorized governmental agency, such invalidation of such part, or portion of this Agreement, shall not invalidate the remaining portions thereof. In the event of such occurrence, the parties agree to meet immediately and, if possible, to negotiate substitute provisions for such parts or portions rendered or declared illegal or invalid. The remaining parts of provisions of this Agreement shall remain in full force and effect.
4. Any delays in the signing of this Agreement after ratification by the City Commission and the Employee Organization membership, shall not deter the implementation date, as it affects the distribution of the benefits and provisions by the Agreement.

## **ARTICLE 38: DRUG AND ALCOHOL TESTING**

### **Section 1. Purpose and Intent**

As part of its commitment to safeguard the health of the employees, to provide a safe place for its employees to work, and to promote a drug-free working community, the City has established this policy on the use or abuse of alcohol and drugs by its employees. Substance abuse, while at work or otherwise, seriously endangers the safety of employees as well as the general public and creates a variety of workplace problems. Such examples include increased injuries on the job, increased absenteeism, increased health care and benefit costs, decreased morale, and a decline in the quality of services provided. Practical experiences have proven that limited quantities of various narcotics, abused prescriptions drugs, or alcohol can impair reflexes and judgment. For these reasons, a policy has been adopted that all employees must report to work completely free from the presence of drugs and the effects of alcohol. This policy is implemented pursuant to the Drug-Free Workplace program under the Florida Worker's Compensation Act (Section 440.102, Florida Statutes). This law provides that an employee who is injured in the course and scope of employment and who tests positive on a drug or alcohol test or who refuses to be tested forfeits his/her eligibility for Worker's Compensation medical and indemnity benefits. This policy represents the City's current position on dealing with the serious problem of drug and alcohol abuse in the workplace and is subject to change at the City's sole discretion.

### **Section 2. Scope**

All current employees and job applicants are covered by this policy and, as a condition of employment, are required to abide by the terms of this policy. Because of state or federal laws and regulations, certain employees may be subject to additional requirements.

### **Section 3. Definitions**

For the purpose of this policy, the following definitions apply:

- (a) "Chain of custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each state in handling, testing, and storing specimens and reporting test results.
- (b) "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, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.
- (c) "Drug" means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph.
- (d) "Drug rehabilitation program" means a service provider, established pursuant to s. 397.311 (28), which provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

- (e) "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered, by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of a drug or its metabolites.
- (f) "Employee" means any person who works for salary, wages, or other remuneration for an employer.
- (g) "Employee assistance program" means an established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow up services for employees who participate in the program or require monitoring after returning to work. If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by service providers pursuant to s. 397.311 (28).
- (h) "Employer" means a person or entity that employs a person and that is covered by the Workers' Compensation Law.
- (i) "Initial drug test" means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the United States Food and Drug Administration or the Agency for Health Care Administration as such more accurate technology becomes available in a cost-effective form.
- (j) "Job applicant" means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test and may have begun work pending the results of the drug test. For a public employer, "job applicant" means only a person who has applied for a special-risk or safety-sensitive position.
- (k) "Medical Review Officer" or "MRO" means a licensed physician, employed with or contracted with an employer, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.
- (l) "Prescription or nonprescription medication" means a drug or medication obtained pursuant to a prescription as defined by s. 893.02 or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.
- (m) "Public employer" means the City of North Miami Beach who employs individuals for a salary, wages, or other remuneration.
- (n) "Reasonable-suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- (1) Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
  - (2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
  - (3) A report of drug use provided by a reliable and credible source.
  - (4) Evidence that an individual has tampered with a drug test during his or her employment with the current employer.
  - (5) Information that an employee has caused, contributed to, or been involved in an accident while at work.
  - (6) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.
  - (7) Excessive or unexcused absence or tardiness.
  - (8) Violation or neglect of safety regulations.
  - (9) Violation of other commonly accepted or published rules of conduct.
  - (10) Reporting for work in a condition unfit for duty.
- (o) "Safety-sensitive position" means, any position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. 110.1127; or a position in which a momentary lapse in attention could result in injury or death to another person.
- (p) "Special-risk position" means, any position required as a condition of employment to be certified under Chapter 633 or Chapter 943 of the Florida Statutes.
- (q) "Specimen" means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites, as approved by the United States Food and Drug Administration or the Agency for Health Care Administration.

