

COLLECTIVE BARGAINING AGREEMENT

between the City of Delray Beach and the Palm Beach County

Police Benevolent Association, Inc.

October 1, 2018- September 30, 2021

POLICE LIEUTENANTS

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PREAMBLE

This Agreement is entered into by the employer, the City of Delray Beach, a Florida municipal corporation, hereinafter referred to as "City", and the Palm Beach County Police Benevolent Association, Inc., hereinafter referred to as the "PBA", for the purpose of promoting harmonious relations between the City and the bargaining unit represented by the PBA, hereinafter referred to as "members" or "employees," to establish an orderly and peaceful procedure for settling differences which might arise and to set forth the basis and full agreement between the parties concerning rates of pay, wages, hour of work, and other conditions of employment. The terms, provisions, and conditions of this Agreement shall have no retroactive effect but shall only commence upon the effective date of this Agreement unless a specific article or provision of this Agreement provides otherwise.

ARTICLE 1

RECOGNITION

Section 1

The City of Delray Beach recognizes the Police Benevolent Association (the PBA) as the certified bargaining agent for all employees in the bargaining unit for all matters relating to wages, hours, and terms and conditions of employment.

Section 2

The bargaining unit represented by the PBA under this Agreement shall include all regular, full-time sworn law enforcement officers with a rank of Police Lieutenant. Excluded from the bargaining unit shall be all non-sworn employees of the Police Department, Police Officers, Police Sergeants, Captains, Assistant Chief, the Chief of Police, and the Internal Affairs Lieutenant.

Section 3

Correspondence, communications, or notices required by law or otherwise pertaining to bargaining unit members' wages, hours and terms and conditions of employment shall be directed to:

John Kazanjian, President
Palm Beach County Police Benevolent Association, Inc.
2100 N. Florida Mango Road
West Palm Beach, FL 33409
Attention: General Counsel

ARTICLE 2

DUES CHECK OFF

Bargaining unit members may voluntarily make arrangements with the City for a payroll deduction of PBA dues and uniform assessments. Upon receiving an authorization for dues deductions from the bargaining unit member, the City shall deduct such dues and uniform assessments from the subject bargaining unit member's compensation and remit the amount deducted to the PBA.

The PBA agrees to indemnify, defend, and hold the City harmless from and against all claims, costs, demands, expenses, judgments, or other liabilities on account of dues or uniform assessments erroneously collected by the City and/or remitted to the PBA. The PBA further agrees to refund to the City any amounts paid to the PBA in error, upon presentation of proper evidence thereof.

ARTICLE 3

UNION REPRESENTATION

Section 1

The City agrees that during the term of this Agreement it will deal only with the authorized representatives of the PBA in all matters requiring mutual consent or other official action called for by this Agreement.

The PBA agrees to notify the City Manager and the Police Chief, in writing, of the names of such authorized representatives as of the execution of this Agreement and replacements therefore during the term of this Agreement.

Section 2

The PBA likewise agrees that during the term of this Agreement, the PBA and the employees covered hereunder shall deal only with the City Manager or his/her representative in matters requiring mutual consent or other official action.

Section 3

The PBA may designate two (2) general representatives, in addition to its attorney, whose right it shall be to represent the employees in the bargaining unit, at those times set forth in this Agreement in which such employees are entitled to representation.

ARTICLE 4
LABOR-MANAGEMENT COMMITTEE

Section 1

There shall be a Labor-Management Committee consisting of the following employee-management representatives:

(1) Two (2) bargaining unit representatives, as designated by the PBA.

(2) Two (2) management Police Department employees, as designated by the Police Chief.

Section 2

Meetings of this committee may be scheduled at the request of either party upon five (5) days notice in advance. The party requesting such a meeting shall forward to the designated representative of the other party an agenda specifying those questions/issues to be presented for discussion. The time, place, and duration of discussion shall be determined by the City.

Section 3

The sole function of the Labor-Management Committee shall be to discuss general matters pertaining to employer-employee relations. The Committee shall not engage in collective bargaining or the resolution of grievances.

Section 4

The City will endeavor to schedule such committee meetings so

as not to unduly interfere with the regularly scheduled shift of any bargaining unit member designated to attend. The PBA shall submit to the Police Chief (or his/her designee) in advance, and keep current, a list of those bargaining unit members who will be designated for said Committee.

ARTICLE 5

BULLETIN BOARDS

The PBA may provide two (1) serviceable, locked and glass-encased bulletin boards in the Police Department building for use by the PBA in posting notices of PBA business and activities. All materials posted must be signed by the lieutenant of the PBA, who shall be held responsible for the content of such materials. A copy of all such materials shall be provided to the Police Chief or his/her designee in advance of such posting.

The bulletin, notices, mobile digital computers, Microsoft Outlook, or materials posted shall contain nothing of a political nature (excluding political material relating to PBA elections) and nothing of a derogatory nature toward the City, its elected officials, its officers, or employees, as determined by the City.

ARTICLE 6

SOLICITATION OF OR BY EMPLOYEES

Section 1

Unless specifically authorized by the City Manager, all solicitations among City employees during working hours for commercial, charitable, or union purposes, and selling of tickets, magazines, and other merchandise, is prohibited.

Section 2

Employee organizations, their members, agents, or representatives, or any persons acting on their behalf are hereby prohibited from and shall not be required to:

- A. Solicit public employees during working hours of any employee who is involved in the solicitation.
- B. Distribute literature during working hours in areas where the actual work of public employees is performed, such as offices, warehouses, schools, police vehicles, police stations, fire stations, and any similar public installations. This section shall not be construed to prohibit the distribution of literature during the employee's lunch hour or in such areas not specifically devoted to the performance duties of the employee's official duties.
- C. Solicit for commercial, charitable, or union purposes, and sell tickets, magazines, or other merchandise while

in City uniform or attire, or while using City vehicles
or equipment

ARTICLE 7

MANAGEMENT RIGHTS

Section 1

The City exclusively reserves and retains all rights, powers, prerogatives and authority customarily exercised by management and held or exercised by the City prior to this certification of the PBA, except as limited by law or expressly modified by this Agreement.

Section 2

The City of Delray Beach shall have the right, subject only to express restrictions in this Agreement, and subject to the PBA's right if any to impact bargain, to exercise its own discretion unilaterally on all of the following matters, whatever may be the effect on employment, when in its sole discretion it may determine it is advisable to do any or all of the following:

1. To manage and administer the affairs of the City generally.
2. To decide the purpose of each of its constituent agencies.
3. To set standards of service to be offered to the public.
4. To exercise control and discretion over its organization and operation.

5. To direct its employees.
6. To relieve its non-probationary employees from duty because of lack of work and other legitimate reasons, to remove a promoted probationary employee from the position to which he was promoted. In the event a promoted probationary employee is removed for failure to satisfactorily perform job duties, he shall be returned to the position from which he was promoted (and this shall not be construed as a limitation upon or a waiver of the City's right to discharge or discipline such a promoted probationary employee). The City may likewise remove other promoted probationary employees which may be necessary because of the return of this employee to his former position.
7. To relieve other probationary employees from duty for any reason.
8. To determine and redetermine work schedules.
9. To maintain order and efficiency in its operations.
10. To determine and redetermine starting and quitting times, in which case the City shall provide to the affected employees five (5) calendar days' notice in advance of any changes in such starting and quitting times, except that no such advance notice shall be required in cases of emergency as determined by the City.

11. To determine and redetermine the number of hours to be worked, in which case the City shall provide to the affected employees five (5) calendar days' notice in advance of any changes in such number of hours to be worked, except that no such advance notice shall be required in cases of emergency as determined by the City.
12. To require employees to submit to a medical examination by a physician designated by the City.
13. To promulgate rules and regulations for its employees not in conflict with the provisions of this Agreement.
14. To set the standards and procedures for application, testing, selection procedures, and appointment to positions in the Police Department.
15. To take disciplinary action against employees who violate any provisions of this contract or any rules and regulations promulgated by the City not in conflict with the provisions of this Agreement.
16. To enforce and make amendments to the General Orders at any time, and to enforce the provisions in such General Orders against both probationary and non-probationary members of the bargaining unit, and to take disciplinary action against employees for failure to follow the provisions of such General Orders. However, the exercise of such rights by the City shall not necessarily preclude

employees or their representatives from raising grievances, should decisions on the above matter set forth in this subsection have the practical consequence of violating the terms and conditions of this Agreement.

17. Under reasonable circumstances, to dismiss or otherwise relieve from duty employees who have contracted or developed some mental or physical ailment or defect which incapacitates him/her for duty in the City service.
18. To require enhanced supervision of both probationary and non-probationary employees under reasonable circumstances.
19. To hire, promote, demote, evaluate, compensate, transfer, assign, direct, layoff, recall, or reward employees.
20. To determine, re-determine, and direct the policies, mode and methods of performing work of any sort.
21. To determine the qualifications for and to select its employees.
22. To determine the size and composition of its work force.
23. To assign overtime work and to select persons to perform such overtime work, subject to existing practices of equitable distribution of overtime opportunities.
24. To determine the number and types, and to control, discontinue the use of vehicles, equipment,

processes, materials, supplies, and other property, to be used, operated, or distributed.

