

AGREEMENT

between

CITY OF PORT ORANGE, FLORIDA

and

**COASTAL FLORIDA POLICE BENEVOLENT
ASSOCIATION LIEUTENANTS**

PERC CERT. # 5561

October 1, 2023, through September 30, 2024

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AGREEMENT

THIS AGREEMENT is entered into by and between the City of Port Orange, hereinafter referred to as the "City", and the Coastal Florida Police Benevolent Association (PBA), hereinafter referred to as the "Association".

Whenever a male gender is used in this Agreement, it shall be construed to include male and female employees.

Whenever the phrase "in writing" is used in this Agreement, it shall be construed to include regular mail, facsimile, and electronic mail (email) as an acceptable form of written communication unless specifically stated otherwise in a particular Article.

WITNESSETH:

WHEREAS, This Agreement reduces to writing the understandings of the City and the Association to comply with the requirements contained in Chapter 447, Florida Statutes, as amended; and

WHEREAS, This Agreement is designed to provide for an equitable and feasible procedure for the resolution of differences concerning the enforcement of this Agreement in accordance with grievance procedures contained herein; and

WHEREAS, This Agreement is entered into to promote a harmonious relationship between the Association and the City and to encourage more effective employee service in the public interest; and

WHEREAS, The Association understands that the City is engaged in furnishing essential public service which affects the health, safety and welfare of the general public; and the Association recognizes the need to provide continuous and reliable service to the public; therefore, it is hereby agreed:

ARTICLE 1

ASSOCIATION RECOGNITION

1.1 The City recognizes the Association as the exclusive collective bargaining representative for those employees in the following bargaining unit, as defined in PERC Certification # 5561, dated May 29, 2008.

Included: All sworn Police Lieutenants in the Port Orange Police Department.

Excluded: Police Officers, Sergeants, Captains, Chief, clerical employees, Service Officers and all other employees.

Any Amendment to the unit certified by Public Employees Relations Committee will be entitled to the terms and benefits of this Agreement.

ARTICLE 2

MANAGEMENT RIGHTS

- 2.1 The Association recognizes that it is the function of management to determine and direct the policies, mode and method of providing its services without any interference in the management and conduct of the City's operations.
- 2.2 The City shall continue to exercise the exclusive right to take any action it deems necessary or appropriate in the management of its operations and the direction of its work force. The City expressly reserves all rights, powers and authority customarily exercised by management, including all inherent and common law management rights and functions which the City has not expressly modified or delegated by express provisions of this Agreement. Unless specifically addressed in this Agreement nothing in this Agreement shall be construed to limit or impair the right of the City to exercise its own discretion in determining whom to employ, and nothing shall be interpreted as interfering in any way with the City's right to alter, rearrange, or change, extend, limit or curtail its operations or any part thereof.
- 2.3 Without limiting the provisions of Sections 2.1 and 2.2, but in order to clarify some of the more important unilateral rights retained by management, the City shall have the following unilateral management rights, unless such rights are specifically limited and in direct conflict with this Agreement or the law:
- (a) To determine the size and composition of the work force, including the number or composition of employees assigned to any particular operation, shift or turn:
 - (b) To determine the number and type of equipment, vehicles, materials, and supplies to be used, operated, or distributed:
 - (c) To hire, rehire, promote, lay-off and recall employees:
 - (d) To reward or reprimand, discharge or otherwise discipline an employee for just cause.
 - (e) To evaluate, maintain, and/or improve the efficiency of employees;
 - (f) To create or abolish job classifications and the minimum qualifications for job classifications, and to determine the amount and type of work;

- (g) To determine the assignment of work, and to schedule the hours and days to be worked on each job and each shift, unless contrary to a specific provision of this Agreement;
- (h) To discontinue, temporarily or permanently, in whole or in part its operations and to transfer, or assign all or any part of its operation or any part thereto to new facilities;
- (i) Should management have a reasonable basis to believe the employee is not physically capable of performing his job they may require an employee to take a physical or mental examination, given by a health service or a physician or psychiatrist selected by the City;
- (j) To determine the location, method, means and personnel by which operations are to be conducted;
- (k) To introduce new, different or improved methods, means and processes of conducting the operations, transportation, maintenance and service of the employer;
- (l) To determine the work to be performed during the employees' regular work day and require that all work be performed in a satisfactory and professional manner; and
- (m) To assign overtime work in accordance with the provisions of this Agreement.

2.4 The City reserves and retains in full and completely any and all management rights, prerogatives and privileges except to the extent that such rights, prerogatives and privileges are specifically limited by some express provision of this Agreement or the law, and has no obligation to bargain over the decision to exercise such rights, prerogatives and privileges, or the effect of such decisions.

2.5 The City's failure to exercise any function or right hereby reserved to it, or its exercising any function or right in a particular way, shall not be deemed a waiver of this right to exercise such function or right, nor preclude the City from exercising the same in some other way not in conflict with the express provisions of this Agreement.

2.6 The City, subject to State law, has the sole authority to determine its purpose and mission and the amount and allocation of the budget.

2.7 If, in the sole discretion of the City, it is determined that civil emergency conditions exist, including but not limited to riots, civil disorders, hurricanes or other weather conditions, or similar catastrophes the provisions of this

Agreement may be suspended during the time of the declared emergency except for the economic provisions.

2.8

However, the exercise of the above rights shall not preclude employees or their representative from raising grievances or seeking other relief, should decisions on the above matters have the consequence of violating the terms and conditions of this Agreement or the law. The City of Port Orange acknowledges that the language in this agreement is not a waiver of any of the Association's rights under federal and Florida statutes nor is it a waiver of any employee or group of employees' rights under federal or Florida statutes.