## **Section 4. Policy**

### **A. ALCOHOL USE PROHIBITIONS**

1. All employees are prohibited from distributing, dispensing, possessing, using or being impaired, intoxicated, or under the influence of alcohol while at work, on duty, or while operating a City vehicle.

2. Off-duty abuse of alcohol which adversely affects an employee's job performance, or which can be expected to cause harm to the City's image or relationship with other employees or the public, is prohibited. .
3. For the purposes of this policy, an employee is presumed to be impaired, intoxicated, or under the influence of alcohol if a blood test or other scientifically acceptable testing procedure shows that the employee has a threshold level of at least 0.04g-or more percent by body weight (or as may be changed by State law) of alcohol in the blood sample taken from his/her system at the time of testing.

An employee who has a confirmed alcohol concentration of greater than .02 but less than .04 will be removed from duty for the remainder of his/her work shift and shall not be returned to duty for at least twenty-four (24) hours following administration of the test.

4. An employee who is perceived to be under the influence of alcohol will be removed immediately from the workplace and may be evaluated by medical personnel, if reasonably available. The Department Head will take further action based on medical information, work history, and other relevant factors. The determination of what action is appropriate in each case rests solely with the City.
5. Employees arrested for an alcohol-related incident must immediately notify their supervisor if the incident occurs:
  - a. During scheduled work hours.
  - b. While operating a City vehicle on City or Personal Business..
  - c. While operating a personal vehicle on City business.
6. Failure to notify an appropriate City Official as described above may result in disciplinary action, up to and including discharge.

## **B. DRUG USE PROHIBITIONS**

1. All employees are prohibited from manufacturing, distributing, dispensing, possessing, or using illegal drugs or other unauthorized or mind-altering intoxicating substances while on City property (including parking areas and grounds) or while otherwise performing City duties away from the City. Included with this prohibition are lawfully controlled substances which have been illegally or improperly obtained. Employees are also prohibited from having any such illegal or unauthorized controlled substances in their systems while at work, and from having excessive amounts of otherwise lawful controlled substances in their systems.
2. For the purposes of this policy, an employee is presumed to be impaired by drugs if results of a urine test or other acceptable testing procedure are positive for the presence of one or more of the illegal substances for which the City will test.
3. The proper use of medication as prescribed by an employee's physician is not prohibited; however, the City does prohibit the misuse of prescribed medications. Prescription



medications may also affect the safety of the employee, fellow employees, or members of the public. Therefore, any employee who is taking any prescription medication which might impair safety, performance, or any motor functions is obligated to notify his or her supervisor before reporting to work or during the course of work if under the use of such medication. Failure to do so may result in disciplinary action. It is the employee's responsibility to determine from his/her physician whether a prescribed medication may impair job performance. If the City determines that such use does not pose a safety risk, the employee will be permitted to work. If, in the opinion of the supervisor, such use impairs the employee's ability to safely or effectively perform his or her job, the City may, at its sole discretion, temporarily reassign the employee or grant a leave of absence during the period of treatment. Improper use of "prescription medications" is prohibited and may result in disciplinary action, up to and including discharge. Prescription medication must be kept in its original container if such medication is taken during working hours or on City property.

4. It shall be the responsibility of each employee who observes or has knowledge of another employee in a condition which impairs the employee in the performance of his/her duties, or who presents a hazard to the safety and welfare of others, or is otherwise in violation of this policy, to promptly report that fact to his/her immediate supervisor. Failure to notify an appropriate City Official as described above may result in disciplinary action, up to and including discharge.