25. To institute and establish new methods and procedures of training of unit employees, and to engage in such training methods and procedures.
26. Subject to any legal rights of incumbent employees to the contrary, to determine and redetermine job content, job descriptions, and all qualifications for job classifications.
27. To determine the amounts and types of work to be performed by employees.
28. To determine whether and not what extent the work required in its operations shall be performed by employees covered by this Agreement.
29. To use managerial, supervisory, or other non-unit employees to perform work performed by employees of the unit.
30. To open new facilities, and to transfer its operations or any part thereof to such new facilities, and to transfer or assign employees to new facilities.
31. To subcontract all or any part of its functions, operations, or work.
32. Subject to any legal rights of incumbent employees to the contrary, to expand, reduce, alter, combine,

transfer, assign, cease or create any job, job classification, department or operation.

33. To introduce new, different, or improved methods, means, processes, maintenance, service, and operations.
34. To discontinue conduct of its mission or operations in whole or in part.
35. To take all actions necessary to ensure compliance with federal and state equal employment opportunity laws, including, but not limited to, Title VII of the Civil Rights Act of 1964 and the Americans With Disabilities Act of 1990.
36. Except as specifically provided in this Agreement, to have complete authority to exercise those rights and powers which are incidental to the rights and powers enumerated above.

ARTICLE 8

HOURS OF WORK

Section 1

The regular work schedule shall be eighty (80) hours in a 2-week cycle. The number of hours per day and days per week shall be determined by the Police Chief. Work schedules of bargaining unit members shall be established and implemented in the sole and exclusive discretion of the Police Chief.

Section 2

It is recognized and understood that deviations from the foregoing normal schedules of work will be necessary and will unavoidably result from several causes, such as but not limited to: rotation of shifts, vacation, leaves of absence, weekend and holiday duty, absenteeism, employee requests, temporary shortage of personnel, and emergencies. No such deviation shall be considered a violation of this contract. Recognizing that the Department has an obligation to provide sufficient staffing, the City will attempt to avoid causing an employee covered by this Agreement to work two (2) consecutive shifts, except in unusual circumstances as determined by the Chief of Police or his/her authorized designee.

Section 3

For all employees the scheduled work day shall be broken down into fifteen (15) minute segments. An employee shall be noted as late for work if he/she does not report ready for work at his/her

work station at his/her starting time.

Section 4

The parties acknowledge that the employees in the bargaining unit are exempt from the overtime requirements of the Fair Labor Standards Act.

Section 5

An employee who is temporarily and continuously assigned by the proper authority to perform the duties of a higher classification for more than three (3) consecutive shifts, will be compensated for the time spent in the higher classification at a rate of five percent (5%) above his/her regular base salary. Once additional compensation commences, it will be paid retroactive to when the employee first began the continuous service as an acting supervisor, and shall continue until the employee's continuous service as an acting supervisor ceases.

ARTICLE 9

WAGES

Section 1

Effective October 1, 2018 through September 30, 2021 employee's salaries shall be paid in accordance with the Salary Step Plan outlined in Schedule A. (Attached)

Effective October 1, 2018 each employee will be placed into the Salary Step Plan above their nearest current salary.

Effective October 1, 2018 each employee will receive a salary adjustment to the next step in the plan with the exception of those employees with less than two (2) years in the rank of Lieutenant as of October 1, 2018.

All eligible employees shall proceed to the next step in their position as specified in the Salary Step Plan on the employees' anniversary date.

On October 1, 2019 Step 2 will become the new Step 1 and the plan will decrease to a 4 Step Plan.

Section 2

1. Performance evaluations shall be given once a year, one month prior to the employee's anniversary date. However, the employee's proposed step increase will be effective on the

employee's actual anniversary date.

No step increase shall be paid if an employee's performance review shows below satisfactory. If the employee's performance review has not been completed by the employee's review date (one month before the employee's anniversary), the employee will receive the step increase as if he or she had received a satisfactory performance review. If a below satisfactory performance review is earned by the employee but is not reported to the employee until after the review date (one month before the employee's anniversary), the employee will revert to the previous step effective the date of the performance review. The employee shall remain at the reduced salary (step) until satisfactory performance is attained in which case they will move to the next step.

2. Performance evaluations shall be administered pursuant to the Police Department's employee performance evaluation criteria and forms.
3. Employees performance evaluations shall be one year from the date of hire and annually thereafter except for employees hired as a police officer in training. Who's performance evaluation will be conducted one year from date of being sworn in.

An employee who reaches or is at the maximum amount of the Step

Plan Range during fiscal years 2018/2019, 2019/2020 and/or 2020/2021, shall receive a 4% top-out lump sum bonus not to base provided they earn a satisfactory or above on the annual performance evaluation.

Section 3

Night Shift Incentive - Employees who work evening shifts shall be paid an incentive. Accordingly, an assignment where the majority of the shift hours occur after 5:00 p.m. shall be paid at the rate of \$1.00 per hour for all hours worked without limitation by any "Maximum" established in this Agreement.

Section 4

Employees who are fluent (speaking, reading, writing and listening) in Creole or Spanish will be eligible for Language Incentive pay at the rate of \$.43 per hour. The Language Incentive shall be paid as a bonus outside the salary range and shall be included in overtime and pension calculation. To be eligible for the Language Incentive pay, employees must first pass a language proficiency test given by a vendor selected by the City.

Section 5

Stipends will be paid to Lieutenants when they perform work outside the scope of their job description as determined by the sole discretion of the Police Chief.

Lieutenants will be provided a stipend as follows:

- Fiscal year 2018-2019 -\$82.44per hour
- Fiscal year 2019-2020 -\$82.44per hour
- Fiscal year 2020-2021 -\$82.44per hour

ARTICLE 10

HOSPITALIZATION INSURANCE

Section 1

The City agrees to pay the total medical and hospitalization insurance premium for all bargaining unit employees for the coverage that is in effect for general employees, The City may change such coverage, provided that the change in coverage is in conjunction with a change in coverage for a substantial portion of the general employees of the City, and that after such change, the City will pay the total hospitalization premium for all bargaining unit employees under the new coverage.

Section 2

All bargaining unit employees shall pay the total medical and hospitalization insurance premiums for any dependent coverage which they may elect.

The Parties agree that state or federally mandated health insurance plans may impact the Parties rights and obligations. The Parties agree that if there are such mandates during the duration of this Contract, the impact thereof shall be subject to bargaining.

Section 3

The City reserves the right to change the medical and hospitalization insurance carrier, but the level of deductibles and insurance benefits provided to bargaining unit employees

shall not be reduced during the term of this Agreement.

ARTICLE 11

HOLIDAYS

Section 1

The following days shall be holidays for all regular full-time employees:

New Year's Day
Martin Luther King, Jr.'s Birthday
Memorial Day (last Monday in May)
Personal Holiday (1 per fiscal year)
Labor Day
Veterans Day
Presidents' Day
Independence Day
Thanksgiving Day
Thanksgiving Friday
Christmas Eve
Christmas Day

and any other day declared by the City Commission to be a legal holiday. The Personal Holiday will be granted on a date selected by the employee, provided the employee has six (6) consecutive months of regular full-time service with the City. The date selected must be approved by the Police Chief.

Lieutenants shall have twelve (12) holidays (96 hours), per fiscal year, the dates for which may be selected in advance by the employee, subject to the approval of the Police Chief or his/her authorized designee, on any regular scheduled work day during the contract period, provided that no more than three (3) such holidays shall be permitted per calendar month, and the selection by the employee must be made no later than twenty-four (24) hours prior to the date(s) selected.

Section 2

Lieutenants, a maximum of 48 hours can be used for pay out of holiday options, and a minimum of 48 hours must be used for time off.

ARTICLE 12

VACATION

Section 1

Regular, full-time bargaining unit members shall receive annual vacations, which may be accumulative from year to year, pursuant to the provisions set forth in Section 6, below.

Section 2

VACATION ALLOWANCE CHART

<u>Years of Continuous Service</u> <u>Over, but less than</u>	<u>Other Full Time Personnel</u> <u>Vacation Hours</u>
0-3 years	8.00 / month
3-7 years	9.33 / month
7-11 years	10.66 / month
11 years +	12.00 / month

The accumulation of vacation days at each of the stages referenced above shall commence during the fourth, eighth, or twelfth years, respectively, of continuous service. For example, an employee in his/her fourth year of continuous service would be earning vacation time at the rate of one hundred twelve (112) work hours per year so that at the end of the fourth year of continuous service for that fourth year, the employee would have available one hundred twelve (112) work hours to take during the next year (the fifth year); and, that the rate of one hundred twelve (112) work hours per year vacation time would continue to be accumulated annually in the fifth, sixth, and seventh years of continuous service; the rate of one hundred twenty-eight (128)

work hours would then be accumulated between the employee's seventh anniversary date and the employee's eighth anniversary date.

