

AGREEMENT
BETWEEN
THE CITY OF DAYTONA BEACH
AND THE
AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES, FLORIDA COUNCIL

October 1, 2019 through September 30, 2021

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ARTICLE 1 -PREAMBLE

This Agreement is entered into by and between the City of Daytona Beach (the Employer) and Florida Public Employees Council 79, AFSCME AFL-CIO (the Union). The purpose of this Agreement is to facilitate a working relationship between the Employer and the Union and establish the wages, hours, and working conditions of the employees covered hereunder.

ARTICLE 2 -RECOGNITION

The City recognizes the Union as the exclusive representative for collective bargaining purposes for all employees in the job classifications included in PERC Certification No. 1098. Following is a mutually agreed upon list of job classifications included in the bargaining unit:

ARTICLE 3 -DUES DEDUCTIONS

1. The City agrees to deduct Union membership dues and uniform assessments, if any, in an amount established by the Union and certified in writing by an accredited officer of the Union to the City, from the pay of those employees in the bargaining unit who individually make such request on a written check-off authorization form provided by the Union. Such deductions will be made by the City on a weekly basis and will begin as soon as practical following receipt of the authorization by the City. The Union shall advise the City of any uniform assessments or increase in dues in writing at least thirty (30) days prior to its effective date.

2. Deductions of dues and uniform assessments, if any, shall be remitted exclusively to a duly authorized representative, as designated in writing by the Union, on a monthly cycle along with a list containing names, social security numbers, and amount deducted of the employees for whom the remittance is made. The list and deductions shall be forwarded to the Union as soon as practical after deductions are made.

3. Deductions for Union dues and/or uniform assessments shall continue until either:
(1) revoked by the employee by providing the City and the Union with thirty (30) days written notice that he/she is terminating his/her prior check-off authorization, (2) the transfer, promotion or demotion of the employee out of the bargaining unit.

4. The City shall have no responsibility or any liability for any money once sent to the Union. The Union shall indemnify the City and hold it harmless against any and all suits, claims, demands, and liabilities which arise out of or by reason of any action taken or not taken by the City to comply or attempt to comply with the provisions of this Article.

ARTICLE 4 -NONDISCRIMINATION

1. The parties agree that they will not discriminate against any employee because of race, color, sex, national origin, religion, marital status, disability, age, or any other factor violative of applicable state or federal law. Nothing herein shall restrict the City from taking any action to promote or implement equal employment opportunity and affirmative action in accordance with applicable law.

2. The Union and/or its officers or stewards will not discriminate against or harass any employee who does not choose to become a member of the Union.

3. There shall be no discrimination, interference, restraint, or coercion by the City against any employee for his/her activity on behalf of, or membership in, the Union.

ARTICLE 5 -UNION BUSINESS

1. Nothing contained in this Collective Bargaining Agreement shall preclude any employee covered by this Agreement from pursuing any right or remedy available under this Agreement without representation of the Union. Furthermore, nothing contained in this Agreement shall preclude any employee from discussing a problem directly with his/her immediate nonbargaining supervisor or other Departmental official without the intervention of the Union; provided, however, that such nonbargaining unit supervisor or other Departmental official is agreeable to having such discussion. Any resolution made by an employee covered hereunder with his/her nonbargaining unit supervisor shall not set a precedent for the settlement of any other disagreement involving the same or other employees.

2. The Union may designate nine (9) Union Stewards to represent bargaining unit employees as described in paragraph 3 below. One (1) Union Steward shall be an employee at City Hall and shall represent employees at City Hall. One (1) Union Steward shall be a Police Department or Fire Department employee and shall represent employees of the Police Department and Fire Department. One (1) Union Steward shall be an employee of and represent the employees of each of the following locations: (a) Leisure Services Department; (b) Parks Yard Complex; (c) Marion Street; (d) Public Works Complex; (e) Bethune Point; (f) Regional Plant; and (g) the City at Large. The role of the City at Large Steward shall be to substitute for one of the aforesaid Union Stewards (i.e., Stewards assigned to specific locations) where said Union Steward is on personal leave, is otherwise absent from work, or cannot be released from his/her assigned duties due to work requirements. A written list of the Union Stewards shall be furnished to the Human Resources Director and the Department Director prior to the effective date of the Union Stewards assuming their duties. Prompt written notification of changes in the Union Stewards shall be provided to the Human Resources Director and the Department Directors. No Union Steward will be recognized by the City unless such written notification was presented prior to such Union Steward assuming his/her duties.

3. Union Stewards shall be permitted to process formal grievances under the grievance procedure contained herein while on duty; provided that this activity does not interfere with the Union Steward's duties as an employee, the duties of other employees, or any other aspect of Departmental or Divisional operations. No more than one (1) Steward shall attend a grievance meeting while on duty. If specifically authorized by his/her Department Director and the Human Resources Director, the Local Union President may be permitted to attend a grievance meeting where the grievance involved is solely one of contract interpretation (i.e., not disciplinary action); provided that such grievance meeting will not be attended by a full-time paid representative of the Union.

4. Under no circumstances shall any Union Steward leave his/her assigned duties to process a formal grievance under the grievance procedure herein without first obtaining authorization from his/her Department or Division Head. Such authorization shall not be unreasonably withheld.

5. Upon request of the Union, the Employer will, in April, August, and December of each year, provide the Union with a list of all employees in the bargaining unit. The list will include the name, home address, classification title, date of hire, and gross salary for each employee. The list will be provided at no cost to the Union.

ARTICLE 6 -BULLETIN BOARDS

1. The Union shall be provided with partial use of a suitable bulletin board so designated in each of the following locations by the respective Department Director:

A. City Hall

- (1) Second-floor Breakroom
- (2) Finance Office

B. Leisure Services

- (1) Office Meeting Room — Administrative Offices
- (2) Golf Course — Maintenance Breakroom

C. Fire Department

- (1) Main Station — Watch Office

D. Police Department

- (1) Main Building — Hallway

E. Public Works

- (1) Bethune Point — Breakroom
- (2) Regional Plant — Breakroom
- (3) Marion Street — Pumproom
- (4) Brennan Plant — Pumproom
- (5) Parks Complex — Outside Office
- (6) Stormwater — Outside Office
- (7) Main Building — Main Hallway
- (8) Water Distribution — Breakroom
- (9) Sewer Line Maintenance — Locker Room

In lieu of the space provided by the Department Director, the Union, if it so desires, may provide a bulletin board of standard size (i.e., not to exceed 3' by 3') for its own exclusive use in keeping with the decor of the above locations and with the approval of the respective Department Director.

2. The Union agrees that it shall use its space on bulletin boards to post only the following:

- A. Notices of Union meetings
- B. Union elections
- C. Reports of Union committees
- D. Rulings and policies of the Union
- E. Recreational and social affairs of the Union
- F. Union bulletins

3. All material to be posted on the bulletin boards shall first be submitted to the Human Resources Director. Under no circumstances shall the Union post any materials of a political nature or material tending to directly or indirectly disparage or demean the City or any of its elected or appointed officials.

ARTICLE 7 -LABOR MANAGEMENT COMMITTEE

1. There shall be a Labor Management Committee consisting of the following representatives:

- Human Resources Director (or his designee)
- Four (4) designated Management representatives
- Union Staff representative
- Local Union President
- Three (3) designated Union (employee) representatives

The Labor Management Committee shall meet to discuss matters of mutual concern.

2. The committee shall meet at least quarterly on dates mutually agreed upon by the participants. It is understood that these meetings shall not be used for the purpose of discussing pending grievances or for negotiation purposes.

3. Representatives attending committee meetings during their off-duty hours shall not be compensated for the time spent in such meetings. Union representatives attending committee meetings during on-duty hours will be released from duty for the time spent in such meetings without loss of pay or benefits.

ARTICLE 8 - RULES AND REGULATIONS

1. The employees covered hereunder shall comply with all rules, regulations, policies, procedures and operating bulletins of the City and its Departments and any amendments thereto.

2. Should the City and/or the Department exercise its right to formulate, amend, revise, and/or implement any and all rules, regulations, policies, procedures and operating bulletins, the City or the Department shall provide a copy of any new (or amended) rule, regulation, policy, procedure, or operating bulletin to the Union at least ten (10) business days prior to implementation. During the ten (10) day period prior to implementation, the Union may provide verbal or written suggestions concerning implementation and/or revision of the new rule, regulation, policy, procedure, or operating bulletin; provided, however, that nothing herein shall restrict the City or the Department's right to formulate, amend, revise and/or implement such rules, regulations, policies, procedures, and operating bulletins as the City and/or Department deems necessary to operate the Department efficiently. Upon mutual agreement, the parties may extend the ten (10) day period set forth herein for a period not to exceed an additional ten (10) days to allow for further discussion prior to implementation of the new or revised rule, regulation, policy, procedure, or operating bulletin.

3. Should the Union request impact bargaining on any item upon which the law requires such bargaining, the parties shall engage in such bargaining during the aforesaid ten (10) day period and any extension thereof (e.g., a period not to exceed an additional ten (10) day period). If no resolution of the impact issue is reached by the conclusion of the ten (10) day period and any extension thereof, the City may temporarily implement the item at issue pending the outcome of any impasse resolution procedure mandated by the Public Employees Relations Act. The parties hereby agree that any applicable impasse resolution procedure must be concluded within sixty (60) days of the notice set forth in Paragraph 2 above.