ARTICLE 3

EMPLOYEE RIGHTS

- 3.1 The parties hereto agree not to interfere with the right of any employee to become a member of the Association, withdraw from membership from the Association, or refrain from becoming a member of the Association.
- 3.2 Nothing contained in this Agreement shall foreclose any employee covered by this Agreement from pursuing any right or remedy, not including arbitration, as defined in that Section available under this Agreement, without representation by the Association. Further, nothing contained in this Agreement shall foreclose any employee from discussing a non-contract problem directly with his immediate supervisor or other Departmental Official without the intervention of the Association, provided that the immediate supervisor or other Departmental Official agreed to discuss and/or attempt to resolve the matter.
- 3.3 In matters involving a formal grievance filed pursuant to the grievance Article of this Agreement, the Association shall be given the right to be present at any meeting called for the resolution of such grievance.
- 3.4 The employees and the Association expressly reserve all rights, powers, and authority customarily exercised by an employee organization or employees in a collective bargaining unit, including all inherent and common law rights and functions. Nothing in this Agreement shall be construed to be a waiver of any of these rights of the Association or the employees.

ARTICLE 4

STRIKES AND LOCKOUTS

- 4.1 The Association and bargaining unit members shall have no right to instigate, promote, sponsor, engage in, or condone any work stoppage, boycott, slow-down, strike, intentional disruption of City operations, or to withhold services for any reason. Each employee who holds a position in the Association occupies also a position of special trust and responsibility in maintaining and bringing about compliance with this Article, the strike prohibition of Section 447.505, Florida Statutes, and the Constitution of the State of Florida, Article 1, Section 6.
- 4.2 The Association, its officers, agents, stewards and other representatives agree that it is their continuing obligation and responsibility to promote compliance with this Article and the law, including their responsibility to abide by the provision of this Article and the law by remaining at work during any interruption which may be initiated by others; and including their responsibility, in the event of breach of this Article or the law by other employees, and upon the request of the City, to encourage and direct employees violating this Article or the law to return to work, and to disavow the strike publicly.
- 4.3 In addition to the penalties set forth in Section 447.507, Florida Statutes, any and all employees who violate any provision of the law prohibiting strikes or this Article may be disciplined, up to and including discharge, by the City.
- 4.4 The circuit courts of this State shall have jurisdiction to enforce the provisions of this Section by ex parte injunction and contempt proceedings, if necessary.
- 4.5 For the purpose of this Article, it is agreed that the Association shall be responsible and liable for any action committed by any of its officers, agents, and/or representatives, which act constitutes a violation of State law, City ordinance or policy, or the provisions herein. In addition to all other rights and remedies available to the City under State law, in the event of a breach of the provisions herein, the City shall have the right, without further notice, to suspend this Collective Bargaining Agreement and withdraw recognition from the Association.
- 4.6 The City agrees that there will be no lockouts for the duration of the Agreement.

ARTICLE 5

DUES DEDUCTION

- 5.1 Upon receipt of a written authorization from an employee covered by this Agreement, the City will deduct from the employee's pay each pay period the amount owed to the Association by each employee for dues. No authorization shall be allowed for payment of any collections of fines, penalties or special assessments. The City shall remit monies collected to the Treasurer of the Association monthly. The City remittance will be deemed correct if the Association does not give written notice to the City within thirty (30) calendar days of a remittance, of its belief with reasons stated therefore that the remittance is incorrect. It shall be the responsibility of the Association to notify the City Manager or his designee in writing of any change in the amount of dues to be deducted at least thirty (30) days in advance of said change. The City shall provide for 52 weekly deductions or 26 biweekly deductions, to occur each pay day. The City shall include the name of the employee, the amount deducted and for what period the deduction is for on each remittance report.
- 5.2 The Association shall indemnify the City and hold the City 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 for complying with any of the provisions of this Article. If there is an amount deducted in excess of what is authorized by this Agreement, the employee affected shall seek recourse with the Association and not the City.
- 5.3 An employee may revoke his authorization for deduction of dues provided the employee gives thirty (30) days written notice to the City and the Association. Upon receipt of such notification, the City shall terminate dues on the pay date immediately following the expiration of the thirty (30) day notice period.
- 5.4 No deduction shall be made from the pay of an employee for any payroll period in which the employee's net* earnings for that payroll period are less than the amount of dues to be checked off. "Net earnings" shall mean net after required deduction of federal taxes, social security, pensions, credit union, and health and life insurance.
- 5.5 In the event the Association notifies the City of a change in dues by certified mail from the Association President or designee, or delivers additional dues authorization to the City Human Resources Director, it is agreed and understood that the City shall have thirty (30) days from the date of delivery in which to commence the dues deduction procedure.

ARTICLE 6

PERSONNEL RECORDS

- 6.1 Each employee covered by this Agreement shall have the right to inspect his official personnel file provided, however, that such inspection shall take place during working hours at the location where the official personnel file is kept. The employee shall have the right to make duplicate copies, at his own expense, of any item contained in his official personnel file. The official personnel file is maintained in the City's Human Resources Office.
- 6.2 Employees shall have the right to file a written response to any letter of reprimand or other document which is placed in the employee's official personnel file, as a result of supervisory action or citizen complaint. At the employee's request, any such written response shall be included in the employee's official personnel file together with the letter of reprimand or other document against which it is directed.