Section 3

Continuous service shall be considered to be any service in which there has been no interruption by resignation, absence without leave¹ or by involuntary separation or lay-off in excess of one year. Absence due to military service, injury inline of duty, or sick leave with pay shall not serve to interrupt continuous service unless the employee was employed by another employer during such period of absence. Absence due to leave without pay shall not be construed as an interruption of continuous servicer but vacation benefits shall not be accrued during such leave.

Section 4

When legal holidays occur within the vacation period of an employee¹ the number of such days that are legal holidays shall be added to the normal number of vacation days allowed, or paid as straight time, at the employee's option.

Section 5

An employee resigning from the service of the City in good standing shall be paid for any vacation credit accumulated prior to resignation, provided:

- A. He/she has completed one year of continuous service.
- B. He/she gives at least two weeks' written notice of his intent to resign and the written notice or copy of same is filed with the City Manager's office at least

two weeks prior to termination.

Section 6

Vacation time is subject to the following requirements: The maximum accumulation permitted will not exceed two hundred eighty-eight (288) working hours. All vacations, including those periods made mandatory above, including the timing of such vacation and the actual number of days taken, are made expressly subject to the approval of the Chief of Police and City Manager.

ARTICLE 13

SICK LEAVE

Section 1

The PBA recognizes that sick leave is not a privilege which an employee may use at his discretion and it shall be allowed only for the following:

A. Employee's injury, illness or quarantine due to exposure to contagious disease.

B. Actual illness of a member of an employee's immediate household (wife, husband, domestic partner or child) where care by the employee is required.

Section 2

All regular full-time employees may be given sick leave with pay at the rate of eight (8) hours for each calendar month of continuous service during which there were no absences without leave, provided:

A. Sick leave credits shall accrue during the first six (6) months of service but shall not be granted until completion of six (6) months of continuous service.

B. If employment begins on or before the fifteenth day of the month, sick leave credit shall be given for the entire month. If employment begins after the fifteenth day of the month sick leave will not be credited until the first day of the following

month.

C. If an employee works less than half the normal work days during a month for reasons other than vacation, sick leave shall not be credited for that month.

D. Sick leave credits shall be available for use on the first day of the month following the month in which earned.

The maximum sick leave accumulation that may be accrued is one thousand one hundred twenty (1,120) hours.

The employee may bank all unused sick leave each year until the one thousand one hundred twenty (1,120) hours maximum is reached.

Section 3

Employees who resign in good standing shall receive pay at their then regular hourly rate for the portion of their accrued sick leave stated below, not to exceed a total payment of five hundred sixty (560) hours:

<u>Years of Continuous Service</u> <u>Over, but less than</u>	<u>Percentage of Accrued Sick</u> <u>Leave to Be Paid</u>
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0 - 5	- 0-
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5 - 10	25%
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10 - 15	50%
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15 - 20	75%
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20 or more	100% (at retirement) or up to 560 hrs. in cases other than retirement or death.
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Employees who retire from the City in good standing after

twenty (20) years under the City of Delray Beach Police and Firefighters Retirement System shall receive pay at their then regular hourly rate for their total amount of accrued sick leave, not to exceed the maximum allowed accrual of one thousand one hundred and twenty (1,120) hours.

Section 4

Employees reporting in sick or unable to report for duty must do so not later than thirty (30) minutes prior to their reporting time, except the Police Chief. All employees will report to the Communications Section. Reporting must be done by the employee himself/herself, and any failure to report shall be considered as absence without leave. The Police Chief or his designee may investigate absences on account of sickness to determine their validity. When absence is for three or more working days, the Police Chief may require the employee to provide a certificate from a physician, certifying to the actual disability of the employee, or may require a letter from the employee explaining the reasons for such absence. Violations of this policy may result in discipline up to and including termination.

Section 5

In case of death of an employee, payment for unused sick leave, pursuant to Section 3, shall be made to the employee's beneficiary, estate or otherwise provided by law.

ARTICLE 14

LEAVES OF ABSENCE WITH PAY

Employees may be granted leaves of absence with pay upon approval of the Police Chief and the City Manager for the following:

- A. Jury duty or other required appearances before a court or other public body, except such appearances required because of the personal matters of the employee or his family.
- B. Official training courses such as conferences, conventions, workshops, or similar meetings approved by the City.

ARTICLE 15

LEAVES OF ABSENCE WITHOUT PAY

Upon written request of an employee and approval by the Police Chief, the City Manager may grant a leave of absence without pay when it will not result in undue prejudice to the interests of the City.

ARTICLE 16

BEREAVEMENT LEAVE

Section 1

When a death or critical illness, in which death appears to be imminent occurs in the family of an employee, the employee may be allowed three (3) shifts if occurring in the State of Florida and five (5) shifts if occurring outside the State of Florida, bereavement leave with pay. For the purpose of this article, family is defined as follows: father, mother, brother, sister, spouse, child, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandchild, grandparents, foster parents, foster children, step-children, step-parents or domestic partner as qualified through Palm Beach County's domestic partner registration program. No other persons shall be contained within the definition of family except as specifically set forth herein.

Section 2

Bereavement leave will not be charged against sick leave, vacation, or holiday time. Additional time for bereavement leave may be requested by the employee, and if granted by Police Chief and City Manager, shall be charged to one of the foregoing categories.

Section 3

The employee may be required by the Police Chief to furnish evidence of the facts justifying the use of bereavement leave.

ARTICLE 17

MISCELLANEOUS CONSIDERATIONS

Both Parties acknowledge that during the term of this Agreement with the City, with input from the PBA, will agree to further study certain additional matters regarding the employment conditions and terms for bargaining unit employees, including

A. In order to be eligible for the rank of Lieutenant, a candidate must meet the following requirements:

1. Must be currently employed as a Sergeant with the Delray Beach Police Department for a minimum period of two (2) continuous years.
2. Must not have been suspended as a result of a disciplinary action within one (1) year of the next written promotional examination.
3. Must have an Associates Degree or better from an accredited college.

Those who have attained the rank of Lieutenant prior to the ratification of this contract are grandfathered in.

The PBA agrees that it shall be its obligation to submit in a timely fashion to the City any ideas concerning the above in order for the City to consider same during this contract period

ARTICLE 18
NEPOTISM

No City official or employee in a managerial or supervisory capacity may be appointed, employed, promoted, or advanced in or to a position in any other department where that person would exercise regulation or control over any individual who is a relative of the City official or employee.

A person who is a relative of a City official or employee may not be appointed, employed, promoted, or advanced in or to a position in any department if the related City official or employee is, or would be, the person's supervisor or who would exercise any dominion or control over or otherwise regulate the duties and responsibilities of the person, or if the person would supervise or exercise any dominion or control over or otherwise regulate the duties and responsibilities of the related City official or employee.

"Relative", as used herein, means a person who is related by blood, marriage or adoption as father, mother, son, daughter, brother, sister, grandparent, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

ARTICLE 19

PROBATIONARY PERIOD - PROMOTED EMPLOYEES

Section 1

There shall be a probationary period of one (1) year for each employee in the bargaining unit who is promoted to a higher classification within the bargaining unit. This probationary period shall commence from the employee's initial regular assignment to the higher classification. During the one-year probationary period, the City Manager or his/her designee shall have the right to remove the probationary employee from the position to which that employee was promoted with or without cause. Any probationary employee so removed shall have no right to appeal said action under the provisions of this Agreement, or any other policy or procedure.

A probationary promoted employee who is removed from the position to which he/she was promoted, shall return to the position from which he/she was promoted (however, this shall not be construed as a limitation on or a waiver of the City's right to dismiss or discipline such a probationary promoted employee for just cause). Be removed and Other probationary promoted employees may also return to their former positions if made necessary because of the return of such a probationary promoted employee to his/her former position. In this event, none of the employees moved back to their former position will have a right to appeal said action under the provisions of this Agreement, or any other policy or procedure.

Section 2

The Chief of Police, at his/her sole discretion, may extend the probationary period for a period not to exceed 90 calendar days, during the pendency of an internal affairs investigation.

ARTICLE 20

SENIORITY

Section 1

The City agrees that seniority shall consist of continuous accumulation of paid service with the Department. It shall be computed from the date of employment as a sworn employee with the Department. Seniority shall accumulate during all approved leaves of absence of thirty (30) days or less and during approved leaves of absence of less than one (1) year when such leaves are due to job related illness or injury.