4. In the event the City or the Department exercises its right to issue a new (or amended) rule, regulation, policy, procedure, or operating bulletin, no bargaining unit employee shall be disciplined for violation of any such new or amended rule, regulation, policy, procedure, or operating bulletin until the City and/or the Department has provided the Union with the notice and opportunity for suggestions and/or discussion set forth in Paragraph 2 above. Furthermore, no bargaining unit employee shall be disciplined for violation of any such new or amended rule, regulation, policy, procedure, or operating bulletin until the City and/or the Department has disseminated such new or amended rules, regulation, policy, procedure, or operating bulletin at least seventy-two (72) hours in advance of implementation. For the purpose of this Article, dissemination of such new (or amended) rule, regulation, policy, procedure, or operating bulletin shall be by electronic mail, telecommunication, station briefing, bulletin board posting, personal distribution, or any other appropriate means. For the purpose of this Article, hand-delivery or mailing to a Union Staff representative or the Local Union President shall be deemed service upon the Union. Mailing shall be effective upon deposit in the United States mail by the City or the Department.

ARTICLE 9 -SAVINGS CLAUSE

If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid or unconstitutional by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect.

ARTICLE 10 – PERSONNEL ADMINISTRATION ORDINANCE

Except as modified by a specific provision of this Agreement, the terms and conditions of the City's Personnel Administration Ordinance shall apply to the employees covered hereunder.

ARTICLE 11 -SENIORITY

1. Upon request, the City shall provide the Union with a seniority list on an annual basis. This list shall be used whenever specific provisions of this Agreement require determination of seniority status.

2. Seniority shall be defined as the length of continuous service in the City calculated from the date of City employment.

3. Seniority with regard to classification shall be defined as the length of continuous service in that specific classification within the City calculated from the date of appointment to that classification. The only exception shall be that if an employee served in a higher classification and was subsequently demoted (voluntarily or involuntarily) to a lower classification, seniority with regard to that lower classification shall be calculated from the date of the employee's original appointment to that classification.

4. Seniority shall be terminated upon separation from the City. Employees with the same employment date or promotional date shall be assigned to the seniority list in order of their ranking on the eligibility or promotional list, whichever is applicable.

5. Seniority shall accumulate during periods of absence where the employee remains in pay status. Seniority is not terminated when an employee is on an approved leave of absence without pay; provided, however, that seniority shall not accrue during any period in which the employee is not on pay status.

6. New employees shall be considered probationary for the first six (6) months, during which time such employees shall be considered employees at will. Thereafter, they shall be considered regular employees and shall have the rights under this collective bargaining agreement. Nothing in this Agreement will be construed to grant a probationary employee a right to continue employment during the employee's initial probationary period.

7. All regular employees who are granted a transfer and/or a promotion to a new position shall serve a six (6) month probationary period. If an employee who has transferred and/or promoted is found unsuited for the work of the classification to which he/she was transferred or promoted, he/she shall be reinstated to the classification from which he/she was transferred or promoted; provided that he/she was a permanent employee and a vacancy exists. No probationary period will be required if the employee returns to a position he/she previously held. However, a probationary period shall be served if the employee is demoted to a position he/she has not previously held.

Furthermore, if no vacancy exists in the classification from which the employee was transferred or promoted, the City will make a good-faith effort to temporarily place the employee in a vacant position in another (lower) classification for which the employee is qualified. During the period of temporary placement (not to exceed three [3] months), the employee shall be paid at the rate of pay he/she would have earned had he/she been returned to his/her pre-promotion/pre-transfer classification. If, during the period of temporary placement, a vacancy in the employee's pre-promotion/pre-transfer classification occurs, the employee will be returned to that classification. If no vacancy occurs in the employee's pre-promotion/pre-transfer classification during the period of

temporary placement, the employee may accept a permanent position in the lower classification; provided that there exists a vacancy in that position and the employee's compensation is reduced accordingly.

In the event an employee hereunder cannot be temporarily placed in a vacant position in a lower classification or cannot be returned to his/her former classification or be permanently assigned to a lower classification after the aforesaid period of temporary placement, the employee may apply for reinstatement to an appropriate re-employment eligible list pursuant to the provisions of ARTICLE 12 – PERSONNEL REDUCTIONS of this Agreement.

8. Where there is a promotional vacancy, the City may fill such vacancy from any of the candidates on the applicable eligibility list in accordance with Section 5 of the Personnel Administration Ordinance; provided, however, that if the skills and abilities of such candidates (i.e., two or more of them) are equal, the City will select the candidate with the highest seniority. For the purpose of assessing the skills and abilities of the candidates, the City will consider such bona fide occupational criteria as performance evaluations (i.e., each candidate's last three (3) evaluations), attendance records, disciplinary records, and experience performing the functions of the vacant position such as technology and customer service. The City shall provide all unsuccessful candidates with the name of the individual that received the promotion within ten (10) days.

9. Where the City desires to fill a vacancy through voluntary transfer and more than one (1) employee applies for such transfer, the City will assess the relative skills and abilities of the applicants utilizing the criteria set forth in paragraph 8 above. In the event that the skills and abilities of two (2) or more applicants are equal, the applicant with the highest seniority will be transferred.

10. Except for entry-level positions, when the City determines that a particular promotional vacancy should be filled, the City shall advertise such vacancy on those official bulletin boards designated in Article 6, Section 1. The advertisements shall include the position title, opening and closing dates for application, minimum qualifications for the position, and any other eligibility requirements established by the City.

ARTICLE 12 - PERSONNEL REDUCTIONS

1. In the event there should be a need to lay off employees in the bargaining unit due to lack of work, lack of funds, efficiency of this service or any other legitimate business reason, no permanent bargaining unit employee shall be laid off while there are temporary, provisional, or probationary employees serving in the same classification for which the permanent bargaining unit employee is qualified, eligible, and available.

2. In the event of a reduction-in-force in any department, a Retention Register shall be established by the Human Resources Director for each classification affected by the reduction-in-force in said department. All employees occupying positions in the affected classification shall be placed on a Retention Register according to the number of consecutive years of service with the City and the employee's performance evaluation ratings. One (1) point shall be allowed for each consecutive year of recognized seniority with the City and points will be added for the performance evaluation rating on the current evaluation as follows: Satisfactory shall be one (1) point; Unsatisfactory shall be zero (0) points. As a position in a particular classification is abolished, the employee lowest on the Retention Register for that classification shall be removed from employment in the classification.

3. An employee who is removed from employment in a classification as provided above shall be demoted to the next lowest classification in the same classification series; provided, however, that said employee is fully qualified to perform the duties of said lower classification. Employees demoted to a lower classification shall be placed on the Retention Register for that classification according to current performance evaluation ratings and total years of seniority. Employees being so demoted shall not displace any employee whose total consecutive years of service (seniority) and performance evaluation rating credits exceed that of the employee being demoted. Should there be no lower classification to which the employee may be demoted in the same classification series, the employee shall be laid off and shall be placed on the Retention Register in his/her classification according to his/her seniority and current performance evaluation ratings as set forth above.

4. Employees laid off under the procedures set forth above shall be returned to classifications held prior to such layoff as vacancies occur in said classification in order of their standing on the appropriate Retention Register. Further, employees laid off in accordance with these procedures shall be granted first consideration for appointment to any vacancies in classifications (other than the classification previously occupied prior to layoff) for which they are qualified and eligible. The order of such re-employment appointments shall also be based on the employee's seniority and performance evaluation ratings in the position held prior to layoff.

5. Recall rights under this Article shall remain in effect for a period of two (2) years from the date of layoff. If an employee refuses reinstatement to the same or a different position, he/she shall forfeit his/her recall rights. The City shall hand deliver or mail by certified mail, return-receipt requested, any notice of recall. Should the employee fail to respond to any such notice within five (5) working days of receipt, the employee shall be deemed to have forfeited his/her right to recall.

ARTICLE 13 – TRANSFERS, REASSIGNMENTS, AND DEMOTIONS

1. Reassignment shall mean the movement of an employee to another position within the same Department. Department Directors are authorized to reassign any employee to a position in the same classification. Reassignment to a position in a related classification having the same pay range may be made for a period not to exceed six (6) months provided that this period may be extended for an additional six (6) months with the employee's consent. At the end of the initial period, or of the employee's approved extended period, the employee shall be returned to his/her previously held classification.

2. Transfer shall mean the movement of an employee from a position in one Department to a position in another Department. Transfer requests must involve either a move from one position to a position having the same class title and pay range or to a position having a class title with a lower pay range. Requests for a transfer involving a move from one position to a position having the same class title and pay range must be approved by the Department Director and the Human Resources Director. Transfers to a position classification with a lower pay range may be made at the request of the employee only, unless such transfer constitutes a demotion for disciplinary purposes, or a demotion resulting from a layoff.

3. Voluntary transfers involving a move from one position to a different position (job title) not involving a promotion will be subject to the same six (6) months probationary period provisions as promotions; provided, however, that voluntary demotions and lateral transfers (same job title) shall not be subject to the six (6) month probationary period.

4. Demotion for disciplinary cause shall mean pay reduction of midpoint differential between the two positions' pay grades up to 15% maximum. Employee must serve a probationary period.

5. Voluntary demotion shall mean a pay reduction of 3% for each pay grade difference between the two positions up to a maximum of 15%. If demoted to a position not previously held, employee must serve a probationary period.