ARTICLE 7

PROBATIONARY EMPLOYEES

- 7.1 If a Lieutenant is hired from outside the Department, he or she shall be classified as probationary employees for the first three hundred and sixty five (365) calendar days of continuous, uninterrupted employment during which time such employees may be laid-off, disciplined, or discharged with or without cause and without recourse to the grievance and arbitration procedures of this Agreement. Shorter periods of employment shall not be cumulative but during such period, such new members shall be subject to other terms and conditions of this Agreement, except as limited in this Agreement. Provisions as to seniority shall not apply to probationary employees; rather, seniority shall date back to the initial or adjusted date of employment after an employee successfully completes his probationary period. If more than one employee is hired on the same day or has the same adjusted date of employment, seniority shall be determined by the last four (4) digits of their social security numbers, the employee with the lowest number being considered the employee with the most seniority, subject to the provisions of Article 8.
- 7.2 All probationary employees as defined in Section 7.1 of this Article shall be entitled to the leave and holiday provisions of this Agreement.
- 7.3 The employee's starting date of employment for purposes of calculating his probationary status, longevity pay and seniority shall be adjusted if the employee takes leave without pay. For example, should an employee take five (5) days of leave without pay, the employee's starting date of employment will be adjusted by moving the employee's original date up five (5) days. Should the employee be in his probationary period at the time he takes leave without pay, the employee's probationary period shall be extended in proportion to the days he was on such leave.
- 7.4 The City shall have the unilateral management right to extend the probationary periods set forth in Section 7.1 for up to 180 days in lieu of discharging the employee. The decision to extend the probationary period shall not be subject to the grievance and/or arbitration procedures of this Agreement.

ARTICLE 8

SENIORITY

- 8.1 For the purpose of this Agreement, employees shall have three (3) types of seniority: Department Seniority, Time in Grade Seniority and City Seniority. Department Seniority is defined as the length of continuous, uninterrupted service in the Port Orange Police Department. Time in Grade Seniority is defined as the length of continuous, uninterrupted service as a Lieutenant in the Port Orange Police Department. City Seniority is defined as the length of continuous, uninterrupted service with the City, measured from the employee's initial or adjusted date of employment.
- 8.2 Continuous service shall be considered as having been interrupted when the employee:
- (a) Resigns;
 - (b) Is discharged;
 - (c) Takes unauthorized leave of absence leave; or
 - (d) Is absent due to a lay-off for more than twelve (12) months.
- 8.3 In the event of a lay-off or elimination of a rank/position within the Department the following factors as listed below, shall be considered by the City; however, only where "a" and "b" are relatively equal shall "c" be the determining factor:
- (a) Time in Grade Seniority as defined in Section 8.1;
 - (b) Department Seniority as defined in Section 8.1;
 - (c) Ability to perform work in a satisfactory manner and prior conduct.
- 8.4 For the purpose of filling any employment opening in the City, the City shall give preference to previously laid off employees over new hires provided that the laid off employee meets the minimum qualifications for the position; provided that there are no other eligible laid-off employees from the Department with an opening; and provided they are otherwise eligible to be rehired by the City.
- 8.5 Under no circumstances shall any employee be entitled to accrual of seniority or any other employee benefit during the period of his lay-off.
- Should an employee be hired after having been on lay-off, the employee will retain his seniority.
- 8.6 For purposes of a recall, employees shall be returned to their former position in the inverse order of lay-off. No laid-off employee shall retain recall rights beyond one (1) year from date of lay-off.

8.7 In the event of a Reduction in Force or lay-off at the Lieutenant rank, Lieutenants will roll down to their previous rank of Sergeant. In the event of a reduction in rank from Lieutenant to Sergeant those personnel affected by such moves shall be given first consideration and preference if/when those positions reopen.

ARTICLE 9

BILL OF RIGHTS

- 9.1 The Parties agree to abide by the Law Enforcement Officer's and Correctional Officer's Bill of Rights, Section 112.532, Florida Statutes, as amended from time to time, which is incorporated herein by reference.
- 9.2 The findings of internal affairs investigations shall be labeled "sustained" (guilty as charged), the investigation disclosed sufficient evidence to clearly provide the allegations made in the complaint; or "not sustained" (not guilty), the investigation fails to discover sufficient evidence to clearly prove or disprove the allegations made in the complaint; "exonerated", acts did occur, but were justified, lawful, and proper or "unfounded", the investigation indicates that the act(s) complained of did not occur or failed to involve police personnel;. No other terminology may be used.
- 9.3 Only complaints or incidents from citizens resulting in formal disciplinary action (formal reprimand, suspension, suspension, demotion, termination or other adverse action defined by policy), will be inserted in an officer's personnel record located in the Human Resources office.
- 9.4 Reserved
- 9.5 The charge "conduct unbecoming an officer" and all similarly vague charges will not be employed by the City.

ARTICLE 10

BULLETIN BOARD

10.1 The City shall provide the Association with a Bulletin Board located in the Patrol Division side of the building.

10.2 The Association agrees that it shall use space on the Bulletin Board provided for in Section 10.1, for the posting of the following:

Notices of Association Meetings
Association Elections of Officers (not including representation elections)
Reports of Association Committees
Rulings and Policies of the Association
Recreational & Social Affairs of the Association
Notices of Meetings by Public Bodies
Notices of Ratification Meetings
Contract Administration

In no event shall the Bulletin Board be used to post political materials or controversial materials which adversely reflect upon the City of Port Orange, its independent agencies, its employees, elected officials, or any labor organization among its employees.

10.3 Failure of the Association to follow the procedures for the posting of materials and notices on the Bulletin Board shall result in the materials or notices being removed from the Bulletin Board by the City and in suspension of all Bulletin Board privileges.