## **C. REQUIRED TESTING AND REFUSAL TO TEST**

The City shall conduct drug testing in the following circumstances:

### **1. APPLICATION FOR EMPLOYMENT**

- a. All job applicants once offered a position will be tested for the presence of illegal drugs as a part of the hiring process.
- b. Any job applicant who refuses to submit to drug testing, refuses to sign a consent form, fails to appear for testing, tampers with the test, or fails to pass the pre-employment selection drug test will be ineligible for hire. Such an individual may not reapply for employment with the City for at least one (1) year from the date of the drug test.

### **2. AFTER ACCIDENT TESTING**

The Supervisor/Department Head, shall request an employee submit to alcohol and drug testing after a motor vehicle accident or on the job injury if: 1) the accident involved the loss of human life, or 2) the driver receives a citation under state or local law for a moving traffic violation arising from the accident, or 3) the driver was performing safety sensitive functions and was determined to be at fault. As an exception, employees may not be tested for minor crashes which are determined by the department as having been caused by slight negligence, or carelessness on the part of the employee, e.g. backing slowly into a pole. The Supervisor/Department Head should ensure that the test is conducted on the day of the accident or as soon as possible. An employee who is injured at a work site and who is required to be tested will first be taken to a medical facility for immediate treatment of injury. If the employee is not at a designated specimen collection site, the employee will

be transported to one as soon as it is medically feasible to conduct drug and/or alcohol testing. If it is not medically feasible to move the injured employee, specimens will be obtained at the treatment facility and transported to an approved testing laboratory. If an alcohol test is required, the employee shall submit to such test within two (2) hours following the accident, absent exigent circumstances. If a controlled substance test is required, it must be performed as soon as possible but no later than thirty-two (32) hours of the accident. An employee who is subject to post accident testing shall remain readily available for such testing or may be deemed by the City to have refused to submit to such testing. Any employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until completion of a post-accident alcohol test, or upon release by the supervisor. An employee who leaves the scene of the accident without good cause prior to submission to drug and alcohol testing or who fails to report to the collection facility within a reasonable time frame will be considered to have refused the test. An employee may be returned to normal duty after testing or may be placed on paid administrative leave pending test results.

### **3. REASONABLE SUSPICION**

- a. Employees must submit to a drug test if the Police Department has reasonable suspicion that they have violated any of the rules set forth in this policy. Please refer to Section 3 (n) of this policy.
- b. A cause for reasonable suspicion of violation of the Rules of Conduct or the provisions of this policy is not the only reason for a referral under this policy. It is contemplated that a supervisor will refer an employee for an evaluation at any time when there is reasonable cause regarding an employee's ability to safely and properly initiate or continue normal work duties because of possible adverse influences of any drug, including prescribed drugs, or illness or other impairment.

### **4. ROUTINE FITNESS FOR DUTY**

An employee will submit to a drug test if the test is conducted as part of a routine scheduled employee fitness-for-duty medical examination that is part of the City's established policy or that is scheduled routinely for all members of an employment classification or group.

### **5. FOLLOW-UP TEST**

If the employee in the course of employment enters an employee assistance program for drug related problems, or an alcohol and drug rehabilitation program, the employee must submit to an alcohol and/or drug test as a follow-up to such a program and test negative before returning to duty, and on a quarterly, semiannual, or annual basis for two (2) years thereafter.

### **6. RANDOM TESTING**

Employees will be subject to drug testing on a purely random basis. Random selection of up to 50% of bargaining unit employees every year will be made by a contracted third party utilizing a Department of Transportation approved random selection computer program. Employees selected for random testing will be tested on the day the employee selected is on duty. If off duty, the employee will be tested on the employee's next shift

worked, or the next shift when the testing facility is open. If the employee is not tested on the next shift, the employee will not be tested. No more than ten percent (10%) of those selected for random drug testing will be tested for alcohol.