6. A career change shall mean no pay change, however, the rate of pay must be within the pay range of the classification demoted to. Employee must serve a probationary period. Also, a career change must entail change in Division/Department and change in classification "family" to qualify; for example: Maintenance Supervisor I/Parks demoted to Account Clerk/Leisure Services.

ARTICLE 14 -TEMPORARY LIGHT DUTY ASSIGNMENTS

1. The Employer shall have the right to temporarily assign any employee covered under this Agreement to a less strenuous assignment due to a temporary health or disability condition. If an employee receives a less strenuous assignment, he/she shall receive his/her normal wages and fringe benefits and shall accumulate seniority. All assignments to less strenuous positions shall involve the performance of productive work necessary for efficient and economical operation of the Department and the City. The City shall make a good faith effort to accommodate employees that were injured on the job.

2. Nothing contained in this Article shall require the Employer to provide any employee with a temporary light duty assignment. Further, nothing contained in this Article shall require the City to retain in its employment any employee who is medically and/or psychologically unfit to perform the duties of his/her regular position.

ARTICLE 15 -EMPLOYEE DISCIPLINARY PROCEDURES

1. The City may discipline employees for sufficient cause, within a reasonable timeframe, in accordance with the Personnel Administration Ordinance and City, Departmental, and Divisional Rules and Regulations.

2. All employees covered hereunder shall be subject to the Personnel Administration Ordinance and City, Departmental, and Divisional Rules and Regulations.

3. An employee shall have the right to request that a Union Steward or a Union Representative be present during any meeting or interview in which the employee is being questioned about his/her alleged misconduct which could lead to disciplinary action. The employee shall be advised of the nature of the meeting at the beginning of the meeting. If during any meeting or conference with an employee the possibility of discipline against that employee arises, the employee may request that a Union Steward or Union Representative be present before the meeting or conference continues. To avoid delay and comply with representation requirements hereunder, the employee shall utilize any Union Steward if the Union Steward or Union Representative he/she requests is unavailable. If no Union Steward or Union Representative is available, the meeting, conference, interview, or investigation hereunder shall be delayed for a period not to exceed twenty-four (24) hours (unless a longer extension is mutually agreed upon in writing).

ARTICLE 16 -GRIEVANCE AND ARBITRATION PROCEDURE

1. Bargaining unit employees will follow all written and verbal orders given by superiors even if such orders are alleged to be in conflict with the Agreement. Compliance with such orders will not prejudice the right to file a grievance within the time limits contained herein, nor shall compliance affect the ultimate resolution of the Grievance.

2. A "grievance" is a claimed violation of this Agreement, including but not limited to the claim that a discharge or other disciplinary action violated a specific provision of this Agreement. No grievance will or need be entertained or processed unless presented in the manner described herein, and unless filed in a manner provided herein within the time limit prescribed herein. A grievance may be filed by a bargaining unit employee or by the Union. In either case, the procedure to be followed will be the same. The grievant (whether it be the Union or an individual employee) and management may agree to waive Step 1 in any grievance. Grievances which are filed by the Union on behalf of the Union itself or the entire bargaining unit shall be filed at Step 3, within the time period prescribed in Step 1. Grievances are limited to claims which are dependent for resolution exclusively upon interpretation or applications of one or more express provisions of this Agreement. The City need not entertain or process any dispute, claim or complaint or other matter not meeting this definition.

3. Grievances will be processed in the following manner and strictly in accordance with the following stated time limits.

STEP 1: An aggrieved employee or the Union shall present in writing, or electronically, the grievance to the aggrieved employee's Division Manager or his/her designee in person within ten (10) calendar days of the occurrence of the event(s) which gave rise to the grievance on the prescribed grievance forms which shall be standard forms used throughout the grievance procedure. The grievance shall be signed by the employee and shall state: (a) The date of the alleged events which gave rise to the grievance; (b) the specific Article or Articles and paragraphs of this Agreement allegedly violated; (c) statement of fact pertaining to or giving rise to the alleged grievance; and (d) the specific relief requested. The Division Manager or his/her designee shall, within ten (10) calendar days after presentation of the grievance, render his/her decision on the grievance in writing with copies to the grievant (if an individual employee), the Department Director, the Union, and the Human Resources Director.

STEP 2: Any grievance which cannot be satisfactorily settled with the Division Manager or his/her designee shall then be taken up with the Department Director or his/her designee. The grievance as specified in writing in Step 1 above, shall be filed with the Department Director within ten (10) calendar days after the due date for the Division Manager's response in Step 1 above. The Department Director or his/her designee shall meet with the grievant (whether it be an individual employee or the Union), the Union Steward, and the Union Representative (non-employee) within fifteen (15) calendar days and shall, within ten (10) calendar days after such meeting, render his/her decision on the grievance in writing, with copies to the Grievant (if an individual employee), the Union, the Division Manager, and the Human Resources Director.

STEP 3: Any grievance which cannot be satisfactorily settled in Step 2 above shall then be submitted to the City Manager or his/her designee. The grievance as specified in writing in Step 1 above shall be filed with the City Manager within fifteen (15) calendar days after the due date for the Department Director's Response in Step 2 above. The City Manager or his/her designee will review all written materials submitted by the grievant/Union and the Department relating to the grievance. If the City Manager or his/her designee determines that a meeting with the parties is necessary, he/she may, in his/her discretion, schedule such a meeting. (In discharge cases only, the City Manager or his designee, shall meet with the Grievant/Union if the Grievant/Union so requests.) The City Manager or his/her designee shall issue his/her decision in writing on the grievance (with copies to the Grievant, the Union, the Department Director, and the Human Resources Director) within fifteen (15) calendar days after presentation of the grievance at this step.

4. If the grievant (whether it be the Union or an individual employee) is not satisfied with the decision of the City Manager or his/her designee in Step 3 above, the grievant may request arbitration by hand delivery or by facsimile (with simultaneous mailing by regular mail) or by certified or registered mail of a written notice to the City Manager within ten (10) calendar days of receipt of the written decision of the City Manager or his/her designee. Said written notice of arbitration shall include a written statement of the position of the Union (or the individual employee) with respect to the issues upon which arbitration is being sought. Under no circumstances shall the issues to be arbitrated be expanded from the issues set forth in the original grievance filed at Step 1 of the grievance procedure.

5. Within ten (10) calendar days from receipt of such notice of arbitration, the parties (or either party) shall request a list of nine (9) qualified arbitrators from the Federal Mediation and Conciliation Service. The Union and the City will alternately eliminate one at a time from said list of names, persons not acceptable, until only one (1) remains and this person will be the arbitrator. The City and the Union will alternate in the right to first strike names in successive arbitrations with the strike of the first arbitration panel to be determined by the toss of a coin.

6. As promptly as possible after the arbitrator has been selected, he/she shall conduct a hearing between the parties and consider the grievance. The decision of the arbitrator will be served upon the individual employee or employees involved, the City and the Union in writing. It shall be the obligation of the arbitrator to make his best effort to rule within thirty (30) calendar days after the hearing. The expenses of the arbitration, including the fee and expenses of the arbitrator, shall be equally divided between the parties. Any party desiring a transcript of the hearing shall bear the cost of such transcript unless both parties mutually agree to share the cost. Each party shall be exclusively responsible for the compensation and expenses of its own witnesses and of its own representatives for purposes of the arbitration hearing.

7. The arbitrator will confine his consideration and determination to the written grievance presented in Step 1 of the grievance procedure. The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this Agreement or any part thereof or amendment thereto. The arbitrator shall have no authority to consider or rule upon any matter which is stated in this Agreement not to be subject to arbitration or which is not a grievance as defined in this Agreement; nor shall this Collective Bargaining Agreement be construed by the arbitrator to supersede applicable state and federal laws and City Ordinances or resolutions, except to the extent as specifically provided herein.

8. The arbitrator may not issue declaratory opinions and shall confine himself exclusively to the question which is presented to him, which question must be actual and existing. The party filing the grievance and requesting arbitration shall, at all times, have the burden of proving that the action taken by the non-grieving party violated a specific provision of this Agreement. The arbitrator's decision shall be final and binding; provided, however, that either party shall be entitled to seek review of the arbitrator's decision in the Circuit Court. The parties agree that the standard of review of the arbitrator's decision shall be whether the record evidence establishes that the grieving party proved that the action taken by the non-grieving party violated a specific provision of this Agreement. If the Court determines that an appeal was completely frivolous and taken in bad faith, it may assess the costs of the appeal against the losing party.

9. No decision of any arbitrator or of the City in any one case shall create a basis for retroactive adjustment in any other cases. All claims for back wages shall be reduced by any unemployment compensation and/or interim earnings that the grievant may or might have received during the period involved.

10. The resolution of any grievance by the arbitrator or by the parties resulting in retroactive adjustment, including back wages, shall be limited to a thirty (30) day period prior to the date of the filing of a grievance at Step 1.

11. It is agreed with respect to this grievance and arbitration procedure that:

- A. It is the intent of the parties that a grievance must be raised at the earliest possible time. Any grievance in order to be entertained and processed must be submitted in a timely manner by the grievant (whether the grievant be the Union or an individual employee).
- B. Grievances not submitted by the grievant in a timely manner shall be conclusively barred on the merits following the expiration of the prescribed time limit. Such a time barred grievance need not be entertained or processed, and only facts disputed as to timing will be the subject of any arbitration resulting from the matter. A grievance which is for any reason not the subject of a timely response by the City or by the Department shall require the grievant to proceed to the next step.