ARTICLE 11

TRAINING AND TUITION REIMBURSEMENT

- 11.1 The City will make every reasonable effort to enable the employee to attend required in service training during the employee's normal working hours. When necessary to attend in-service training with schedules different from the normal work schedule, a Lieutenant's work schedule can be adjusted with forty-eight (48) hours' notice to the Lieutenant.
- 11.2 Where the City requires any employee to attend supervisory training and/or training in specialized police techniques and/or any other job-related training, the City will make every reasonable effort to schedule the employee attending such training during his normal working hours. When necessary to attend training classes with schedules different from the normal work schedule, a Lieutenant's work schedule can be adjusted.
- 11.3 This Article shall not in any manner apply to any training required by the Florida Police Standards Board to re-obtain Police Lieutenant certifications for purposes of employment with reinstatement to the Department in the event that such certification shall have lapsed, expired, and/or terminated.
- 11.4 Subject to budgetary constraints and the availability of funds, the City agrees to reimburse the employee for tuition (excluding fees categorized as "other fees") up to two (2) approved classes per semester (fall, summer, spring). The employee will be reimbursed at the Daytona State College (DSC) rate. The City will reimburse the employee for tuition (excluding fees categorized as "other fees") for graduate course work at the rate of one half (1/2) the cost of tuition for graduate course work at the University of Central Florida (UCF) rate, regardless of where the courses are taken. Courses will be paid on a reimbursement basis with proof of payment and grade. The City will require each employee to remain in the service of the City for one (1) year after completion or termination of the most recent class paid for by the City or the employee will be required to reimburse the City for the costs of tuition unless the employee is terminated by the City. The obligation will begin on the day after the school semester is completed. The decision for approval or disapproval of courses is not subject to the grievance and arbitration provisions of this Agreement. The employee shall not be reimbursed by the City if the course is not passed with a grade of "C" or better or a passing grade on a pass/fail system or if grades are not received within three (3) months after the completion of the course.
- 11.5 The City of Port Orange will also provide reimbursement for internet and correspondence courses to the employee at the same reimbursement rates as stated in section 11.4 above. Employees who wish to complete internet-based courses, which are job related, but do not relate to a college degree,

will be monitored by Department Directors who may approve and pay for the courses. Employees shall not be allowed to work on internet-based college courses during normal work hours. If an employee wants to complete college courses using the internet, he or she may do so after normal working hours using City computers.

11.6 Employees must have completed twelve (12) months of service with the City to be eligible for taking courses as allowed under this article.

11.7 It is clearly understood that all tuition reimbursement is subject to budget constraints and availability of funds as approved by Council. The funds are for use City Wide and approval of funds will be based on a first come, first serve basis upon applying for reimbursement prior to the course beginning. All documentation must be complete when turned into the Human Resources department in order to be considered for tuition reimbursement. Notwithstanding the aforesaid, the Department Head may within his discretion, allocate from the various Police Department's operational funds to provide tuition reimbursement for employees.

ARTICLE 12

DISCIPLINARY ACTION

- 12.1 In the event an employee is discharged, suspended or demoted, the City agrees that he shall be provided with written notification of the action. The City agrees that no employee shall be disciplined except upon sustained findings.
- 12.2 Except in extraordinary circumstances, before the employee is discharged or suspended without pay for disciplinary reasons the notification described in Section 12.1 will be provided to the employee in advance of the action so as to give the affected employee an opportunity to present his position pursuant to Civil Service Rules.
- 12.3 In the event an employee becomes the subject of a formal Departmental or City investigation arising from a complaint or allegation, the Department or the City, whichever is appropriate, shall notify the employee of the disposition of the complaint upon the conclusion of the formal investigation. Disciplinary actions except oral reprimands are subject to the grievance procedure, Article 14 or Florida Statutes Section 112.532, whichever is applicable.
- 12.4 Disciplinary action, except termination or emergency suspension as detailed in Department Directive section 26.4, shall not become effective until such time that an employee has exhausted the grievance process through Step 4, or until such time that the time period for initiating Step 1 of the grievance process has expired.

ARTICLE 13

LEAVE OF ABSENCE

- 13.1 **Family Medical Leave Act (FMLA):** The City of Port Orange will grant leave to eligible employees, in accordance with the Family and Medical Leave Act of 1993, as amended from time to time (FMLA), and in accordance with the City General Administrative Policy 1-22.
- 13.2 Holidays, sick leave, annual leave, and any other benefits based on time spent in the employ of the City shall not accrue (or be credited) during a leave of absence without pay, provided however, that if permitted by the Retirement Plan, the employee may maintain his retirement credit by paying both his and the City's share of the Retirement Plan premiums. The employee shall be responsible for their portion of insurance premiums for single and dependent coverage during unpaid leave of absence.
- 13.3 Longevity increases, performance increases, and any other increases for which an employee may become eligible based in whole or in part on length of service with the City shall not be credited during any period of unpaid FMLA leave of absence.

ARTICLE 14

GRIEVANCE PROCEDURE

14.1 In a mutual effort to provide a harmonious working relationship between the parties to this Agreement, it is agreed and understood that there shall be a procedure for the resolution of grievances between the parties and that such procedure shall cover grievances involving employee discipline or the application, violation, or interpretation of this Agreement. However, grievances of disciplinary actions, other than suspension, demotion or termination, shall not proceed beyond Step 3 of the grievance process and shall not be subject to arbitration.

14.2 Every effort will be made by the parties to settle any grievance as expeditiously as possible. Any grievance not answered by Management within the prescribed time limits shall automatically advance to the next higher step. Should the grieving party fail to observe the time limits as set forth in the steps of this Article, his grievance shall be considered conclusively abandoned.