## **7. REFUSAL TO TEST**

Refusal to submit to testing under this policy will result in forfeiture of eligibility for all medical and indemnity benefits under the Workers' Compensation Act. Employees will be subject to discipline, up to and including discharge for refusing to submit to testing.

### **Section 5. Prior to Testing**

- A. The City will test for the following drugs or controlled substances as defined in section 893.03, Florida Statutes, as amended from time to time, to include but not limited to:
  - 1. Alcohol
  - 2. Amphetamines (Desoxyn, Dexedrine)
  - 3. Cannabinoids (marijuana, hashish, hash, hash oil)
  - 4. Cocaine (crack)
  - 5. Methaqualone
  - 6. Opiates (opium, paregoric, parepectolin)
  - 7. Barbiturates (phenobarbital, tuinal, amytat)
  - 8. Benaodiazepines (ativan, azene, clonopin, dalmane, xanax, valium etc.)
  - 9. Methodone (dolophine, methadose)
  - 10. Propoxyphene (darvocet, darvon, dolene)
  - 11. Phencyclidine (pcp)
  - 12. Lysergic acid diethylamide (Isd)
  - 13. Heroin
  - 14. Steroids without a lawful prescription by a Florida physician
- B. Job applicants required to submit to drug testing and employees required to submit to drug testing and alcohol testing must sign a consent agreement prior to testing.
- C. Because of the potential adverse consequences of positive test results on employees, the City will employ a very accurate testing program. All samples will be analyzed by a highly qualified independent laboratory which has been selected by the City and approved by the Florida Department of Health and Rehabilitative Services.
- D. An employee who is injured at a worksite and is required to be tested will be taken to a medical facility for immediate treatment of injury. If the injured employee is not at a designated collection site, the employee will be transported to one as soon as it is medically feasible and specimens will be obtained. If it is not medically feasible to move the injured employee, specimens will be obtained at the treatment facility and transported to an approved testing laboratory.
- E. No specimens will be taken prior to the administration of emergency medical care. Once this condition has been satisfied, an injured employee must release to the employer the

results of any tests conducted for the purposes of showing the presence of alcohol or drugs in his/her system.

- F. Urine tests shall be used for the initial and confirmation testing for all drugs. Blood shall be used as the initial and confirmation test for alcohol for reasonable suspicion and post-accident testing. Breath shall be used as the initial and confirmation test for alcohol for random and follow-up testing.

The "enzyme-immunoassay" (EMIT) and "gas chromatography mass spectrophotometry" (DC-MS) test methods shall be used in a laboratory used by the City. The City shall pay for the cost of all tests and medical examinations carried out under this procedure. The City shall maintain confidentiality of test results to the extent possible under law.

- G. The City will pay the cost of initial and confirmation drug test, which it requires of employees and job applicants. An employee or job applicant will pay the cost of any additional drug test not required by the City.

## **Section 6. Coordination of Testing Procedure**

- A. The City's Human Resources Department will coordinate all testing requests. Questions regarding this policy or request for testing should be directed to the Human Resources Director or the City Manager's Office.
- B. Drug testing shall be conducted in accordance with the following procedure:
  - 1. Collection, transportation, and storage of samples shall be conducted with due regard to the privacy of the individual providing the sample and, in a manner, reasonably calculated to prevent substitution or contamination of the sample. The City shall ensure through its laboratory that the chain-of-custody procedures as established by the Department of Health and Rehabilitative Services are followed.
  - 2. Each specimen container shall be labeled.
  - 3. An employee or job applicant who is contacted by the MRO may confidentially report the use of prescription medication(s) because the presence of medication(s) in the body may affect the test results.
  - 4. Tests shall be conducted by a licensed laboratory.
  - 5. Specimens may be taken or collected by a physician, a physician assistant, a licensed practical nurse, or certified paramedic who is present, or a qualified person employed by a licensed laboratory.
  - 6. Specimens yielding a positive confirmed result shall be preserved by the licensed laboratory as follows:
    - a. for at least 210 days after the results are mailed or otherwise delivered to the City;  
or