Section 2

In the event of layoff for any reason, the employees shall be laid off in the inverse order of seniority in their classification only. Employees who are affected by a layoff and have received satisfactory performance evaluations during the year preceding the layoff shall have the opportunity to bump. Employees who are affected by a layoff and have received less than satisfactory performance evaluations during the year preceding the evaluations shall, with approval of the Police Chief, have the opportunity to bump. Employees shall be recalled from layoff in the inverse order of layoff (last out, first back) if said employees to be recalled are physically qualified to perform the work available at the time of recall. The City further agrees that no new employees in a particular classification will be hired for one (1) year or

until all employees in that particular classification on layoff have been given the opportunity to return to work, whichever comes first, in accordance with the provisions of this article. " Recall" from layoff shall mean notifying a laid off employee to return to work by registered mail sent to the last address listed with the Department as his home address or by giving a laid off employee personal notice to return to work. If the affected employee has not responded to recall within three (3) work days of the return receipt date on the recall notice or if the recall notice is returned by the Post Office to the City due to inability to locate the addressee, or if the affected employee has not responded to personal notice recall within three (3) work days, then that employee shall be considered to have refused recall.

Section 3

Shift work assignments shall be made according to seniority. For purposes of this section, seniority is defined as the amount of continuous service an employee has in his/her rank. Shift selection shall occur one time annually.

1. All efforts shall be made by the City to abide by seniority as it affects Shift work assignments. In those instances where the City determines that the compelling need of the City outweighs the individual employees seniority right to shift selection, that City may veto that selection based upon just cause. The affected

employee shall have the right to appeal this veto through the chain of command to the level of Chief of Police who shall possess the power of final and binding arbitrator.

2. Management reserves the right to determine the staffing levels.
3. The City shall not make a shift assignment that is arbitrary and capricious.
4. In the event of a vacancy between the described selection period, the filling of that vacancy shall be based on seniority as defined in this section.

ARTICLE 21

PROMOTIONS

Section 1 - Promotional Procedure

The City will announce promotional examinations at least thirty (30) days in advance. A copy of any reference material in the City's possession will be made available. All promotional vacancies shall be filled in accordance with criteria established by the City Manager or his/her designee. Promotional examinations and eligibility for same shall be conducted in accordance with the procedures and requirements set forth in Exhibit A to this contract, a copy of which is attached hereto and made a part hereof.

Section 2 -- Effect of Promotion on Wages and Employment Anniversary Date

(a) When an Officer is promoted to a Lieutenants classification, the officer will be moved into the Lieutenants step plan to the next higher step than his current salary and the salary increase shall not be less than 5%. In the event the salary increase is less than 5%, the employee shall move to the next highest step.

In addition, Lieutenants shall receive the 3% ICMA Match as long as other Management Level employees in the City receive this match. Lieutenants shall also receive The Fair Labor Standard Act Days off with pay according to City policy.

EXHIBIT A

PROMOTION IN THE POLICE DEPARTMENT

All sworn personnel desiring promotion in the Police Department will be required to take the appropriate promotional examination. In addition to the general requirements for City promotion, employees will be required to meet the following qualifications to be admitted to such examination:

A. Anyone taking an examination shall be an employee of the Police Department of the City of Delray Beach at the time of taking such examination.

B. An employee within the period of an authorized leave of absence from the Police Department of the City of Delray Beach shall be eligible to take such examination, provided the period of the leave of absence shall not be considered in calculating the "time in grade" requirement of these rules.

Written promotional examinations shall be augmented by oral interviews and staff evaluations. The oral interview shall be conducted by members of neighboring law enforcement agencies and/or a city official or community leader within the City of Delray Beach or a neighboring City. The respective weights given to written examinations, oral interviews, and staff evaluations to determine the candidate's total rating shall be:

Written examination	50%
Oral interview	25%

Staff evaluation 25%

An aggregate score of 70% must be attained to be eligible for promotion.

ARTICLE 22

OUTSIDE EMPLOYMENT

Section 1

No member of the bargaining unit may hold outside employment unless the employee's written request for approval of such employment is recommended for approval by the Police Chief and reviewed by Human Resources. The granting of such approval is expressly contingent upon the following:

- A. Assurance that the employee's City position is of primary importance;
- B. Consideration of the effect the outside employment may have upon the efficiency of the requesting employee; and
- C. Determination as to the compatibility of the outside employment with City employment.
- D. Payment to the City for such services shall be a rate to be set exclusively by the City Manager.

Section 2

Application forms for outside endeavors shall be provided to the employee by the City annually and approval of such shall be renewable January first of each year. Outside employment shall be deemed to include ownership or part ownership of a business (but not including ownership of less than a controlling interest of stock of a publicly held corporation), as well as independent contracts by employees to provide labor, services, or materials.

Section 3

No member of the bargaining unit may work at any previously approved outside employment, nor at any future outside employment, while said member is on injury leave or restricted duty for a workers' compensation injury, unless additional express approval for such outside employment is obtained by the member from the Police Chief and the City Manager, who shall take into consideration the recommendation(s) from the employee's physician and/or from the City's physician.

ARTICLE 23

RESIGNATION

Any employee who wishes to resign in good standing shall give the Police Chief written notice of his/her intention at least two (2) weeks prior to the date said resignation is to become effective, or shorter notice, with the approval of the Police Chief. Notice of resignation shall be immediately forwarded to Human Resources together with said employee's termination forms.

If any employee resigns without giving the required notice, the Police Chief shall notify Human Resources; Human Resources shall enter this fact on the employee's records; and failure to give such required notice of resignation may be considered sufficient reason for rejecting any future application of said employee to reenter City Service. The Police Chief may enter good standing records for an employee who fails to give two (2) weeks' notice if he/she feels there were extenuating circumstances.

Any employee who is absent from duty for three (3) consecutive shifts without securing approved leave from the employee's superior, may be considered to have resigned without notice. It shall be the duty of the Police Chief to report all unauthorized leaves immediately to Human Resource in the manner prescribed. All such unauthorized leaves shall be posted on the employee's records and may, be considered in the employee's merit ratings.

ARTICLE 24

NON-APPLICABILITY OF CIVIL SERVICE ACT,

CIVIL SERVICE RULES AND REGULATIONS AND PERSONNEL POLICIES

It is understood and agreed that the Civil Service Act and the Civil Service Code of Rules and Regulations of Delray Beach and any amendments thereto and the Personnel Policies shall have no applicability whatsoever to the employees covered by this Agreement except as modified herein.

ARTICLE 25

COMPREHENSIVE ALCOHOL AND DRUG ABUSE POLICY FOR CITY OF DELRAY BEACH POLICE DEPARTMENT EMPLOYEES

The City recognizes that Police Department employees are not immune from problems that confront society in general. The problems of drug and alcohol abuse are widespread throughout our community and nation. In the face of these problems, it is critical that the City of Delray Beach Police Department maintain a working environment free of alcohol and drug abuse. The primary objective of this policy is to provide a safe and healthful work environment for all employees, and thereby provide the highest level of service to the public.

I. Definitions

A. Alcohol abuse means the ingestion of alcohol or alcoholic beverages, on or off duty, which adversely affects the employee's ability to perform his or her job duties. The use or being under the influence of alcohol or alcoholic beverages on the job by Police Department employees is strictly prohibited.

B. Drug abuse substance as defined amended from time means the ingestion of any controlled in Section 893.03, Florida Statutes, as to time, not pursuant to a lawful prescription. The term drug abuse also includes the commission of any act prohibited by Chapter 893, Florida Statutes, as amended from time to time.

C. Illegal drugs means any controlled substance as defined in Section 893. 03, Florida Statutes, as amended from time to time,

not possessed or taken in accordance with a lawful prescription.

II. Physical Fitness and Examinations

A. Every applicant for Police Department employment (including applicants for full-time, part-time and volunteer positions), and each re-employed employee may be required to present proof that he or she is physically fit to perform the duties of the job which the applicant or re-employed employee seeks. Applicants for employment may be required to take a physical examination, including blood or urine tests for the presence of illegal drugs. Applicants for employment whose blood or urine is found to contain the presence of illegal drugs shall not be considered fit to perform the duties of the job which the applicant seeks. The physical examination shall be completed prior to the applicant's entry on the job.

B. All Police Department employees, including managerial and supervisory employees, are required to take an annual physical examination at such times as may be specified within the calendar quarter in which the employee's anniversary date occurs.

C. Any such annual physical examination taken by the Police Department employees shall include a blood/urine test for the presence of illegal drugs and alcohol.

D. All employees subject to certification by the Florida Department of Law Enforcement shall meet all statutory and regulatory physical and medical requirements for initial

certification.

E. The City Manager, or the Chief of Police, or an Assistant City Manager, or City Attorney, or Human Resources Director, may also require an employee to take a physical examination, that shall include a blood/urine test for the presence of illegal drugs or alcohol, at any time the City Manager or Police Chief, or Assistant City Manager, or City Attorney, or Human Resources Director reasonably believes that the employee is not physically or medically fit to perform his or her duties.

F. Furthermore, the City Manager, or the Chief of Police, or Assistant City Manager, or City Attorney, or Human Resources Director may require an employee to take a physical examination and/or give a urine or blood specimen for testing whenever the City Manager, Chief, or other supervisory employee has a reasonable suspicion that the employee has been on duty, or has reported for duty, under the influence of alcohol or illegal drugs.