14.3 All grievances shall begin at Step 1, except the following grievances shall begin at Step 3:

(1) A grievance that is general in nature, in that it applies to a number of employees, rather than a single employee, or

(2) A grievance that is directly between the Police Benevolent Association and the City, or

(3) A grievance involving formal disciplinary action (suspension, demotion, or termination).

The above referenced grievances shall be reduced to writing, as outlined in 14.4, Step 1, and filed within ten (10) work days of the occurrence of the event(s) or notification of discipline.

14.4 Grievances shall be presented in the following manner:

Step 1. The employee, employee representative, or the Association shall first present his/her grievance in writing to the employee's Captain within ten (10) workdays of the occurrence of the event(s) which gave rise to the grievance or from the date on which the employee becomes knowledgeable of the cause of action. If the event(s) which gave rise to the grievance occurred at a time when the employee was on annual leave, sick leave, or other compensated leave, the ten (10) work days period shall commence running immediately upon the employee's return from such compensated

leave. The Captain shall answer the grievance in writing within (10) work days of the presentation of the grievance. The answer shall be given to the employee, with a copy to the Association. All grievances must be reduced to writing and submitted on the then- current grievance form, which contains the following information:

- (a) The specific article and section of the Agreement alleged to have been violated by the City;
- (b) A full statement of the grievance, giving a complete description of the facts, dates, and times of the events involved in the alleged violation, and the specific remedy desired by the grievant;
- (c) Signature of grievant or signature of the association representative and the date signed. In case of a group of employees filing a single grievance, all grieving parties will be identified, and the association representative shall sign and date on behalf of the unit.
- (d) Designation of the association representative (must be an elected officer, representative, or steward) if the grievant requests association representation.

Unless the grievance is presented in the manner set forth in this Section, it shall be deemed not to exist.

Step 2. Any grievance which cannot be satisfactorily settled with the Division Captain shall next be presented to the Department Head or their designee. The grievance as specified in writing in Step 1 shall be submitted within ten (10) work days after the receipt of the answer. The Department Head or Designee may meet with the employee and his/her representative within ten (10) work days after receipt of the grievance (or such longer period of time as is mutually agreed upon). The Department Head or Designee shall render their decision in writing and send it to the employee, with a copy to the Association, within ten (10) work days after the grievance meeting or receipt of grievance, if no meeting is held.

Step 3. Any grievance which is not resolved at Step 2, shall next be presented to the City Manager within ten (10) work days after the receipt of the Step 2 answer. The City Manager shall meet with the employee and/or his/her representative within ten (10) work days after receiving the grievance. The City Manager shall render his/her decision in writing within ten (10) work days after the grievance meeting and send it to the employee, with a copy to the Association.

Step 4 - Arbitration. In the event a grievance processed through the grievance procedure has not been resolved in Step 4 the Association shall

request, in writing, that the grievance be submitted to arbitration within ten (10) work days after the City Manager renders a written decision on the grievance.

The Arbitrator may be any impartial person mutually agreed upon by and between the parties. If an impartial Arbitrator cannot be agreed upon within ten (10) work days after the date the grievance has been submitted for Arbitration, the Association shall request the Federal Mediation and Conciliation Services to furnish a panel of seven (7) Arbitrators within twenty (20) work days after the grievance is submitted to arbitration. Within ten (10) workdays of receipt of the panel, each party shall have the option to alternatively strike three (3) names from the list in alternating fashion, thus leaving the seventh (7th) which will give a neutral or impartial Arbitrator.

The City and the party requesting arbitration shall attempt to mutually agree in writing as to the statement of the grievance to be arbitrated prior to the arbitration hearing, and thereafter, the Arbitrator shall confine his decision to the particular grievance thus specified. In the event the parties fail to agree on the statement of the grievance to be submitted to the Arbitrator, the arbitrator will confine his consideration and determination to the written statement of the grievance presented in Step 1 of the grievance procedure. No new issues or arguments may be raised for the first time at arbitration, and may not be considered by the arbitrator.

The Arbitrator shall fashion an appropriate remedy for violations of the provisions contained in this Agreement.

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 hereto. 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 Agreement be construed by the Arbitrator to supersede applicable laws in existence at the time of the signing of this Agreement, except to the extent as herein provided. The arbitration hearing shall be conducted in accordance with the rules of procedure promulgated by the American Arbitration Association.

Each party shall bear the expense of its own witnesses and of its own representatives for purpose of the arbitration hearing. The impartial Arbitrator's fees and related expenses and expenses in retaining a hearing room, if any, shall be be equally divided between the parties. Any party desiring a transcript of the hearing shall bear the cost of such transcript unless both parties mutually agree to share said cost.

The Arbitrator's award shall be final and binding on the parties, except to

the extent provided by the Florida Arbitration Act.

14.5 Consistent with the provisions of the Florida Public Employees Relation Act, Chapter 447 Florida Statutes unless amended, it is mutually acknowledged and agreed that this Agreement shall be administered within the amounts agreed to by the City Council for funding of the Agreement. Accordingly, and notwithstanding any other provision of the Agreement, the Arbitrator shall have no authority, power or jurisdiction to construe any provision of the law, statute, ordinance, resolution, rule or regulation or provision of this Agreement to result in, obligate or cause the City to have to bear any expense, debt, cost or liability which would result, directly or indirectly, in the City exceeding the amounts initially agreed to by the City council for the funding of this Agreement as agreed upon by the parties. Any such award which contravenes or is not in compliance with the provisions of this paragraph shall be null and void.