12. Nothing in this Agreement shall prohibit the presence of a Union representative at all steps provided in this procedure.

13. To the extent required by law, non dues-paying bargaining unit employees may avail themselves of all of the procedures under this Article. To the extent permitted by law, the Union shall have no obligation to represent any non dues-paying bargaining unit employee or pay any legal or arbitration fees and/or costs on behalf of any non dues-paying bargaining unit employee who exercises his/her rights under this Article.

14. Grievances involving interpretation and application of this Agreement and City Policies and grievances involving disciplinary action, including, but not limited to, reprimand, demotion, suspension, and discharge, may be processed through the Grievance and Arbitration procedure herein. This Grievance and Arbitration procedure shall be the sole and exclusive procedure available to bargaining unit employees to contest any and all of the aforesaid matters.

15. Except to the extent provided for in Article 31 of this Agreement, this Grievance procedure shall also be the sole and exclusive procedure available to bargaining unit employees to contest performance evaluation ratings and performance increases relating thereto; provided, however, that grievances involving such issues shall not be subject to arbitration (i.e., they may be processed through Step 3 only).

16. Nothing in this Agreement shall prevent any employee from presenting, at any time, his/her own grievance, in person or by legal counsel, to the Employer, or from having such grievance adjusted without the intervention of the bargaining agent; provided that such adjustment is not inconsistent with the terms of the collective bargaining agreement in effect and further provided that the Union President has been given a reasonable opportunity to be present at any meeting called for the resolution of such grievance. For this purpose, the Union President shall be permitted to attend such meeting while on duty. (If the Union President is unavailable, he/she may designate another Union Officer or Union Steward to attend the meeting in his/her place in on-duty status.)

ARTICLE 17 -APPLICATION OF EXISTING CITY POLICIES

1. Termination pay, mileage reimbursement, family leave, job-related physician visits, and working out-of-classification shall be governed by the Personnel Administration Ordinance and City, Departmental and/or Division policies, whichever are applicable.

2. Bargaining unit employees are required to comply with Divisional, Departmental, City, and Personnel Administration Ordinance policies and procedures. Should any employee or the Union perceive that any such policies or procedures are in conflict (e.g., Departmental policies conflict with the Personnel Administration Ordinance), the employee and/or the Union shall promptly bring this matter to the attention of the Human Resources Director. The Human Resources Director shall be responsible for advising the Union and the employee of the correct interpretation of the alleged conflicting policies. To the extent that the Human Resources Director's interpretation of the alleged conflicting policies or any action taken pursuant to those policies gives rise to a grievance under the provisions of the Grievance and Arbitration Procedure in this Agreement, the employee or the Union shall not be barred from exercising grievance and arbitration rights and remedies thereunder.

ARTICLE 18 -UNIFORMS

For the duration of this Agreement the City shall furnish and maintain uniforms and equipment in accordance with existing policies and procedures.

ARTICLE 19 -SAFETY AND HEALTH

The City agrees to comply with all safety and health laws and regulations applicable to its facilities and employees. The City further agrees that the Union may raise any safety and health issues during meetings of the Labor Management Committee under Article 7 of this Agreement. Where Management has created a workplace safety committee in a department (e.g., the Public Works Department), the unit employees shall select one unit employee from the Department to serve on such committee.

ARTICLE 20 -OVERTIME, HOURS OF WORK, AND WORK SCHEDULES

1. The Standard work week shall be comprised of forty (40) hours worked within a seven (7) day work period. Such work period shall extend from 12:00 midnight Saturday through 12:00 midnight the following Saturday. Employees covered hereunder shall normally have two (2) consecutive days off.

2. Non-exempt employees (i.e., employees not exempt from overtime under the Fair Labor Standards Act) shall be paid time and one-half their regular hourly rate of pay for hours worked in excess of forty (40) hours in any work period. For purposes of computing overtime compensation, only those hours actually worked or charged as scheduled leave, including HT, BD and EA days, shall be utilized. Unscheduled personal leave will not be used to satisfy any part of the forty (40) hours for overtime purposes.

3. Reasonable efforts will be made to equitably distribute overtime among employees within a Division and who are in the job classification performing the overtime work.

4. Overtime records shall be maintained on all employees by classification in each Division and the employee with the least amount of overtime shall have first refusal on voluntary overtime. If an employee refuses voluntary overtime, his overtime assignment record will be credited as though he had worked the overtime, and the employee with the next lowest overtime assignment record will be called. If all employees refuse to work the voluntary overtime, then the overtime can be assigned to the employee with the least amount of overtime, and it will be mandatory that this employee work the assigned overtime. If all of the Division employees in the classification in which the overtime work exists refuse the overtime, an employee in another job classification may be selected to work the overtime.

5. Overtime work will normally be voluntary; provided, however, that mandatory overtime work may be ordered in circumstances where an operational emergency exists. Further, nothing herein shall restrict the Employer from holding over a specific employee for a mandatory overtime assignment where that employee is needed to complete work to which he/she was assigned and commenced during his/her regular working hours.

6. Compensatory time (time off in lieu of overtime compensation) may be authorized by the Department Director or his/her designee; provided, however, that any such compensatory time must be taken at a mutually agreed upon time within the same work period during which the overtime work was performed.

7. Where the Department Director or the Division Head changes the work schedule (e.g., work days, starting and/or quitting time, days off, etc.) of any employee or group of employees, such changes shall be posted on applicable Departmental and/or Divisional bulletin boards and shall be communicated directly to the employee(s) involved by letter, memorandum or verbally. Unless operational considerations require otherwise, such changes shall be posted on applicable bulletin boards and shall be communicated directly to the employee(s) five (5) calendar days in advance.

8. Employees will be granted an unpaid lunch period during the work day. Additionally, employees shall be permitted a fifteen (15)-minute paid break during each one-half work shift, unless

there are unusual demands for service or other circumstances which would prevent the taking of such breaks. Work breaks will be designated by the Department Director or designee, and employees will observe the periods so designated. Work breaks may not be used to extend lunch breaks or change the hours for commencement or completion of the work day. Work breaks may not be combined or accumulated for use. In work locations where there is not a single designated work break for all employees (i.e., not all employees take their break at the same time), employees taking their designated work breaks must notify their immediate supervisor prior to leaving their job duties.

- A. Employees working the 6:00 a.m. to 2:30 p.m. shift at the Golf Course shall have their two (2) fifteen (15)-minute breaks combined and attached to their one-half (½)hour unpaid lunch period for a one (1)-hour lunch break. This lunch break shall be taken from 11:00 a.m. to 12:00 p.m. or as closely thereto as reasonable, workload permitting. Additionally, these employees shall only write in a one-half (½)-hour unpaid lunch period on their timecard.

9. Extended Hours Worked and Rest Periods:

- A. Employees covered by this agreement who work (actual work, not other forms of paid time) sixteen (16) or more hours in any twenty-four (24) hour period will be required to take a minimum of eight (8) hours rest immediately before returning to work provided, however, this rest period shall not apply if the employee is notified of the opportunity to volunteer for the shift 24 hours or more before the beginning of the volunteered shift. Unless approved by management, employees will not be permitted to volunteer for overtime if they are unable to work all or part of their next scheduled shift due to the rest period described herein. Should the eight (8) hour rest period overlap any part of the employee's next regularly scheduled shift, the employee will be paid administrative leave time (AD) for the number of hours which overlap, provided that the employee reports to work the remainder of the shift. The rest period shall count as hours worked for purposes of overtime. This provision may be suspended in City of Daytona Beach declared emergencies.

For clarification, see the following scenario:

Scenario - How the provision will apply:

Question -- The work crew is scheduled to work 6 a.m. to 4:30 p.m. and a water main break occurs. At 10 p.m. (16 hours later), the crew is still working and no relief workers are available to respond. The job is finished at 4 a.m. for a total work day of 22 hours. The crew is scheduled to return to work at 6 a.m.

Answer -- The crew will be instructed not to return to work until 12:00 o'clock (noon). (8 hour rest period). The time from 6 a.m. (normal start time) and 12:00 o'clock (noon) (when they actually report back to work) would be paid under administrative leave time (6 hours AD). However, if the employee chooses to take the entire next shift off, the supervisor will allow it and charge the employee PS for the entire shift.

ARTICLE 21 -PERSONNEL RECORDS

1. The employee's personnel record shall consist of the official personnel file maintained under the custody and control of the Human Resources Director and the local personnel file maintained under the custody and control of the employee's Department. Only those disciplinary actions recorded in an employee's personnel record shall constitute official disciplinary action for purposes of subsequent discipline or disciplinary proceedings.

2. Employees (and Union Stewards acting on their behalf) shall have the right to review their official personnel file and local personnel file; provided that such review shall take place at reasonable (off-duty) times pursuant to appointment with and under the supervision of the designated records custodian. With respect to the employee's official (City) personnel file, the record custodian shall be the Human Resources Director, or his designee. With respect to the employee's local personnel file, the records custodian shall be the employee's Department Director or his designee. Upon request, the Department Director or his designee shall make arrangements to have the local personnel file available for review by the employee or the appropriate Union Steward within two (2) business days.