- b. if the employee or job applicant undertakes an administrative or legal challenge to the test results, then until the case or administrative appeal is settled.
7. During the 180-day period after written notification of a positive test result, the employee or job applicant may obtain a portion of the sample for retesting by another licensed laboratory. The laboratory which performed the original test and confirmation is responsible for the transfer of the sample and for the integrity of the chain-of-custody during the transfer.
8. Within five (5) working days after receipt of a positive confirmation test result, the City shall notify the employee or job applicant in writing of the results, its consequences, and the employee's or job applicant's options. The employee or job applicant is responsible for notifying the laboratory and the MRO of any administrative or civil court action brought by his/her challenging the drug test.
9. An employee or job applicant who has a formal job offer, and who has received a confirmation drug test may contest or explain the results to the City's Human Resources Department within five (5) working days after written notification of the positive drug test results. If an employee's or job applicant's explanation or challenge is unsatisfactory to the City, the employee or job applicant may contest the drug results pursuant to Rule 38F-9.009 Fla. Administrative Code.
10. The City shall provide a copy of the results in accordance with the Florida Public Records laws.

### **C. EMPLOYEE PROTECTION**

1. The drug testing laboratory will not disclose any information concerning the health or mental condition of the tested employee.
2. The City shall not discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment for a drug-related problem, or entering an employee assistance program for drug-related problems. Voluntarily seeking treatment shall mean where an employee requests assistance prior to being notified of a test being administered, or prior to a violation of this policy by an employee.
3. The City shall promptly detail in writing the circumstances which formed the basis of a determination of reasonable suspicion and shall provide documentation as provided by the Florida Public Records Act.

### **Section 7. Rehabilitation**

- A. Employees who are not immediately terminated for testing positive or for some other violation of the policy must enter an alcohol/substance abuse program as prescribed by the City's Employee Assistance Program (EAP) Administrator in conjunction with management.

- B. The employee must sign a Release permitting the EAP Administrator to communicate confidentially with the Human Resources Administrator or his/her designee, and the EAP Administrator must agree to provide the following information on a weekly basis: (a) Attendance at sessions; (b) Adherence to treatment plans; (c) Completion at sessions; (d) In case of outpatient program, provide detailed information as to whether the employee can work, including the ability to work light duty. Upon request, the EAP Administrator will provide the Human Resources Director with a written response to items (a) through (d).
- C. If the employee, according to the EAP Administrator, has not successfully completed the program within 90 calendar days of entering the approved program, or less as specified by the EAP Administrator, the employee shall be subject to termination.

### **Section 8. Investigation of Cause for Reasonable Suspicion Process**

- A. In the event there is cause for reasonable suspicion to believe that an employee's job performance is impaired by drugs or alcohol, the employee's supervisor, in the company of another employee, shall directly observe and document the behavior. The employee's supervisor shall question the employee with regard to the observed behavior. Indications of impaired behavior include but are not limited to the following: staggering or irregular gait, the odor of alcohol on the breath, slurred speech, dilated or constricted pupils, inattentiveness, listlessness, hyperactivity, illogical speech, poor job judgment, unusual or abnormal job behavior.
- B. When possible a second supervisory/managerial employee shall also observe the employee to verify that there is reasonable cause to believe that drug or alcohol consumption may be involved. A determination shall be made as to whether or not the employee's behavior is impaired to the point of being unable to perform his/her duties effectively and safely. Should the drug and/or alcohol test results be positive, the employee shall be relieved of his/her duties and placed on Administrative Leave without pay status.
- C. If it is concluded that there is cause of reasonable suspicion to believe that drug and/or alcohol consumption is involved, the supervisor or departmental head shall have a drug and/or alcohol test administered through the Human Resource Department. The supervisor will conduct an investigation and will gather any physical evidence, interview the principal parties involved and any eye witnesses, and document the results. If illegal controlled substances are found on the premises, the Police Department will be called immediately. Failure of an employee to take the recommended test(s) may be cause for disciplinary action. The City may also have the employee undergo a physical examination at the City's expense, at the time that the drug or alcohol test is administered. The test must be conducted within a reasonable time period (same day) after the observation of the problem behavior.
- D. After normal business hours, the employee's supervisor, or designee must contact the City's designated after-hours facility to have a drug and/or alcohol test administered.