14.6 It is the mutual desire of the City and the Union that grievances shall be adjusted as quickly as possible and to that end the time limits set forth in this Article are to be strictly enforced. The time limits may only be extended by mutual written agreement. Failure of the grievant to observe the time limits for any steps in this Article without a mutually agreed written extension of time shall terminate the grievance. The term "work days" as used in this article includes Monday through Friday of each work week regardless of the grievant's work schedule. Saturdays, Sundays, and holidays as set forth in this Agreement shall not be considered "work days" even if work is assigned on these days. For the purpose of calculating time limits, the day on which a grievance, or a reply by management to a grievance is received, shall not be counted.

ARTICLE 15

HOLIDAYS

15.1 It is recognized that the unit will recognize twelve (12) official holidays. The City will recognize the following as paid holidays for employees in this unit:

1. New Year's Day
2. Martin Luther King Jr. Birthday
3. Good Friday
4. Memorial Day
5. Juneteenth
6. Independence Day
7. Labor Day
8. Veteran's Day
9. Thanksgiving Day
10. Friday after Thanksgiving
11. Christmas Eve
12. Christmas Day

In addition to the paid holidays above, employees shall be granted additional leave as follows:

Annual leave, in an amount of hours equal to the number of hours in the employee's regular work shift, shall be added to the employee's annual leave accruals for three (3) Floating Holidays and One (1) Birthday Holiday on the first pay period after the first of January for the employee to use as he or she wishes. These hours are to be scheduled in the same fashion as annual leave.

In order to qualify for the four (4) annual leave accruals for the Floating Holidays and Birthday Holiday, an employee must have been employed for the entire 12 consecutive previous months.

15.2 The actual day of the holiday will be the observed day for all members of the bargaining unit.

15.3 An employee who is eligible and is not scheduled to work on a holiday will be permitted to take time off equal to the number of hours in his/her regular work shift paid at his/her regular rate of pay during the same fourteen (14) day pay period that includes the holiday.

15.4 An employee who is required to start his/her work shift on a holiday shall receive payment at his/her regular rate of pay for all hours that he/she works on that shift. In addition, during the same fourteen (14) day pay period that

includes the holiday the employee worked, the employee will be permitted to take time off equal to the number of hours in his/her regular work shift paid at his/her regular rate of pay.

ARTICLE 16

ANNUAL LEAVE

- 16.1 Annual leave is provided for the purpose of allowing employees time off from their work for vacation or for necessary time to attend to personal business. No employee shall be permitted to use annual leave for any period spent on unauthorized leave or participating in an unlawful work stoppage.
- 16.2 In computing annual leave time, holidays, or regular days off immediately preceding the commencement of, falling within, or following the termination of an employee's annual leave, shall be excluded from the computation of the employee's annual leave time.
- 16.3 The following sections 16.3, A – G apply to current employees hired before January 24, 2011.
- A. General Terms of Accrual - Annual leave shall be accrued from the most recent day of employment under the conditions hereinafter stated, but no annual leave shall be granted until an employee has completed three (3) months of continuous service. An employee who is paid for less than twenty (20) hours of work in a week shall accrue no annual leave credit for such week of service. Provided, however, that the limit of twenty (20) hours shall not apply to an employee on annual leave, sick leave, or other authorized leave with pay who would otherwise have worked at least twenty (20) hours.
- B. Accrual for Current Full-Time Employees Hired Prior to January 24, 2011- 40 Hours - Full time employees working a forty (40) hour week shall accrue annual leave at an equally prorated amount per pay period as follows. In the event that an employee has worked less than a full year, the total number of accrued hours of annual leave will be reduced proportionately.

Length of Continuous Service	Hours Accrued Each Year
Less than 5 years	96
5 through 7 years	112
8 through 10 years	128
11 through 15 years	144
16 through 19 years	160
More than 20 years	176

- C. Accrual for Current Full-Time Employees Hired Prior to January 24, 2011, Working Extended Shifts - 84 Hours Bi-weekly - Full time employees working extended shifts (Eighty four [84] hours biweekly) shall accrue annual leave at an equally prorated amount per pay period as follows. In the event that an employee has worked less than a full year, the total number of accrued hours of annual leave will be reduced proportionately:

Length of Continuous Service	Hours Accrued Each Year
Less than 5 years	100
5 through 7 years	118
8 through 10 years	134
11 through 15 years	151
16 through 19 years	168
More than 20 years	185

- D. Accrual for Current Part-Time Employees Hired Prior to January 24, 2011- Designated part-time employees who work at least twenty (20) hours, but less than forty (40) hours, or more per week shall receive annual leave credit at one-half (1/2) the rate of permanent full-time employees. Such employees may not use vacation credit until after three (3) months have passed from their date of continuous employment. Temporary, seasonal, or part-time employees working less than twenty (20) hours per week shall not accrue annual leave.
- E. Probationary Period - Should a new employee, as defined in Article 7.1, fail to successfully complete his probationary period or should such employee be discharged the employee shall forfeit all accrued annual leave.
- F. Maximum Accrual - Annual leave normally is to be taken in the anniversary year in which it is accrued. Unused annual leave may be accumulated to a maximum of three hundred twenty (320) hours. Leave balances as of September 1st in excess of 320 hours shall be sold back to the City, or at the employee's option, deferred into the employee's 457 Plan account, at a rate of one hour of leave for one hour of pay at the employee's regular rate of hourly pay in effect on September 15 of each year. This payment will be made by the last pay check in September of each year.
- G. Employees will be permitted to use annual leave in units of not less than one-half (1/2) hour subject to approval of their supervisor. In case of conflict, annual leave shall be granted on the basis of seniority.