3. Employees shall have the right to review and respond to any disciplinary document placed in their official personnel file or local personnel file. Any such responses shall be in writing and shall be placed in the employee's official personnel file or local personnel file, whichever is applicable.

4. No verbal warning (whether confirmed in writing or otherwise) which is over two (2) years old will be used in the determination of further disciplinary action if the employee has received no disciplinary action whatsoever for the entire two (2) year period. No written warning or written reprimand which is over three (3) years old will be used in the determination of further disciplinary action if the employee has received no disciplinary action whatsoever for the entire three (3) year period. Written warnings and written reprimands three (3) years old or less, verbal warnings two (2) years old or less, and any more severe disciplinary action (discharge, suspension, demotion, etc.) may be used without any restriction in determining further disciplinary action. (See paragraph 5 below for exception for certain suspensions.) If the City, an Arbitrator, or a court of law or administrative agency of final authority determines that a document has been placed in an employee's personnel record in error or is otherwise invalid, such document shall be stamped "INVALID PUBLIC RECORD" and shall be maintained in the employee's file unless and until removal is permitted by statutory authority.

5. A suspension of three (3) days or less, which is over seven (7) years old, will not be used to determine further disciplinary action if the employee has received no disciplinary action whatsoever for the entire seven (7) year period and the employee has received 3.5 or higher on each of his/her performance appraisals over the same time period.

ARTICLE 22 -GENERAL PROVISIONS

1. Where the City currently provides specialized tools to accomplish certain work assignments, the City agrees to continue such practice for the duration of this Agreement.

2. In the event the City sells, leases, transfers, contracts, subcontracts, or assigns any of its facilities or operations to other political subdivisions, private entities, or individuals and such action would result in the layoff of employees covered hereunder, such layoffs shall be governed by Article 12 of this Agreement. The City shall make a good-faith effort to encourage any political subdivision, private entity, or individual acquiring the City's facilities or operations to consider the employees laid off hereunder for employment. In the event such decision adversely impacts employees covered hereunder, the City shall notify the Union in writing and provide the Union with a copy of any "request for proposals" at least thirty (30) days in advance of any such sale, lease, transfer, contract, subcontract, or assignment.

ARTICLE 23 -ON-CALL --CALL-OUT

1. On-call: For the purpose of this Article, on-call shall mean that the employee must notify the appropriate supervisory or management personnel of his/her location at all times and this location must be within a reasonable response distance to the place of work. On-call does not mean the employee has to stay by an emergency phone. When an employee in a classification eligible for overtime is assigned to on-call duty, he/she will be compensated only in the event that he/she is called out, and compensation will be in accordance with paragraph 2 (i.e., Call-out) below. On-call assignments will be used only when necessary and shall not exceed one (1) work week.

2. Call-out: When an employee in a classification eligible for overtime departs from the premises after completing his/her regularly scheduled work day and is ordered and reports back to work, he/she shall be compensated for the time actually worked at one and one-half (1½) times his/her regular hourly rate or a minimum of two (2) hours pay regardless of the time actually worked, whichever is greater. Call-out compensation begins when the employee reports to his/her assigned work site ready for work. The employee on call-out will be permitted to leave the work site when the call-out work assignment is completed, unless the employee's scheduled work shift has commenced. There shall be no duplication of hours or pay.

3. Pager Duty: During periods of “pager duty” assignment and service:

A. It is recognized that the Departments have a need to assign an employee pager duty to ensure that the employee is available and in physical condition to respond to emergency situations within a reasonable time period. The following Departments are authorized to assign pager duty as follows:

- Finance:
 - One (1) employee per week in Utility Billing/Meter Services
- Police:
 - One (1) employee per week that is assigned to the Real-Time Crime Center
- Public Works:
 - Facilities Maintenance (1) – (only when the Superintendent is absent 40 hours or more)
 - Streets Maintenance (1)
 - Traffic/Sign (1)
 - Traffic/Signal (1)
- Utilities:
 - Lift Station Mechanic (1)
 - Sewer Collections/Utility Service Worker (sewer stops) (1)
 - Sewer Line Technician (1)
 - Utility Locator (1)
 - Work Crew (1) – (i.e., 4-6 employees--combination of Senior Utility Service Worker, Heavy Equipment Operator, and Utility Service Workers)

For any additional job classifications, additional number of employees, and/or additional Departments not listed above, approval from the Human Resources Director must be obtained prior to assigning employees to pager duty.

- B. Employees shall receive a minimum of three (3) hours pay at the applicable rate for call-outs during work weeks (i.e., seven (7)-day periods) of their “pager duty” assignment and service.
- C. Compensation for employees assigned and serving on pager duty that are called out shall be at the employee’s applicable straight time rate (i.e., his/her regular hourly rate). Employees assigned to and serving on “pager duty” shall not be considered on a “call-out” assignment for the purpose of minimum hours or minimum hourly rate for work assignments occurring during regular overtime (e.g., holdover) or scheduled overtime (e.g., Special Events).
- D. Employees assigned to and serving on “pager duty” for an entire week (i.e., any seven (7)-day period) shall receive a \$100 flat payment added to their compensation earned for that week. Under no circumstances shall the City be obligated to make a pro rata payment of the \$100 amount to any employee serving on “pager duty” less than the full seven (7)-day work period. Employees assigned and serving on “pager duty” agree to utilize their personal home phone and/or cellular phones as a means of communications during the assignment period.
- E. With supervisory and/or management approval, an employee other than the employee originally scheduled for “pager duty” may become eligible for the \$100 flat payment if he/she serves on “pager duty” for the entire seven (7)-day period in place of the originally scheduled employee.

4. Leisure Services Pager Duty: Leisure Services employees will be governed by the provisions of paragraphs 1 and 2 above and the following additional provisions:

- A. If needed, one (1) Leisure Services employee shall be assigned to “pager duty” from Thursday to Sunday. The employee will receive a stipend of \$40.00 if he/she serves this duty and is not called out to work. Under no circumstances will the City be required to pay a pro rata share of the stipend unless the employee serves the entire period on “pager duty”.
- B. If the employee is called out to work, then he/she will receive a minimum of three (3) hours pay at one and one-half (1 ½) times his/her regular rate even if the call is shorter than the 3-hour period.

ARTICLE 24 -MANAGEMENT RIGHTS

1. The City reserves and retains all rights, powers, prerogatives and authority customarily exercised by management, except as expressly limited or modified by a specific provision of this Agreement.

2. The Union and the employees covered under this Agreement recognize and agree that the City has the sole and exclusive right, except as specifically provided for in this Agreement, to manage and direct any and all of its operations. Accordingly, the City specifically, but not by way of limitation, reserves the sole and exclusive right to:

- a. Exercise complete and unhampered control to manage, direct and totally supervise all employees of the City;
- b. decide the scope of service to be performed and the method of service;
- c. take whatever action may be necessary to carry out the mission and responsibility of the City in unusual and/or emergency situations;
- d. schedule (including the determination of starting and quitting time, number of hours and shifts, and work week) and assign the work to the employees (including workload) and determine the size and composition of the work force;
- e. assign overtime work to employees;
- f. determine the services to be provided to the public, and the maintenance procedure, materials, facilities, and equipment to be used, and to introduce new or improved services, maintenance procedures, materials, facilities, and equipment;
- g. hire (including the right to refrain from hiring) and/or otherwise determine the criteria and standards of selection for employment (including minimum qualifications);
- h. fire, demote, suspend or otherwise discipline in accordance with applicable City, Department and Division policies;
- i. set procedures and standards to evaluate City employees' job performance including the formulation and/or amendment of job descriptions;
- j. rehire employees;
- k. maintain the efficiency of the operations of all departments of the City;
- l. determine the allocation and content of job classifications; and determine all training parameters for all City positions, including persons to be trained and the extent and frequency of training;

- m. determine whether and to what extent the work required in its operation shall be performed by employees covered by this Agreement;
- n. create, expand, reduce, alter, combine, assign, or cease any job;
- o. merge, consolidate, expand, curtail, transfer, or discontinue operations, temporarily or permanently, in whole or part, whenever, in the sole discretion of the City, good business judgment makes such curtailment or discontinuance advisable;
- p. determine the number, location, and operation of all departments and divisions thereof;
- q. contract and/or subcontract any existing or future work;
- r. establish, amend, revise, and implement any program and/or procedures, and to determine the structure and organization of City government, including the right to supervise, subcontract, expand, consolidate, or merge any department or service, and to alter, combine, eliminate, or reduce the structure of any City department, function, or any personnel amendment to or required by any function or department;
- s. conduct studies of workloads, job assignments, methods of operation, and efficiency from time-to-time, and to make changes based on such studies;
- t. control the use of equipment and property of the City;
- u. require any and/or all bargaining unit employees to submit to an examination by a medical doctor (including a psychiatrist) based upon the reasonable belief that the employee is unable to perform any or all of his assigned job duties.

3. The above rights of the City are not all-inclusive, but indicate the type of matters or rights which belong to and are inherent in the City in its general capacity as management. Any of the rights, powers, and authority that the City had prior to entering into this collective bargaining agreement are retained by the City.

4. If the City fails to exercise any one or more of the above functions from time-to-time, this will not be deemed a waiver of the City's right to exercise any or all of such functions.