The employee will be given the opportunity to contact a family member or friend to arrange transportation home after the drug and/or alcohol test is administered. If

this alternative cannot be made, the employee's supervisor will take the employee home. If this alternative is not possible, a taxi will be called and the employee will be responsible for the cost of the taxi. Under no circumstances will the employee be allowed to drive. If the employee attempts to drive on his/her own, the Police Department will be called immediately.

If a work-related accident or injury has occurred, the supervisor will be responsible for notifying the Human Resources Director and the City's Risk Manager the next day during normal business hours regarding the facts and circumstances surrounding the employee's drug/alcohol testing, and to complete an incident report.

- E. If the test is negative, there shall be no loss of pay or benefits. Where appropriate a doctor's signed release may be required by the City before the employee is returned to work. Time lost due to an actual illness will be charged to personal leave. If the behavior that led to the initial investigation is not due to substance abuse but continues to hinder job performance, the City may require the employee to undergo further medical evaluation.
- F. If the test is positive, discipline may be recommended by the department head, up to and including termination. Circumstances that would warrant an immediate termination would include, but not be limited to, incidents where the employee's impairment resulted in loss of life, serious injury to self or others, the serious loss or damage of property, or an incident of parallel magnitude.
- G. In cases where immediate termination is not warranted, the employee will be placed on leave status. The employee shall be required to use any accumulated leave before being placed on leave without pay until it is determined, through evaluation by the City's EAP, that the employee is able to return to full duty. The employee shall be evaluated by the EAP, and a recommended appropriate treatment shall then be arranged. Once the in-patient part of the program has been completed, the employee may be returned to work with a written release from the EAP and the Human Resources Director. An employee who is returned to work as provided for under this procedure, and who fails to comply with any of the terms of an agreement upon treatment and/or return to work agreement, may be subject to the full range of disciplinary action, including termination.
- H. An employee who is the subject of an investigation related to substance abuse may have a Union representative or another employee present during the investigation procedure outlined above. Disciplinary action taken by the City under this procedure shall be subject to the Grievance Procedure of the Collective Bargaining Agreement.
- I. The City, the employee and the union, where applicable, shall work cooperatively to facilitate the resolution of problems that arise under the administration of this policy and procedure. When appropriate the City may enter into joint agreements that establish the form of treatment and the conditions that will be imposed for the return of an employee to the work place.

- J. Employees will be subject to discipline, up to and including discharge, for refusing to cooperate with searches or investigation.