16.4 The following sections (16.4 A-G) apply to employees hired after January 24, 2011.

- A. Accrual for full time employees working a forty (40) hour week hired on or after January 24, 2011 shall accrue no more than ninety six (96) hours of Annual Leave each year.
- B. Accrual for full time employees working extended shifts – 84 hours bi-weekly hired on or after January 24, 2011 shall accrue no more than one hundred (100) hours of Annual Leave each year.
- C. Unused annual leave may be accumulated to a maximum accrual of three hundred and twenty (320) hours. Leave in excess of three hundred twenty (320) hours effective the last full pay period in September of each successive fiscal year shall be forfeited.
- D. Employees will be permitted to use annual leave in units of not less than one-half (1/2) hour subject to approval of their supervisor. In case of conflict, annual leave shall be granted on the basis of seniority.

16.5 Termination, Resignation, Retirement or Death - An employee who is terminated for cause or who resigns without a two (2) week notice shall not be eligible for compensation for all accumulated unused annual leave. An employee who resigns with a two (2) week notice or retires under the provisions of the City's pension plan (or in event of death, his/her heirs) shall be compensated for all accumulated unused annual leave. Pay for such accumulated leave shall be based on the regular hourly rate of pay of the employee at the time of termination. The employee may also have the option of deferring his or her accumulated unused leave into an 457 Plan account, up to the maximum provided by law. In case of death, compensation shall be paid to the surviving spouse or the employee's estate.

16.6 Employees taking annual leave shall have their accounts charged for the actual number of scheduled hours absent because of leave.

16.7 Additional Annual Leave- Employees shall accrue three (3) hours of additional annual leave to be credited on even numbered pay periods under a biweekly payroll system to the employee's annual leave.

ARTICLE 17

HOURS OF WORK

- 17.1 The purpose of this Article is to define hours of work but nothing in this Agreement shall be construed as a guarantee or limitation of the number of hours to be worked per day, days per week, or for any other period of time, except as may be specifically provided herein.
- 17.2 The Department Head, with the approval of the City Manager, may establish the basic work schedules and hours of work best suited to meet the needs of the Department to provide proper services to the community and their customers.
- 17.3 In the event that an emergency status is declared by the City of Port Orange, which necessitates any employee working more than their regularly scheduled hours, each employee shall, in addition to their regular pay, be paid compensation for each additional hour worked in excess of their regularly scheduled hours, in accordance with Policy 1-37, Overtime Payment During a Declared Emergency Operation. Additionally, in the event that Mutual Aid is awarded to another jurisdiction that has declared a state of emergency, the City Manager under his/her sole discretion may elect to operate under Policy 1-37.

ARTICLE 18

VEHICLE

- 18.1 Any employee may be authorized to use their private automobile in the performance of official city duties. If authorized, the employee may be eligible for compensation if the use is in accordance with Policy 1-16, Use of Personal and City Vehicles for City Business and/or Policy 1-17, Travel.
- 18.2 A written claim for compensation under this Article must be submitted to the Department Head by the employee within five (5) scheduled working days following the date the private automobile was used.
- 18.3 The current departmental policy concerning the use of take-home vehicles by law enforcement officers is hereby incorporated by reference into this agreement. The city shall provide insurance coverage as provided for by Florida Statutes. Furthermore, the city shall provide insurance coverage to insure both the city and the officer for any use of the vehicle that is permitted by the current city take home vehicle policy, including cases where an officer makes a distinct deviation for a nonessential personal errand, as provided for by Florida Statutes.

ARTICLE 19

SICK LEAVE

19.1 Sick leave benefits shall not be considered as a right to be used at an employee's discretion. Sick leave is an allowance granted by the City to provide employees with reasonable time off during periods of personal or family illness or injury and to attend medical appointments without loss of pay. This includes time off to recover from off-duty illness or injury that prevents an employee from being able to adequately perform their required job duties and functions. All employees desiring to utilize sick leave are required to notify their supervisor as early as possible, and at least one (1) hour in advance of their scheduled reporting time each day of their intended absence due to illness, injury or medical appointment. Extenuating circumstances to the above shall be given due consideration. Such notice shall be given each day of the absence and the employee shall notify the supervisor as soon as possible of the employee's intention to return to work. Abuse of sick leave privileges shall be considered cause for disciplinary action or dismissal. The City may require a physician's certificate to authenticate an absence or to determine qualifications to resume work.

19.2 General Terms of Accrual - Sick leave shall be accrued from the most recent day of continuous employment under the conditions hereinafter stated. An employee who is paid for less than twenty (20) hours of work in a week shall accrue no sick leave credit for such week of service. Provided, however, that the limit of twenty (20) hours shall not apply to an employee on annual leave, sick leave, or other authorized leave with pay who would otherwise have worked at least twenty (20) hours. No employee shall be permitted to use sick leave for any period spent on unauthorized leave or participating in an unlawful work stoppage.

A. Accrual for Full-Time Employees - Each full-time employee shall accrue sick leave at an equally prorated amount per pay period, to yield one hundred and eight tenths (100.8) hours per calendar year. In the event that an employee has worked less than a full year, the total number of accrued hours of annual leave will be reduced proportionately.

B. Accumulation and Pay-Off of Sick Leave - Subject to the provisions of this Agreement employees may accumulate sick leave from year to year for use in future years as needed. Employees may exchange sick leave for pay, or at their option, deferral into a 457 Plan account up to the maximum amount provided by law, as provided herein. The maximum unused sick leave that may be exchanged for pay or deferral in any one year is one hundred ninety-two (192) hours,

provided each member maintains a balance of at least forty (40) hours of accumulated sick leave after the sick leave requested for pay or deferral is deducted from their accumulation, provided the requirements of Section 19.3 are met.