5. In interpreting this Agreement, there shall be absolute and complete regard for the rights, responsibilities, and prerogatives of management. This Agreement shall be so construed that there shall be no interference with such rights, responsibilities and prerogatives, except as may be expressly provided in this Agreement.

6. If, in the sole discretion of the City Manager, it is determined that civil emergency conditions exist, including, but not limited to, riots, civil disorders, hurricane conditions, or any similar or dissimilar catastrophe, certain provisions of this Agreement may be suspended by the City Manager during the time of the declared emergency, provided that wage rates and monetary fringe benefits shall not be suspended.

ARTICLE 25 -SHIFT DIFFERENTIAL PAY

1. Shift differential will be paid to those employees permanently assigned to shifts other than first shift as follows:

- A. Second shift - \$.50 per hour
- B. Third shift - \$.75 per hour

2. The shift differential will only be paid on those hours actually worked. Personal leave time and holidays not worked will be paid at the basic hourly rate and will not include the shift differential.

3. When overtime is worked, the shift differential will be paid on the hours actually worked and will be used in computing the time and one-half rate.

4. Employees permanently assigned to a second or a third shift will receive their base hourly rate plus their shift differential. Such employees permanently assigned to the second and/or third shifts that currently receive shift differential will forfeit the pay when assigned temporarily to work the first shift.

5. Employees permanently assigned to a first shift will not receive a shift differential for coming in early or staying late (even if the temporary assignment covers a full eight (8) hours on second or third shift). Such employees permanently assigned to the first shift will receive shift differential when assigned temporarily to work the second and/or third shifts.

6. Employees assigned to a swing shift (i.e., combination of day/night--second and third shifts) in the same 40-hour work period shall be paid in accordance with the shift they work for that specific day/night. For example, if an employee works three night shifts and two day shifts, they shall be paid shift differential for the three night shifts, but will not for the two day shifts. If any employee works three day shifts and two night shifts, they shall be paid shift differential for the two night shifts only.

ARTICLE 26 -WORK STOPPAGES

1. There shall be no strikes, lockouts, work stoppages, slowdowns, mass resignations, sickouts, or other job actions or refusal to perform assigned work by the employees covered under this Agreement.

2. The parties agree that any employee who participates in or promotes any of the aforementioned activities may be discharged or otherwise disciplined by the City. Nothing herein shall restrict the City from levying different disciplinary actions against different employees based on their involvement and activities prohibited hereunder.

3. The Union recognizes that the City and the employees covered hereunder are responsible for and engage in activities which are the basis of the health and welfare of the City's citizens and that, therefore, any violation of this Article would give rise to irreparable damage to the City and the public at large. For the purpose of this Article, it is agreed that the Union shall be responsible and liable for any act by its agents, representatives, and/or officers, which act constitutes a violation of this Article. Accordingly, it is understood and agreed that in the event of any violation of this Article, the Union agrees to the issuance of legal and equitable relief against the Union, its officers, and agents in accordance with applicable laws.

ARTICLE 27 -ALCOHOL AND DRUG TESTING

1. The City, the Union, and the employees covered hereunder recognize that employee substance and alcohol abuse may have an adverse impact on the operations of the City, the image of the employees, and the general health and safety of the employees and the public.

2. Use of Intoxicating Beverages -Employees covered hereunder shall not consume any intoxicating beverage while on duty. Employees shall not possess or use any intoxicating beverage within City or Department premises or Department vehicle. No uniformed employee shall, while in uniform or any part of a uniform, consume intoxicating beverages in public view. No employee shall consume any such intoxicating beverage before reporting for duty so that there is an odor of such beverage on his/her breath when reporting for duty. No employee, while off-duty, shall drink intoxicating beverages to an extent which renders him/her unfit to report for duty (i.e., regularly scheduled, on-call, or standby duty) and/or perform his/her duties.

3. Alcohol Testing -If a Supervisor (i.e., Supervisor not in the bargaining unit) has reasonable suspicion that an employee covered hereunder has either consumed an alcoholic beverage while on duty or has consumed an excessive amount prior to reporting for duty so as to render him/her unfit for duty, the Supervisor with the approval of the City Nurse may order that employee to submit to a breath test to confirm or dispel said suspicion. Refusal to submit to such testing shall be grounds for disciplinary action up to and including termination. Consuming intoxicating beverages on duty or being intoxicated while on duty shall be grounds for dismissal.

4. Controlled Substance Policy -The City will only employ and retain persons free of controlled substances as defined by Florida State Statutes or Federal law. City employees are prohibited from using, being under the influence of, possessing, distributing, or having present in their system any controlled substance, narcotic, or other mind-altering substance. Confirmation that a controlled substance is present in an employee's system, except those prescribed by a licensed physician or other authorized medical practitioner, may result in termination. Refusal to submit to a drug test as required hereunder shall be grounds for disciplinary action up to and including termination.

5. Required Drug Tests -Employees covered hereunder (or applicants for positions covered hereunder) may be required to take a drug test when:

- A. Applying or reapplying for employment.
- B. As required by federal and/or state law or regulations (e.g., DOT).
- C. Whenever an employee who is operating a City vehicle, or operating any vehicle while on City business, is involved in an accident involving personal injury or property damage.
- D. At any time when reasonable suspicion exists that an employee has engaged in the illicit use of narcotic drugs or controlled substances.
- E. At any time within one (1) year after an employee has been counseled or disciplined for a problem with alcohol or illegal drugs, or at any time within one (1) year after an

employee has tested positive for alcohol or illegal drugs.

- F. At any time specified by an aftercare or rehabilitation program or a "last chance" agreement.

6. Collection Process -Drug tests shall be performed by a licensed medical laboratory under professionally recognized standards and procedures. Urine samples which are screened positive by the urinalysis test shall be verified and confirmed by gas chromatograph-mass spectrometry where each drug will be isolated and specified by chemical name. The following standards shall apply to the collection and analysis of urine samples:

- A. The specimen collection will occur in a medical setting.
- B. The validity of any specimen may be verified by appropriate temperature testing.
- C. Laboratory personnel shall require a driver's license or other verification of identification prior to receiving the specimen.
- D. The laboratory shall be capable of screening urine samples confirming all positive samples for all illegal drugs or classes of drugs. Split sample procedure shall be utilized.
- E. All samples screened positive shall be confirmed by using gas chromatograph-mass spectrometry.
- F. Confirmed positive urine samples shall be retained for a period of six (6) months should retesting be required.
- G. A chain of custody process with complete documentation from initial collection to final test completion shall be maintained.
- H. Laboratory test results shall be maintained in a secure location.

7. Confirmation of Controlled Substance Use -Upon confirmation of controlled substance use, the employee shall be so notified and shall be provided an opportunity to submit evidence of legal use by prescription.

8. Rehabilitative Action -In the event it deems appropriate, the City may (in addition to any disciplinary action) require an employee who tests positive on a drug test (as confirmed) or an alcohol test to enter into and successfully complete a rehabilitation or an alcohol or aftercare program as a condition to retaining his/her job. Should the City determine that such action is appropriate, the City shall require the employee to execute a written agreement acknowledging the conditions (e.g., the rehabilitation program, nature and duration of future drug tests, etc.) under which the employee will be retained. Nothing contained in this Article shall require the City to take rehabilitative action in lieu of termination. The City's decision to permit an employee to engage in rehabilitation in lieu of termination shall not constitute a precedent with respect to any other employee.

ARTICLE 28 –LEAVE

1. Personal leave is intended to be used for periodic vacation or incapacitating illness; however, earned personal leave may be used for other reasons when approved by the Department Director or his designee.

2. An employee shall submit written requests for personal leave at least five (5) calendar days prior to the commencement of the requested leave or leave period. The Department Director/designee shall grant or deny the request. It shall be the duty of the City Manager, working through Department Directors, to ensure that personal leave time is scheduled in a manner that reasonably accommodates the needs of the employee and the City.

3. Unscheduled personal leave time is strongly discouraged. The City of Daytona Beach and AFSCME agree that anything over eighty (80) hours of unscheduled absences (paid or unpaid) in any 365-day period will be considered excessive. In order to ensure equitable treatment, the following policy will be uniformly enforced throughout the collective bargaining unit:

A. At seventy-two (72) hours of unscheduled absences (paid or unpaid) in any 365-day period, the employee will receive documented oral counseling from his/her immediate supervisor.

B. At eighty and one-tenth (80.1) hours of unscheduled absences (paid or unpaid) in any 365-day period, the Director or his/her designee will take the following action:

(1) Require a doctor's certificate or sufficient documentation in the event unscheduled absences occur in the next 365-day period.

(2) Progressive disciplinary action can be taken up to and including dismissal.

When administering the aforesaid "excessive absenteeism" policy, an exception to unscheduled absences would be for qualifying FMLA leave.

Approval of personal leave which has not been scheduled in advance shall be at the discretion of the Department Director after consideration of the needs of the employee and the effect of the absence on the work of the Department. Unscheduled personal leave shall not be approved when the employee could have reasonably anticipated the need and submitted a timely request in advance.

4. An employee who anticipates an unscheduled absence from work must notify his supervisor or the office secretary each day prior to the time for commencement of work. A statement by an employee that his/her unscheduled absence is caused by disability or illness shall be considered truthful. However, if such statement is shown, by subsequent investigation, to be false, the employee making such statement shall be subject to disciplinary action up to and including dismissal.