**Section 9. Disciplinary Action**

- A. In the case of a first-time violation of the City's policy, which also includes State law, including a positive drug or alcohol test result, the employee will be subject to discipline, up to and including discharge.
- B. An employee who is employed in a special-risk position may be discharged for the first positive confirmed test result if the drug confirmed is an illicit drug under s. 893.03. A special-risk employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any special-risk or safety-sensitive position. The City shall attempt to place a safety sensitive employee into a non-safety sensitive position while the employee participates in the employee assistance program or drug rehabilitation program. If such position is not available, or if in-patient treatment is used, the employee may be placed on leave status. An employee placed on leave shall be required to use any accumulated leave before being placed on leave without pay.
- C. Employees who are not immediately terminated for testing positive or for some other violation of this policy may, at the City's sole discretion, be placed on probation and required to execute an agreement acknowledging:
  - 1. That they tested positive or otherwise violated the policy; and
  - 2. That in exchange for the City not terminating their employment for this instance of testing positive or otherwise violating the policy, they agree to undergo designated rehabilitation or other activities designated by the City's EAP in conjunction with management; to undergo periodic unannounced screening for a set period and be subject to termination for any future violation of the policy.
- D. Employees who test positive, admit to drug or alcohol use or related misconduct, or voluntarily seek assistance, and are not terminated, will not be returned to work or continue working until they have been evaluated by the City's EAP in conjunction with management to determine if they can safely return to work.
- E. An employee, who on the basis of unannounced or mandatory testing is found to be under the influence of alcohol or an illegal or illicit drug after successfully completing a treatment program, shall be immediately terminated from employment with the City.
- F. It shall be the responsibility of the supervisor to follow and enforce the policy and procedures set forth herein. Failure of the supervisor to do so may result in disciplinary action, up to and including discharge.



**Section 10. Arrest or Conviction for Drug-Related Crimes**

- A. If an employee is arrested for or convicted of a drug-related crime, the City will investigate the circumstances and take appropriate administrative action. In most cases, an arrest for a drug-related crime constitutes reasonable suspicion of drug use under this policy. The following will apply:
  - 1. During the investigation, the employee will be placed on leave without pay. After the investigation is complete, the leave may be converted to a suspension or the employee may be reinstated depending upon the facts and circumstances.
  - 2. If convicted of a drug-related crime, an employee will be terminated.
  - 3. As a condition of employment, an employee will notify the City of any criminal drug statute conviction for a violation which occurred on City premises. The employee must give notice to the City within five (5) days of such conviction.

**Section 11. Confidentiality**

- A. All information received by the City through drug testing is confidential to the extent of the law under Florida Statute 440.102.

**Section 12. Authority to Issue or Modify Policy or Procedure**

- A. The City's Manager at his/her discretion may issue, modify, approve or rescind departmental directives, SOPs, special orders, policy statements or rules and regulations for business necessity.

**Section 13:** No employee will be randomly tested more than three (3) times in any one (1) year period.

### **ARTICLE 39: TERM OF AGREEMENT**

1. This Agreement shall become effective upon ratification by members of the bargaining unit and the City Commission.
2. The parties acknowledge that two remaining issues were not resolved in this Agreement. Accordingly, the parties agree that either party shall have the right to reopen this Agreement to discuss these two issues only (i) Police Communication Officers retirement benefits; and (ii) Sworn Employees' retirement benefits, including, but not limited to employee retiree medical benefits prior to eligibility for Medicare. Written notice must be provided by either party between April 1, 2023 and May 31, 2023, to reopen this Agreement. The terms and conditions of this Agreement will remain in full force and effect during such negotiations.
3. This Agreement shall remain in full force and effect until September 30, 2024. On or after February 1, 2024, the City or IUPA may send written notification to the other party to begin negotiations for a successor agreement.

THIS AGREEMENT SIGNED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
CITY MANAGER,  
CITY OF NORTH MIAMI BEACH

\_\_\_\_\_  
PRESIDENT,  
NORTH MIAMI BEACH POLICE  
OFFICERS' ASSOCIATION LOCAL 6005,  
INC., FOR IUPA

\_\_\_\_\_  
CITY ATTORNEY,  
CITY OF NORTH MIAMI BEACH  
(Approved as to form only. Terms and  
Conditions Negotiated by Others)

\_\_\_\_\_  
SECRETARY  
NORTH MIAMI BEACH POLICE  
OFFICERS' ASSOCIATION LOCAL  
6005, INC, FOR IUPA.

\_\_\_\_\_  
LABOR COUNSEL,  
CITY OF NORTH MIAMI BEACH  
(Approved as to Form)

\_\_\_\_\_  
LABOR COUNSEL,  
IUPA  
(Approved as to Form)

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