G. The use of illegal drugs on or off duty by employees of the Police Department is strictly prohibited. The City Manager or the Chief of Police, or Assistant City Manager I or City Attorney, or Human Resources Director may require an employee to take a physical examination and/or give a urine or blood specimen for testing whenever the City Manager, Chief of Police, or other supervisory employee has a reasonable suspicion that the employee is using illegal drugs or under the influence of alcohol. A

reasonable suspicion. is a suspicion which is based on fact derived from the surrounding circumstances from which it is reasonable to infer that further investigation is warranted.

H. Random testing for alcohol and/or controlled/illicit drugs shall be performed in conjunction with this Article. Random selections of employees will be made by a third-party contracted firm using a U.S. Department of Transportation (DOT) approved random selection computer program. An employee selected for random testing shall be tested on the day his/her name is selected if on duty. If off-duty, the employee shall be tested on his/her next regular day of work. The total number of random drug tests given per year will not exceed fifty percent (50%) of the total number of bargaining unit members. No more than 10% of those selected for drug testing will be tested for alcohol.

I. The City will pay the cost of any physical examinations and tests required by this policy. The examination will be performed by medical personnel selected by the City. Employees who take a physical examination or blood/urine test in accordance with this policy shall be required to sign an authorization releasing the records of such examinations and tests to the City. The City shall strictly observe and maintain the confidentiality of such employee medical records to the extent permitted by law.

J. Any employee who fails or refuses to take a physical examination or give a urine or blood sample in accordance with

this policy shall be subject to disciplinary action up to and including dismissal.

III. Blood/Urine Tests for the Presence of Alcohol and Drugs

A. In testing for the presence of alcohol, the City shall utilize a generally accepted blood test procedure which produces quantitative results showing the amount of alcohol present in the blood.

B. At the time the testing occurs, two (2) specimens of urine and two (2) specimens of blood shall be taken, the first set of which shall be used by the first laboratory and the second set of which shall be used by a second laboratory, if requested. In testing for the presence of illegal drugs and alcohol, the City shall submit the first set of the samples for testing, which, in the first instance, shall utilize an immunochemical assay or radioimmunoassay test on the employee's blood/urine. If the initial test is positive for an illegal drug or alcohol, the same blood/urine specimen shall be subjected to a further test using the gas chromatography, thin layer chromatography or gas chromatography/mass spectrometry method for verification. For non-probationary employees, if both the initial and verification tests are positive for an illegal drug or alcohol, the employee shall receive notification of results from the City in the manner set forth herein. In order to timely provide such notification, the employee shall be required to contact by telephone or in person a

City representative designated in advance by the City, not later than one (1) hour after a date and time specifically given to the employee for his/her requirement to contact a designated City representative by telephone. At the time the employee makes such contact, the employee must decide whether or not he/she wishes the second set of specimens provided at the initial collection to be further tested by the City. If the employee so requests, then this second set of specimens shall be tested by the City utilizing medical personnel different from that used by the City for the initial test. If the employee fails to contact the City representative within the time frame set forth above, or the employee does not request the testing of the second set of specimens, or if the employee does request the testing of the second set of specimens and it also tests positive for an illegal drug or alcohol, corrective action shall be taken as specified below.

IV. Corrective Action

A. Applicants for employment whose blood or urine is found to contain the presence of illegal drugs or under the influence of alcohol shall not be considered fit to perform the duties of the job which the applicant seeks.

B. Employees (probationary. and non-probationary) whose blood or urine is found to contain the presence of illegal drugs, or who have been found to have used or been under the influence of illegal drugs or alcohol while on duty, shall be terminated

C. Any non-probationary employee who is found to have engaged in off-duty alcohol abuse which adversely affects the employee's ability to perform job duties may be placed on a leave of absence without pay for a period of up to sixty (60) days. The leave of absence may be extended for good cause by the City Manager up to an additional fifteen (15) days. he employee may use any accumulated sick leave or vacation during the leave of absence. The purpose of the leave of absence is to give the employee an opportunity to rehabilitate himself or herself from abusing alcohol. The City may assist the employee in locating an appropriate program of rehabilitation. Upon the successful completion of the rehabilitation program as certified by a physician designated by the City, the employee shall be eligible to return to City employment in the same or similar position to the one which the employee occupied before his or her leave of

absence. Prior to resuming employment with the City, the employee shall be required to take a physical examination which shall include a blood or urine test for the presence of alcohol and/or illegal drugs. The returning employee shall be placed on probationary status for a period of one (1) year following his/her return to City employment. During the one-year probationary period, the City may require the employee to take unannounced blood or urine tests for the presence of alcohol and/or illegal drugs. If at any time during the probationary period or thereafter, the employee's blood or urine is found to contain the presence of alcohol or illegal drugs, utilizing the double testing procedures set forth in Section III(B), above, the employee shall be subject to disciplinary action, up to and including dismissal

ARTICLE 26

DAMAGE TO CITY PROPERTY

Section 1

Each police employee shall exercise due caution in the care and handling of all tools and equipment which may come into his/her custody, or over which he/she may have a degree of control. Any police employee who loses, misuses, or damages through his/her carelessness, negligence and/or intentional misconduct such tools or equipment provided by the City shall be subject to discipline. When in the judgment of the City a tool or piece of equipment is no longer safe or effective, due to normal wear and tear, the defective item shall be turned in to the City for replacement. No defective tool or piece of equipment shall be replaced by the City until the defective item is presented by the employee. All tools and equipment issued to a police employee by the City shall be returned to the City prior to the employee leaving City employment in the same condition as same was issued (normal wear and tear excepted).

Section 2

The City will be responsible for full replacement costs for prescription glasses and contact lenses provided the employee presents a replacement receipt at the time of replacement. The City will be responsible for replacement of damaged watches and non-prescription sunglasses up to fifty dollars (\$50.00). The City will not be responsible for the replacement of jewelry or other personal property carried at the employee's discretion.

ARTICLE 27

DISCIPLINE

Section 1

The City Manager may at any time dismiss or otherwise discipline any employee for just cause which he considers will promote the efficiency of the City's service. Further, the City Manager may, at any time, dismiss any probationary new employee with or without cause.

Section 2

The following may be considered grounds for dismissal, or other lesser discipline, including but not limited to demotion or suspension, based on the City Manager's determination of the gravity of the offense; however, dismissal or discipline may be made for causes other than those enumerated:

A. Has been found guilty in a court of competent jurisdiction of a felony and/or of a misdemeanor involving moral turpitude or which is related to his/her City job function.

B. Has violated any lawful or reasonable order or regulation or has failed to obey any reasonable or lawful direction by a superior.

C. Has reported for duty, or is actually on duty, while under the influence of intoxicating beverages or drugs.

D. Has been guilty of acts which amount to insubordination; or has conduct while on duty, been guilty of disgraceful or

disgraceful conduct while off duty when it reflects unfavorably on the City or interferes with the operations of the City.

E. Has been wantonly offensive in his conduct or language toward the public or toward any City employee or official.

F. Has been incompetent, negligent, or inefficient to such an extent that his/her performance falls below the minimum prescribed standard.

G. Is careless or negligent of the property of the City of Delray Beach, or steals or misuses any equipment, materials, property, or other things of value belonging to the City.

H. Has used, or threatened to use, his position for personal gain or advantage, or has attempted to use political influence in securing promotion, leave of absence, transfer, classification change, pay increase, to influence pending disciplinary matters or change in character of work.

I. Has taken any fee, gift, or other valuable thing in the course of his work or in connection therewith for his personal use from any firm, corporation, or individual when such fee, gift, or other valuable consideration is accepted with the understanding that the donor shall receive favors and service therefor not customarily accorded the general public.

J. Has falsified time records, other official City records, or has failed to report absences from duty to his superiors in accordance with prescribed procedure.

K. Has been absent from duty without proper leave of absence, or otherwise contrary to prescribed procedures; or has failed to report for duty after a leave of absence has expired.

L. Has been excessively absent from work; has been repeatedly absent from work without notifying his immediate supervisor, or has repeatedly reported late for work.

M. Has abused sick leave or other authorized leave of absence by claiming false reasons for such leave.

N. Is antagonistic in his attitude toward his supervisor or fellow employees; continually criticizes orders or rules issued or adopted by his superiors; or conducts himself in such a way that it interferes with the proper coordination of the work effort in his department to the detriment of efficient public service.

O. Upon the expiration of earned sick leave, fails to report to the Police Chief his inability to return to work, if such is the case.

P. Has been convicted of the unlawful possession, use, dispensing, or sale of any narcotic, barbiturate, mood ameliorating, tranquilizing, or hallucinogenic drug, or conspiracy to do same, while either on or off duty.

Q. Has made a significant omission on his application for employment or has falsified it in any way.

R. Has been found guilty by a court of competent jurisdiction of a felony criminal offense or has been repeatedly

found guilty of misdemeanor criminal offenses.

S. Has been found to have used anabolic steroids, with or without prescription, solely for the purposes of enhanced muscle training or body building functions. Disciplinary action shall be taken only as provided pursuant to Article 30.