5. An employee claiming unscheduled personal leave may be required to sign and file an appropriate form certifying as to the use, or file a doctor's certification if the claim is attributable to illness. Such certificates shall be filed with the Department Director. If the employee has been incapacitated for the period of absence or a major part thereof, he/she may be required to provide

evidence that he/she is again physically able to perform his/her duties.

6. Further details of the City's personal leave program, including accrual, usage, carryover, and other provisions, are set forth in Personnel Policies & Procedures #4, which is incorporated herein by this reference. The following are the Personal Leave Use and Personal Leave Carry-Over Tables:

Personal Leave Use

| <u>Length of Service</u> | <u>40 Hr Work Period Emp Min</u> |
|---------------------------------|---|
| 1 mo. to less than 6 mos. | 0 |
| 6 mos. to less than 1 yr. | 0 |
| 1 yr. to less than 7 yrs. | 120 |
| 7 yrs. to less than 14 yrs. | 136 |
| 14 yrs. to less than 20 yrs | 136 |
| 20 yrs. to less than 25 yrs. | 136 |
| 25 years and over | 136 |

Personal Leave Carry-Over

| <u>Work Period</u> | <u>Maximum Carry-Over</u> |
|---------------------------|----------------------------------|
| 40 hours | 960 hours |
| 20 hours | 480 hours |

7. **Bereavement Leave** – In the event of death in the immediate family, an employee shall be allowed to utilize personal leave charged as scheduled leave for up to a maximum of 40 hours per occurrence. Immediate family shall mean the employee’s wife, husband, children, parents, brothers, sisters, grandparents, mother-in-law, father-in-law, and any other person who is part of the employee’s household.

8. **Workers’ Compensation** – Employees absent due to injury incurred in the line of duty for which workers’ compensation is authorized, shall be permitted to take personal leave in addition to workers’ compensation benefits upon written request; however, in no case shall the total amount paid for both workers’ compensation and personal leave exceed the amount of wages to which the employee would have been entitled had the injury not occurred.

9. Leave of Absence – A permanent employee may be granted a leave of absence without pay or benefits for a period not to exceed twelve (12) months, regardless of whether the employee has accrued unused personal leave. Such leave may be granted for sickness, disability, jury duty, military duty, or other good and sufficient reasons, in the best interests of the City.

10. Military Leave – Employees who are commissioned reserve officers or reserve enlisted personnel in the United States military or naval service or members of the National Guard and who are subject to call or induction into federal service by the President of the United States, or when ordered and assigned by proper authority to active or inactive duty, shall be entitled to a leave of absence for the period of active or inactive service. Employees shall be entitled to pay during such periods as follows:

- A. Reserve or Guard Training – Leave for reserve or guard training shall be with pay up to a maximum of 240 hours in any one annual period. Leaves of absence for additional or longer periods shall be without pay except to the extent the employee elects to use accrued personal leave in accordance with the provisions of this Article.
- B. Active National Military Service – Reservists who are called to active national military service shall be paid an amount necessary to bring their total pay, inclusive of their total military pay, to the level earned as City employee at the time called to active military service. Payments shall not be made for longer than one (1) year from the date the employee is called to active military service. The employee shall provide verification of military earnings in order to calculate the amount due.
- C. Contributions to Retirement Plan – The City shall make contributions to the applicable retirement plan for general employees who are called to active military service for each month of service credit during such period of military service up to one (1) year, based upon the employee's rate of monthly compensation as of the date the employee left his or her position. This contribution shall be made after the employee returns to the City's workforce and completes one (1) year of satisfactory service.

11. Jury Duty – Employees summoned to jury duty during their regular scheduled working hours shall receive an amount of compensation which will equal the difference between the employee's regular pay and the compensation paid for jury duty for the time actually spent on jury duty. As a condition precedent to receiving the aforesaid jury duty compensation, the employee must present his/her jury duty summons to his/her supervisor immediately upon receipt and must notify his/her supervisor immediately upon the termination of his/her jury duty.

12. Off-Duty Court Appearances – An off-duty employee who is subpoenaed to appear in court as a witness on a matter which arose from his/her performance of his/her official duties shall be compensated for the actual time spent in court at one and one-half (1½) times his/her regular hourly rate or a minimum of two (2) hours pay regardless of the time actually spent in court, whichever is greater. All fees paid to the employee shall be submitted to the City.

13. Leave Without Pay for Personal Litigation – Leave without pay, at the discretion of the Department Director, may be granted for court attendance where the employee is the plaintiff, defendant, or a witness in civil or criminal litigation not arising from the performance of his/her official duties as an employee of the City.

14. Voting – If an employee is unable to vote in a general, primary, or special election, (for which he/she is registered and eligible to vote) because his/her hours of work do not allow sufficient time for voting, the employee's Department Director or Division Head will make the necessary arrangements to provide the employee with sufficient time to vote. The employee shall advise his Department Director or Division Head of the conflict between his/her scheduled work hours and the aforesaid election at least seven (7) calendar days in advance. Further, the employee shall provide the Department Director or the Division Head with proof that the employee is registered and is eligible to vote in the particular election with which the employee's work hours conflict.

15. Personal Leave Cash-Out Program – The Personal Leave Incentive program has been replaced with the Personal Leave Cash-Out program, whereby an employee with at least 280 hours (140 hours for part-time personnel) of personal leave in their personal leave bank may exchange 40, 60, or 80 hours or (20, 30, or 40 hours for part-time personnel) of personal leave for an equivalent amount of pay. The exchange may occur only one time per fiscal year (October – September). The 40, 60, or 80 hours or (20, 30 or 40 hours for part-time personnel) will be deducted from the employee's personal leave bank. Disbursement will occur the pay period following approval, barring any unforeseen circumstances.

16. Personal Leave Payoff Upon Separation

- A. A 40-hour-work-period employee leaving the municipal service in good standing after giving two weeks advance notice of termination shall be compensated as follows:
- 5 years of service or less – 50% of accrued leave up to the maximum annual carryover
 - More than 5 years of service – 100% of accrued leave up to the maximum annual carryover

Uncompensated hours are forfeited and shall not be reinstated if the employee is rehired.

- B. An employee who fails to give two weeks advance notice of termination shall forfeit all accrued personal leave of up to 40 hours if a 40 hour work period employee. Personal leave shall not be used as any part of the required two weeks notice of termination or to extend service.

ARTICLE 29 -HOLIDAYS

1. Employees covered hereunder shall be entitled to nine (9) paid holidays, as follows: New Year's Day, Labor Day, Memorial Day, Thanksgiving Day, the day after Thanksgiving Day, Fourth of July, Christmas Day, Martin Luther King's Birthday, and one (1) other holiday as the City Manager shall designate.

2. All full-time bargaining unit employees who are required to be on duty on any holiday covered under (1) shall be paid time and one-half (1½) their hourly rate (coded as OT) for each hour actually worked on the holiday, in addition to receiving their accrued eight (8) hours holiday pay (coded as 8 HT). Thus, if an employee works eight (8) hours on a holiday, he/she shall receive 8 OT in addition to the 8 HT; if the employee works four (4) hours on a holiday, he/she shall receive 4 OT in addition to the 8 HT. If the employee is part-time, he/she shall be paid time and one-half (1½) their hourly rate (coded OT) for each hour actually worked on the holiday, in addition to receiving their accrued holiday pay (coded as HT) which may be 4 hours up to 8 hours, depending on the average daily hours worked from the previous two weeks.

3. Holiday pay shall not be allowed if an employee has an unexcused unscheduled absence on the work day prior to or the work day following such holiday.

4. When a holiday falls on a Sunday and it is customarily celebrated on the following Monday, that Monday shall be considered the holiday. When a holiday falls on Saturday and it is customarily celebrated on the previous Friday, that Friday shall be considered the holiday. (Note: Martin Luther King's Birthday shall be celebrated in accordance with federal law on the third Monday in January of each calendar year.)

5. Birthday Program --It shall be the policy of the City to permit eligible full-time permanent employees their birthday off in accordance with the following:

- A. Employees whose birthday falls on any City holiday will take the day off as their birthday and shall be given an additional eight (8) hours holiday time.
- B. Birthday leave shall not be allowed if an employee has an unscheduled absence on the work day prior to or the work day following his/her birthday.
- C. Employees whose birthday falls on a Saturday shall celebrate their birthday on the previous Friday. Employees whose birthday falls on a Sunday shall celebrate their birthday on the following Monday.
- D. Employees who are required to be on duty on their birthday shall be given an additional eight (8) hours birthday leave.
- E. Department Directors may allow employees to take a day off other than the day of their birthday; provided that the employee submits a written request at least one (1) week prior to the date to be taken off, the date to be taken off falls within thirty (30) calendar days from the birthday week and in the same fiscal year of his/her birthday, and the request does not interfere with departmental operations.

6. Employee Appreciation Day --It shall be the policy of the City to permit eligible full-time permanent employees an Employee Appreciation Day off on their original hire date each year in accordance with the following:

- A. Employees whose original hire date falls on any City holiday will take the day off as their Employee Appreciation Day and shall be given an additional eight (8) hours holiday time.
- B. The Employee Appreciation Day shall not be allowed if an employee has an unscheduled absence on the work day prior to or the work day following his/her Employee Appreciation Day.
- C. Employees whose hire date falls on a Saturday shall observe their Employee Appreciation Day on the previous Friday. Employees whose hire date falls on a Sunday shall observe their Employee Appreciation Day on the following Monday.
- D. Employees who are required to be on duty on their Employee Appreciation Day shall be given an additional eight (8) hours Employee Appreciation Day leave, which must be taken before the end of the fiscal year.
- E. Department Directors may allow employees to take a day off other than the employee's hire date; provided that the employee submits a written request at least one (1) week prior to the day to be taken off, the day to be taken off falls within thirty (30) calendar days from the EA week and in the same fiscal year as the EA week, and the request does not interfere with departmental operations.

7. Employees must exhaust all accrued holiday, birthday and employee appreciation leave within 30 days of the date credited or will lose it unless authorization is granted by the City Manager to extend. Under no circumstances shall accrued holiday, birthday or employee appreciation leave be carried over to the next fiscal year.

ARTICLE 30 -INSURANCE

1. Health and life insurance benefits shall be provided to the employees covered hereunder in the same manner and under the same policies, procedures, and conditions as are applicable to all other City employees.

2. Should the City determine that it is necessary to reduce benefits and/or raise premiums for health and/or life insurance, it shall so notify the Union in writing at least thirty (30) days in advance of the implementation of such changes. Thereafter, upon the written request of the Union, the City shall meet with the Union within the aforesaid thirty (30)-day period to discuss the aforesaid changes; provided, however, that nothing herein shall require the City to delay the implementation of such changes.

ARTICLE 31 -WAGES

1. Original appointments, working out of class, promotional increases, outstanding performance increases, and educational incentive pay for employees covered hereunder shall be governed by City policy.

2. There shall be a wage increase for Fiscal Year 2019-2020 and Fiscal Year 2020-2021 as follows:

Implementation of a \$15.00 per hour living wage:

Effective October 6, 2019, all full-time employees earning less than \$15.00 per hour will be increased to \$15.00 per hour (or will receive a 3% increase, whichever is greater). The minimum range of all full-time classifications currently below \$15.00 per hour will be increased to \$15.00 per hour (or increased 3%, whichever is greater). The minimum of the range will remain \$15.00 per hour until such time that approved fiscal year increases (October) will result in the range meeting or exceeding \$15.00 per hour. The maximum of each of those ranges shall increase by 3%. If the employee's increase to \$15.00 per hour is 7% or more of their current rate of pay on October 6, 2019, or an employee is hired at \$15.00 per hour after October 6, 2019, then the employee will not be eligible for any other increases in FY2019-2020 as described below, unless the employee has more than seven (7) years of completed full-time service with the City of Daytona Beach as of October 1, 2019. If the employee has seven or more years of full-time credited service, then the employee will be eligible for the April 5, 2020 increase as described below. If the employee's increase to \$15.00 per hour is 3% or more, but less than 7%, then the employee will get the difference of the percentage it took to get them to \$15.00 and the 4% increase described below.

For FY2020-2021, if the increase to \$15.00 on October 6, 2019 was greater than 10%, or an employee was hired at \$15.00 per hour after October 6, 2019, the employee is not eligible for the October 4, 2020 increase outlined below unless the employee has eight (8) or more years of full-time credited service. If the increase to \$15.00 per hour was greater than 14% or an employee was hired at \$15.00 per hour after October 6, 2019, then the employee will not be eligible for the April 4, 2021 increase described below unless the employee has eight (8) or more years of full-time credited service with the City of Daytona Beach as of October 1, 2020. If the employee's increase to \$15.00 per hour is more than 10%, but less than 14%, then the employee will get the difference of the percentage it took to get them to \$15.00 and the 4% increase described below.

Employees in classifications that the minimum salary range has been adjusted to the \$15.00 that are selected for promotional opportunities to higher graded positions will receive a 3% increase to a classification one (1) grade higher and a 6% increase to a classification that is two grades higher. The only exception to this promotional increase will be if the minimum of the range of the higher classification is greater than the 3% or 6% increase will be.

All other employees will receive increases as described below:

- October 6, 2019 – 3% across the board. The minimum and maximum of each range shall increase 3%. The minimum range of full-time classifications increased to \$15.00 will not increase until such time that the approved fiscal year increases (October) will result in the minimum of the range increasing to \$15.00 per hour or greater.

- April 5, 2020 – 4% increase for all active employees, except those described above. The minimum and maximum of each range will not increase. Employees at the maximum of the pay range will be eligible to receive a lump sum payment of 2%. For applicable employees, the base salary will be increased to the maximum of the range and the employee will receive the difference of that amount and 2% in a lump sum payment.
- October 4, 2020 – 3% across the board. The minimum and maximum of each range shall increase 3%. The minimum range of full-time classifications increased to \$15.00 will not increase until such time that the approved fiscal year increases (October) will result in the minimum of the range increasing to \$15.00 per hour or greater.
- April 4, 2021 – 4% increase for all active employees, except those described above. Minimum and maximum of each range will not increase. Employees at the maximum of the pay range will be eligible to receive a lump sum payment of 2%. For applicable employees, the base salary will be increased to the maximum of the range and the employee will receive the difference of that amount and 2% in a lump sum payment.

3. For the duration of this agreement, employees covered hereunder shall be rated on their anniversary date using the performance evaluation. For the fiscal years October 1, 2019 through September 30, 2021, there will be no merit increase associated with the performance review. Wage increases (if any) for Fiscal Year 2021 – 2022 (and thereafter) shall be established through negotiations and, if necessary, the impasse resolution procedures under the Florida Public Employees Relations Act.

4. Permits & Licensing Division bargaining unit employees that possess more than one state inspection certification (building, plumbing, electrical, mechanical, fire, etc.) and utilize such certification on a regular basis shall receive incentive pay of \$100 per month for such certification. This incentive pay is limited to five such certification(s) above what is required for the classification.

5. Every effort should be made to discuss sub-satisfactory performance with bargaining unit employees prior to the annual performance review period so as to prevent employees being placed on PIP without prior notice of improvements needed. Should an employee receive an unsatisfactory merit rating, the employee's supervisor shall develop with the employee and the Department or Division Head, a Performance Improvement Plan (PIP). The PIP shall include a written, detailed plan to assist the employee in attaining a satisfactory performance rating. This plan shall be implemented not later than five (5) working days following the date the performance appraisal was discussed with and given to the employee. During the period of time the PIP is in effect, the employee and supervisor shall meet at least weekly to discuss and review the employee's progress.

If at the end of the sixty (60) day PIP period the employee has successfully completed the performance plan objectives, he/she will then be rated satisfactory on that date.

If at the end of a sixty (60) day PIP period the employee still fails to achieve a satisfactory rating, the employee will be terminated or an extension of the sixty (60) day period may be granted, but in no case shall the PIP exceed an additional sixty (60) days.

It is agreed to by the parties that an employee may proceed directly to the grievance process to appeal the decision. In the event the employee chooses not to appeal the decision, the employee may elect to resign prior to the imposition of the termination.

6. The following bargaining unit classifications shall continue to receive an Auto Allowance:

- Building Inspector
- Code Enforcement Inspector/Neighborhood Services Inspector
- Electrical Inspector
- Fire Inspector
- Plans Examiner/Permits Coordinator
- Plumbing Inspector
- Utility Inspector
- Any other classifications approved by the City Manager or his/her designee

NOTE: If the City decides to provide a vehicle to any employee of the classifications listed above, that employee's auto allowance will cease immediately.

7. The following bargaining unit classifications shall continue to receive a Tool Allowance of \$15.00 per week:

- Vehicle Mechanic
- Fleet Services Welder/Project Coordinator

8. Code Enforcement Inspectors and Neighborhood Services Inspectors that possess a FACE Certification Level 2 or 3 shall receive \$50 per month for each certification. Also, employees that possess a Code Enforcement Professional (CEP) Certification shall receive an additional \$25 per month for such certification.

9. Vehicle Mechanic and Fleet Services Welder/Project Coordinator that possess ASE certifications shall receive \$50 per month for such certification. This incentive pay is limited to 5 such certifications above what is required for the classification.

ARTICLE 32 -LIMITATION ON OPENING NEGOTIATIONS

This Agreement contains the entire agreement of the parties on all matters relative to wages, hours, working conditions, and all other matters which have been, or could have been negotiated by and between the parties prior to execution of this Agreement. Neither party shall be permitted to reopen or renegotiate this Agreement, except for economic issues and if other employee units are granted an across-the-board or merit increase, for the period from its effective date through and including September 30, 2021.

ARTICLE 33 – DURATION OF AGREEMENT

This Agreement, as amended, shall be effective upon approval and execution of the parties and shall remain in full force and effect until and including September 30, 2021. The parties, however, shall have the right to reopen this Agreement for the limited purpose and under the conditions set forth in Article 32 (Limitation on Opening Negotiations).

IN WITNESS THEREOF, the parties attach their hands and seals the below-written dates:

AMERICAN FEDERATION OF STATE,
COUNTY, AND MUNICIPAL EMPLOYEES
FLORIDA COUNCIL 79

By: [Signature]

Attest: Bob Bert

Date: 9/15/19

Witnesses:

[Signature]

[Signature]

CITY OF DAYTONA BEACH
A Florida Municipal Corporation

By: [Signature]
Mayor

Attest: Letitia LaMagna
City Clerk

Date: 9/19/19

Witnesses:

[Signature]

[Signature]

APPROVED BY: [Signature]
City Attorney