The City Manager shall furnish the non-probationary employee or the promoted probationary employee whom he dismisses from the City service with a written statement outlining in detail reasons for the removal, and the date and time such removal becomes effective. A copy of the statement shall be furnished to the Police Chief.

Section 3

If criminal charges have been formally charged against an employee, the City Manager may place the employee on leave of absence with or without pay.

During such leave of absence, the City may investigate and take appropriate disciplinary action against the employee. However, if the employee is subsequently found not guilty by a trial court of all of the criminal charges which had been instituted against the employee, and if no notice of potential disciplinary action has been given, the employee shall be reinstated and awarded back pay for the period of said leave of absence.

ARTICLE 28

ABSENCE WITHOUT LEAVE

Section 1

An absence of an employee from duty, including any absence for a single day and failure of an employee to report at the expiration of a leave of absence or vacation, that is not authorized by a specific grant of leave of absence under the provisions of this Agreement, shall be deemed to be an absence without leave. Any such absence shall be without pay and may be subject to disciplinary action, including suspension, demotion or dismissal in repetitive or extreme cases.

Section 2

Any employee who is absent from duty for three (3) consecutive shifts without notifying the shift supervisor or commander of the reasons for such absence and the time he/she expects to return, and without securing leave, may be considered to have resigned without notice.

ARTICLE 29

POLICE BILL OF RIGHTS

Section 1

The City of Delray Beach agrees that in the investigation of all bargaining unit members all rights articulated in Florida Statutes, Section 112. 532 and Section 112.533 (as amended from time to time) shall be provided. The PBA may post a copy of Sections 112.532 and 112. 533, Florida Statutes on the bulletin boards referenced in Article 6.

Section 2

Interrogations shall be conducted, preferably at a time when the bargaining unit member is on duty, unless the seriousness of the investigation is of such a degree that an immediate action is required. Nothing herein shall prohibit the adjustment of the schedule of the bargaining unit member under investigation so that the interrogation can take place during business hours.

Section 3

The City agrees that all notices that investigations have been concluded, with the accompanying opportunity to submit responses, if any, shall be provided to the PBA representative or attorney of record simultaneously with notice to the bargaining unit member subject of the investigations. Said notices shall be provided to the bargaining unit member's PBA representative or attorney of record together with a complete copy of the completed

investigative report.

ARTICLE 30

NO STRIKE

Section 1

A "strike" shall be defined as the concerted failure to report for duty, a concerted absence of members of the bargaining unit from their positions, a concerted stoppage of work, a concerted submission of resignations, a concerted abstinence in whole or in part by members of the bargaining unit from the full and faithful performance of their duties of employment with the City of Delray Beach, participating in a deliberate or concerted course of conduct which adversely affects the services of the City of Delray Beach, or the concerted failure to report for work after the expiration of a collective bargaining agreement.

Section 2

No member of the bargaining unit may participate in a strike. Any violation of this provision shall subject the member of the bargaining unit or the PBA or both to the penalties under Chapter 447 of the Florida Statutes and Chapter 30 of the City of Delray Beach Code of Ordinances.

Section 3

In the event of a breach of the provisions of this article, the City of Delray Beach shall be entitled to recover from the PBA and any employee in the bargaining unit participating in the strike, jointly and severally, full compensatory damages, punitive damages, costs, and attorney's fees incurred in any and all proceedings involving said strike.

Section 4

The City of Delray Beach shall have the right to unilaterally terminate the employment of any employee engaging in a strike: The only issue which shall be grievable with reference to the termination is whether or not the employee was in fact engaged in a strike.

Section 5

In the event of a strike, the City shall transmit written notification to the chief agent or his designee of the PBA, and the PBA will notify the employees of the bargaining unit and inform them that a strike is illegal under Florida law, of the sanctions which may be imposed against the PBA and participating employees for a strike, and further instruct striking employees to immediately return to work. The PBA agrees that the notification will be in writing and will be made in a good faith effort to get the employees to return to work. Such conduct shall exonerate the PBA from all penalties, financial or otherwise, which may be imposed under this Agreement, but this notwithstanding, the City does not waive any rights it may have to declare this Agreement to be null and void upon the occurrence of a strike.

ARTICLE 31

PERSONNEL DOCUMENTS

All bargaining unit employees shall be permitted to obtain a copy of all documents that are placed in any of their personnel files, and further shall be provided copies of all disciplinary action documents placed in their department personnel file.

The employee may, within thirty (30) days from the date of the document being placed in the employee's personnel file, file a written response to such document. The employee is fully aware that such written response places no further obligations on the City and confers no additional rights on the employee. Any written response by an employee shall be clearly designated as the employee's response and shall bear an acknowledgment by the employee that such a response is solely the employee's view of the incident and confers no further obligation on the part of the City and confers no employee further rights on the part of the employee.

ARTICLE 32

UNIFORM ALLOWANCE

Those bargaining unit members assigned to positions within the Department which require the use of civilian attire will be granted a clothing allowance. Said allowance will be issued on a semi-annual basis at the rate of \$400.00 per unit member.

ARTICLE 33

DISABILITY INSURANCE

Bargaining unit employees shall be eligible to receive the long-term disability benefits pursuant to the City's current plans and policies applicable to all other City employees.

ARTICLE 34

SICK AND VACATION PAY-OUT ACCRUALS

The City shall make changes to the sick and vacation pay accruals policy by providing the following two (2) options:

A. Provide a lump sum pay-out at termination (retirement) of accrued balance not to exceed 1408 hours (1120 sick leave, 288 vacation) as currently exists.

B. Enable employees who properly notify the City with the intent to retire, at least two years prior to Retirement date, the ability to have above noted accruals paid in payments of not more than one-third per year of total amount authorized at date of designation of retirement. The employee will have the following option of payment:

1. The one-third payments, not to exceed one-third of accrued balance or 1408 hours (1120 sick leave, 288 vacation), whichever is greater, be made in cash each year.
 - a. The first payment will be made 2 years from the date of termination.
 - b. The second payment will be made 1 year from the date of termination.
 - c. The third payment will be made at termination.
2. The one-third payment may be deposited tax free into the employee deferred compensation (457)

account if the annual limit on the employee's
457 contributions has not been reached.

ARTICLE 35

TAKE HOME VEHICLE PLAN

The City has agreed to a take home vehicle plan for Lieutenants and shall include the following parameters:

A. The Police Department shall establish internal policies and procedures for the assignment and use of take home vehicles.

ARTICLE 36

GRIEVANCE PROCEDURES

Section 1

The grievance procedures as described in Sections 2, 3 and 4, below, shall be used for the settlement of disputes between the City and aggrieved employee or group of employees involving the interpretation or application of this Agreement.

Section 2

Grievances shall be processed in accordance with the procedures outlined in this section. Any grievance not answered by management in the time limits provided for in this section shall be determined to be denied and may be advanced to the next higher step of the grievance procedure. Grievances of disciplinary actions shall be processed in accordance with the procedures outlined in Section 4.

Step 1

The aggrieved employee, or a PBA representative on his or her behalf, shall submit a grievance in writing and it shall be discussed with the aggrieved employee's immediate supervisor and division/district Commander within ten (10) working days of the occurrence (or discovery thereof) which gave rise to the grievance. For the purpose of this article, working days shall mean Monday through Friday, excluding City holidays and weekends. A PBA grievance representative may be present

represent the employee, if the employee desires him or her present. The immediate supervisor and division/district commander shall attempt to adjust the matter and/or respond to the employee within five (5) calendar days.

Step 2

If the grievance has not been satisfactorily resolved in Step 1, the aggrieved employee and the PBA representative, if the employee wishes his or her assistance, shall present the written grievance to the Police Chief within five (5) calendar days from the time the supervisor's response was due in Step 1. The Police Chief, or his or her designee shall meet with the employee and the PBA representative, if the employee wishes him or her present, within three (3) working days. The Chief, or his or her designee, shall respond in writing within five (5) calendar days from the day of the meeting.

Where a grievance is general in nature, in that it applies to a number of employees having the same issue to be decided, it shall be presented directly at Step 2 of this grievance procedure, within the time limits for the submission of a grievance in Step 1, and shall be signed by the aggrieved employees, and/or an PBA representative on the employees' behalf. Grievances of

a general nature shall be processed within the time limits hereinabove provided unless extended by mutual agreement in writing

Step 3

If the grievance has not been satisfactorily resolved in Step 2, and an appeal to the City Manager is permitted pursuant to Section 4, the employee or the PBA if the employee elects PBA assistance, may present a written appeal to the City Manager within seven (7) calendar days from the time the response was due from the Police Chief in Step 2. The City Manager, or his or her designee, and any staff requested by the City Manager or his or her designee, shall meet with the employee (and the PBA representative, if the employee wishes him or her present), within five (5) working days. The City Manager or his designee shall respond in writing within seven (7) calendar days from the date of the meeting.

Any grievance not processed in accordance with the time limits provided above shall be considered conclusively abandoned.

Nothing contained in this article shall prevent any employee covered by this Agreement from processing his/her own grievance unassisted through the grievance procedure up to and including Step 3.

Step 4

If a grievance, as defined in this article, has not been satisfactorily resolved within the grievance procedure,

the PBA and only the PBA may request arbitration for PBA members. Members of the bargaining unit who are not members of the PBA may also request arbitration. The request for arbitration shall be in writing to the office of the City Manager no later than fifteen (15) calendar days after the City Manager's response is due in Step 3 of the grievance procedure.

Section 3

A. The arbitration shall be conducted under the procedural rules of the Federal Mediation and Conciliation Service unless in conflict with any provisions set forth in this Agreement or unless otherwise agreed to or provided for by the parties in writing. Subject to the following, the arbitrator shall have the jurisdiction and authority to decide a grievance as defined in this article and to enforce compliance with the terms and conditions of the Agreement.

B. However, 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 any amendment thereto.

C. 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, which is not a grievance as defined in this article, or which is not specifically covered by this Agreement

D. The arbitrator may not issue declaratory or advisory opinions and the arbitrator shall be confined exclusively to the question which is presented, which question must be actual and existing.

E. Copies of the award of the arbitrator, made in accordance with the jurisdictional authority under this Agreement, shall be furnished to both parties in writing within thirty (30) days of the hearing and shall be final and binding upon both parties.

F. It is contemplated that the City and the employee shall mutually agree in writing as to the statement of the matter to be arbitrated prior to the hearing, and if this is done, the arbitrator shall confine his decision to the particular matter thus specified. In the event of the failure of the parties to so agree on a statement of issue to be submitted, both the PBA (or the employee, if not represented by the PBA) and the City shall submit a written statement of the grievance and the arbitrator shall confine his consideration to the written statement or statements submitted. This clause, however, shall not be construed to permit either party to present issues through their written statements that would not otherwise be subject to the grievance and arbitration provisions of this Contract.

G. Each party shall bear the expense of its own witnesses and its own representatives. The parties shall bear equally the expense of the impartial arbitrator. Any party requesting a copy

of the transcript of such arbitration hearing shall bear the cost of same.

Section 4

A. Discipline involving oral or written reprimands or suspensions without pay of three or less days may be processed through Step 2 of the grievance procedure. The decision of the Police Chief or his designee is final and binding on the parties.

B. Discipline involving suspensions without pay of four days may be processed through Step 3 of the grievance procedure. The decision of the City Manager or his designee is final and binding on the parties.

C. Discipline involving discharge, suspension without pay of five or more days, or disciplinary demotion, may be processed through Step 3 of the grievance procedure. The decision of the City Manager or his designee shall be subject to arbitration. The arbitration shall be handled in accordance with the procedures outlined in Section 4E. Step 4 of the grievance procedure shall be followed except that the arbitrator shall be selected as set forth in Section D2.

D. Arbitration of disciplinary matters shall be handled as follows:

1. The provisions of Section 3 shall apply except as modified by Section 4D2-5.
2. Immediately following ratification of this

agreement and thereafter at the beginning of each fiscal year, the City and the PBA shall mutually select a pool of five potential arbitrators to hear disciplinary cases. The arbitrator for any given case shall be selected by each party alternately included in striking the names the pre-selected of pool arbitrators until one arbitrator remains, who shall hear the case. The employee shall make the initial strike.

3. The arbitration procedure shall be expedited such that a hearing is held within thirty days of the appeal and an award is issued within thirty days following the conclusion of the hearing. If the award is not issued within the thirty-day time period, the arbitrator's fee shall be reduced proportionately to the number of days by which the arbitrator's decision is untimely.
4. There shall be no post-hearing briefs unless both parties agree prior to the hearing that post-hearing briefs may be submitted.
5. The arbitrator shall not substitute his judgment for that of the City as to the wisdom or the degree of severity of the disciplinary action imposed, except as set forth in the last paragraph of this

article. The arbitrator's inquiry shall be limited to the following:

- (a) whether the City possessed evidence of the misconduct before imposing the discipline ultimately imposed;
- (b) whether the employee is guilty of the misconduct as charged;
- (c) whether the discipline imposed is consistent with that imposed upon other employees who have committed the same or a similar offense under the same or similar circumstances, and who have similar disciplinary and employment records. If the discipline imposed is more severe than that previously imposed upon employees who have committed the same or a similar offense under the same or similar circumstances, and who have similar disciplinary and employment records, whether the City notified employees of the change in disciplinary policy prior to the occurrence of the act being disciplined;
- (d) whether the City has demonstrated upon the record that it has considered the severity of

the punishment with regard to the nature and severity of the offense, the circumstances under which the offense was committed, the employee's past disciplinary and employment record, the length of the employee's tenure with the City, and whether the employee was under probation at the time the offense was committed;

- (e) whether the City has demonstrated upon the record that the degree of punishment which it has imposed was not selected at random or without reason (arbitrary), and that the degree of punishment did not arise from caprice (arbitrary);
- (f) whether the City has demonstrated on the record that the degree of punishment which it has imposed is consistent in that it is not apt to change suddenly or unpredictably (capricious), and is not inconsistent (capricious);
- (g) whether the City has demonstrated on the record that the degree of punishment which it has imposed is within that range of punishment

for the offense under the given circumstances upon which reasonable men can agree, notwithstanding that reasonable men might disagree upon the specific punishment imposed under the given circumstances.

If the arbitrator finds that the City has complied with (a) through (g), the discipline determined by the City shall be upheld. However, if the arbitrator finds that the City has not complied with (a) through (g), the arbitrator may determine the appropriate level of penalty.

ARTICLE 37

WORKERS' COMPENSATION

The City agrees for Employees who sustain workers' compensation qualified injuries that the City will pay to such Employees amounts necessary to bring such employees to current full salary for ninety (90) calendar days and thereafter shall pay salary/benefits to such employees in accordance with the requirements of the Florida Statutes.

The ninety (90) calendar day status shall only commence, as needed, and at such time, as when an employee initiates a need for this supplemental payment due to continuing absence from duty as caused by such injury.

Once the ninety (90) day period commences it shall be available only from that day forward for ninety (90) consecutive calendar days.

An employee covered by Florida Statute, Chapter 440, Workers' compensation and in accordance with provisions set forth hereunder, shall be authorized to be absent from work due to injury or illness incurred while on duty, and directly related to work, until he or she reaches maximum medical improvement or two (2) years, whichever comes first.

ARTICLE 38

RETIREE INSURANCE

Section 1

The Delray Beach Police Officer' s Retiree Insurance Fund ("Retiree Insurance Fund") provides full or partial payments for health insurance premiums and other benefits on behalf of former bargaining unit employees of the City who separated from employment on or after October 1, 2004. All eligibility requirements and benefits provided will be determined solely by the Board of Trustees of the Retiree Insurance Fund.

Section 2

For fiscal years 2018-2019, 2019-2020 and 2020-2021, the City shall contribute to the Retiree Insurance Fund, on or before December 31 of each of those fiscal years, an amount equal to the benefits to be paid by the Retiree Insurance Fund to those former employees of the City eligible to receive a benefit from the Retiree Insurance Fund for the calendar years. During those specified fiscal years, the requirements for eligibility to receive a benefit from the Retiree Insurance Fund and the amount of benefit to be paid by the Retiree Insurance Fund shall not be modified by the Board of Trustees of the Retiree Insurance Fund. During those specified fiscal years, the Retiree Insurance Fund shall provide to the City, on or before December 1 of each specified fiscal year, a list of former employees eligible to

receive a benefit from the Retiree Insurance Fund along with the amount of benefit to be paid to each former employee. The City's contribution shall equal the total of all benefits to be paid to retired police officers and sergeants during each of the calendar years.

ARTICLE 39

CONTRACT CONSTITUTES ENTIRE AGREEMENT OF THE PARTIES

The Parties acknowledge and agree that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter included by law within the area of collective bargaining and that all the understandings and agreements arrived at by the Parties after the exercise of that right and opportunity are set forth in this Agreement.

Therefore, the City and the PBA, for the life of this Agreement, each voluntarily and unqualifiedly waives the right to require further collective bargaining with respect to any subject matter referred to or matter covered in this Agreement Or considered by the Parties during collective bargaining negotiations resulting in this Agreement, subject to impact bargaining, if any be lawfully required, and each agree that the other shall not be obligated to bargain collectively with respect to any matter or subject not specifically referred to or covered by this Agreement, whether or not such matters have been discussed, even though such subjects or matters may not have been within the knowledge or contemplation of either or both Parties at the time that they negotiated or signed this Agreement.

This Agreement contains the entire contract, understanding, undertaking, and agreement of collective bargaining for and during

its term.

ARTICLE 40

SEVERABILITY AND WAIVER

Section 1

Should any section or provision of this Agreement or any portion thereof, any paragraph, sentence, or word be declared by a court or agency of competent jurisdiction to be unlawful and unenforceable, such decision of the court or agency shall apply only to the specific section or provision or portion thereof, directly specified in the decision and shall not affect the validity of the remainder hereof as a whole or part hereof, other than the part declared to be unlawful and unenforceable. Upon the issuance of such decision, the Parties agree to immediately negotiate a substitute, if possible, for the invalidated section or portion thereof.

Section 2

The exercise or non-exercise of the rights covered by this Agreement by the City or the PBA, except as to the notice provisions of Article 46, concerning Duration, Modification, and Termination, shall not be deemed to waive any such right or the right to exercise them in the future.

ARTICLE 41

PENSION PLAN MATTERS

The Parties agree to effectuate the City of Delray Beach Pension Code of Ordinances, as amended October 4, 2016, substantially as follows:

Section 1

(a) to provide for the completion of the separation of the former (legacy) retirement system such that the retirement system will no longer be jointly for police and fire employees but solely for police employees operating as a local law plan pursuant to Chapter 185, Florida Statutes. Trustees of the newly formed Police Retirement System shall consist of five (5) trustees and shall be comprised as follows: Two (2) trustees shall be legal residents of the City that are appointed by the City Commission; two (2) trustees shall be full-time City police officers as defined in F.S. § 185.02, that are elected by all the active police officer members; and one (1) trustee shall be chosen by the majority of the other four (4) trustees.

(b) to comply with Chapter 2015-39 of the Laws of Florida;

(c) In accordance with section 185.35(6), F.S., a defined contribution plan component ("share plan") shall be

established as part of the defined benefit pension plan, to be funded exclusively with Ch. 185 premium tax revenues. However, the City and Union have mutually agreed that all Ch. 185 premium tax revenues will be used to offset the City's pension contributions and that no Ch. 185 premium tax revenues will be allocated to the share plan at this time. The share plan shall not be activated until Ch. 185 premium tax revenues are allocated to the share plan. At such time as the City and Union agree to allocate Ch. 185 premium tax revenues to the share plan, the parties will negotiate the details of the share plan.

Section 2

Establish benefits as follows:

Tier 1: Employees with 20 or more years of service and retired/terminated employees:

- No change in pension benefits.

Tier 2: Employees with at least 10 years of service but less than 20 years of service at the time of plan change:

- Multiplier reduced from 3.5% to 3% for all future service, all retirement benefits determined using the final average compensation as of the retirement and/or termination date.
- Starting benefit limited to \$108,000 per year.
- Employees that reach 20 years of service shall retain

the 3.5% multiplier for all years of service prior to the Plan change.

- Compensation includes up to 25 hours of overtime.
- Participants remain eligible for the DROP on same terms as existing on day before amendment to Ordinance.
- COLA of not less than one percent (1%) will continue to be applied annually.

Tier 3: Employees not vested at the time of plan change:

- Multiplier reduced from 3.5% to 3% for all future service, all retirement benefits determined using the final average compensation as of the retirement and/or termination date.
- Compensation excludes any overtime earned after the plan change.
- Employees that reach 20 years of service shall retain the 3.5% multiplier for all years of service prior to the Plan change.
- COLA of not less than one percent (1%) will continue to be applied annually.
- Participants remain eligible for DROP on the same terms as existing on the day before amendment to Ordinance.
- Average Final Compensation: Highest 5 of last 10 years.
- Starting benefit limited to \$108,000 per year.

Tier 4: Employees hired after plan change:

- 2.75% multiplier for all credited service.
- Benefit limited to 68.75% of final average compensation.
- Normal Retirement changed to the later of age 55 or 25 years of service.
- Eliminated Early Retirement.
- Compensation excludes any overtime.
- Average Final Compensation: Highest 5 of last 10 years.
- Starting benefit limited to \$108,000 per year

Section 3

Notwithstanding any other provision of this Article, the parties agree that once the pension ordinance has been amended in accordance with Section 1 above, the City may revoke its participation in Chapter 185 pursuant to Fla. Stat. 185.60 at any time during the term of this Agreement if it determines that it is dissatisfied with the performance of the Board of Trustees responsible for administering the Chapter 185 pension plan (Plan). In determining the performance of the Board of Trustees the City shall consider some or all of the following factors in its sole discretion:

- (1) The Investment performance the plan;

- (2) The Board of Trustees' choice of its investment advisor;
- (3) The extent of the Board of Trustees' efforts to control administrative costs through the use of attorneys, actuaries, accounting firms and other professional advisors the City utilizes to provide services to its other employee pension plans;
- (4) The appropriateness of the Plan's actuarial assumptions and methods;
- (5) The extent to which the Board of Trustees delegates administrative functions to the City's Finance Department

Section 4

As a safe harbor provision during any time the Plan is using the same actuary, investment advisor, (and is following that investment advisor's recommendations with respect to portfolio allocation and selection of finds and fund managers) auditor, attorney, and administrative function provider as the City's General Municipal Employees Pension Plan, the parties agree the City may not exercise its revocation rights pursuant to Section 3.

If the Board of Trustees believes it is operating within the safe harbor established herein, it may request the City to confirm the same in writing. The City shall respond to such

request within thirty (30) days of receipt of the same. Once the City has confirmed that the Board of Trustees is operating within the safe harbor, the City may not invoke the revocation procedures provided in Section 5 below unless it first provides the Board of Trustees notice of its intent to do the same along with an explanation of why the Board of Trustees is no longer operating within the safe harbor. The Board of Trustees shall have thirty (30) days from date of receipt of such notice to resume operating within the safe harbor. If the Board of Trustees fails to resume operating within the safe harbor, the City may, at its discretion, proceed to invoke the revocation procedures pursuant to Section 5(i) below, the safe harbor provision may not be utilized and shall no longer be in effect.

Section 5

The City's exercise of its revocation rights under Section 3 shall be undertaken as follows:

(i) the City Manager or designee shall provide at least sixty (60) days written notice to the Union and shall provide a general explanation of the reason(s) for the City's intended action in the notice;

(ii) the issue shall be placed on the agenda for the next City Commission meeting scheduled after the expiration of the notice period;

(iii) the Union shall be given an opportunity to be heard by their designee at the City Commission meeting held to consider the City's exercise of its revocation rights.

Section 6

The parties agree that the City's decision to revoke its participation in Chapter 185 shall be final and that the City's exercise of its revocation right under this Article shall not be subject to challenge or appeal through the grievance and /or arbitration provisions of this Agreement or otherwise.

Section 7

In the event the City revokes its participation in Chapter 185, the parties agree that Chapter 33 of the Code of Ordinances for the City of Delray Beach shall be amended in whatever way necessary to accomplish the revocation and to change the composition of the pension board.

Upon the City's revocation, any benefits that were being provided with the premium tax money above the 1993 amount shall be discontinued. All accumulated excess state premium tax monies held in reserve at the time of the withdrawal and any other premium tax money that is not allocated to pay for the pension

benefits or that has been allocated to pay for the benefits that are discontinued will be used to pay down the unfunded liability attributable to police officers.

The Parties agree that, if required by the Division of Retirement to accomplish the intent of the preceding sentence, employee contributions may be increased and then immediately decreased in an amount equal to the amount used to pay down the unfunded liability attributable to police officers, such that there is no actual change in the employee contributions.

ARTICLE 42

DURATION, MODIFICATION, AND TERMINATION, REOPENER

Except as otherwise provided in this Agreement, this Agreement shall be effective from October 1, 2018 and continue through September 30, 2021. If the parties have not executed a written agreement by the expiration date hereof, i.e., September 30, 2021, then the terms and conditions of this contract shall nonetheless continue in effect, except as modified herein. Negotiations for a successor Agreement shall commence not later than May 1, 2021. Without a successor agreement in place, (after the expiration of this agreement and before the effective date of a successor agreement) wage increases, shall be frozen effective October 1, 2021 until such time as an Agreement has been reached.

ARTICLE 43

AMENDMENTS

This Agreement may be amended at any time on mutual consent of both Parties, but no such attempted amendment shall be of any force or effect until placed in writing and executed by both Parties hereto.

ARTICLE 44

EXECUTION OF AGREEMENT

Agreed to this 25 day of September, 2018, by and between the respective Parties through their authorized representatives.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Katerri Johnson
City Clerk - Katerri Johnson

By: Mark Lauzier
City Manager - Mark Lauzier

Mary Olsen
Asst. Chief Mary Olsen

Duane D'Andrea
Asst. Director, HR Duane D'Andrea

Javaro Sims
Asst. Chief Javaro Sims

Approved as to Form
and Legal Sufficiency:

[Signature]
City Attorney

Dated this 17 day of September, 2018.

ATTEST:

POLICE BENEVOLENT ASSOCIATION

Vincent Gray
Vincent Gray, PBA Rep

By: John Kazanjian
John Kazanjian, President

Gary Ferreri
Gary Ferreri, PBA Rep

Brennan Keeler
Brennan Keeler, PBA Counsel

Schedule A

College Degree	Step 1 Slot	Step 2 5%	Step 3 5%	Step 4 4%	Step 5 4%
AA	106,960	112,308	117,923	122,640	127,456
BA	108,000	113,400	119,070	123,832	128,786