19.3 Accumulation of Sick Leave and Sick Leave Sell Back/Deferral

Subject to the provisions of this Agreement employees may accumulate sick leave from fiscal year to fiscal_year for use in future years as needed. All accrued sick leave balances as of September 1st each fiscal year which are in excess of seven hundred fifty (750) hours shall be paid off by the City at the employee's regular hourly rate for each hour of sick leave. At the employee's option, the employee may defer this payment into an 457 Plan account up to the maximum amount provided by law.

Sick Leave Exchange for Pay or Deferral

- a. For employees who have a minimum of ten (10) years of seniority with the City as of September 30 of the year in which the employees seek to exchange sick leave for pay or deferral the following procedures shall apply to sick leave exchanges for pay:

All members must maintain a minimum balance of forty (40) hours of sick leave. Employees may exchange a maximum of one hundred ninety-two (192) hours of unused sick leave for pay or deferral into the employee's 457 Plan account each year. Each employee shall receive one hour of pay or deferral at his/her regular hourly rate as of September 15 of the year that the exchange is being made for each hour of unused sick leave being cashed in or deferred.

- b. For employees who have less than ten (10) years of seniority with the City as of September 30 of the year in which the employees seek to exchange sick leave for pay, the following procedures shall apply to sick leave exchange:

All members must maintain a minimum balance of forty (40) hours of sick leave. Employees may exchange a maximum of one hundred ninety-two hours of unused sick leave for pay or deferral into the employee's 457 Plan account each year. Employees who have accumulated more than forty (40) hours of sick leave but less than one hundred (100) hours which they wish to exchange may exchange that leave for pay or deferral at the rate of three (3) hours of sick leave for one (1) hour of pay or deferral.

Employees who accumulate more than one hundred (100) hours of sick leave which they wish to exchange may exchange that leave for

pay or deferral at a rate of two (2) hours of sick leave for one (1) hour of pay or deferral. At all times a minimum of forty (40) hours of sick leave must be maintained in order for the employee to exchange sick leave for pay or deferral.

- 19.4 Subject to the provisions of this Agreement, an employee may cash in, or at his/her option, defer into an 457 Plan account, at his/her regular rate of pay effective on September 15, his/her accumulated sick leave hours by obtaining the appropriate form and submitting it upon completion to the Human Resources Department no later than September 1 of such fiscal year, subject to the restrictions indicated in Section 19.2.B. Failure to submit this form will result in an employee's accrued sick leave being "banked" for future use or pay-off as provided herein. Any sick leave taken after the filing of such form shall first be deducted from accrued sick leave "in the bank" and, secondly, from those days for which payment is sought but not yet paid.
- 19.5 All payments or deferrals for unused sick leave made under this Article shall be paid by check issued by the City on or about the last pay check received in September.
- 19.6 Participants utilizing sick leave shall be paid and their account charged for the actual number of scheduled hours absent.
- 19.7 Any absence for a fraction or part of a day which is chargeable to sick leave shall be charged in increments of not less than one-half (1/2) hour.
- Employees shall not be allowed to utilize sick leave in lieu of annual leave.
- 19.8 Retirement, Resignation or Death - An employee who resigns with two (2) weeks prior notice and has a minimum of ten (10) years of service with the City, or retires under the provisions of the City's pension plan (or in the event of death, his or her heirs) shall be entitled to a lump sum payment for all unused sick leave accrued at a rate of one hour of pay for one hour of leave. The employee may also have the option of deferring his or her payment of unused leave into a 457 Plan account, up to the maximum amount provided by law.
- 19.9 An employee who is fired, dismissed or who quits and/or separates from the City for any reason other than detailed in section 19.8 shall forfeit accrued sick leave.
- 19.10 Employees may sell a maximum of five (5) hours of sick time to donate to families of Officers in need within the central Florida area. This subsection shall be exempt from the minimum forty (40) hour bank rule.

19.11 SICK LEAVE BANK

Both parties agree to consider the establishment and maintenance of a voluntary Sick Leave Bank.

An employee's participation in the Sick Leave Bank is voluntary.

ARTICLE 20

ASSOCIATION REPRESENTATIVES AND ACTIVITIES

- 20.1 The Association shall notify the City Human Resources Director in writing of the name of the individual who will be the official representative of the Association. It shall be the responsibility of the Association to immediately notify the City's Human Resources Director and the Department Head in writing of any change in the official representative of the Association.
- 20.2 Any employee or Association shall not engage in Association business of any kind, including solicitation of membership during working hours. An Employee Representative of the Association, designated in writing by the Association, shall be permitted reasonable access to all Department locations at reasonable times during a working day for investigating grievances provided the City is first notified of the investigation, and provided further that such absence would not unduly hamper the operation where the Lieutenant is assigned. The Association designee may attend departmental Labor Management meetings.
- 20.3 Bargaining unit employees will be permitted to attend local and state seminar functions of the Association on their own time and at their own expense for a maximum of two (2) days per year as long as attendance does not hamper the operation where the Lieutenants are assigned.
- 20.4 One (1) member of the Association negotiating committee (an employee of the City) shall be permitted to attend all negotiating sessions without loss of pay, as well as the City Council meeting where final action is scheduled to be taken on approval (or rejection) of this Collective Bargaining Agreement and its successor without loss of pay. Members of the designated negotiating team shall be allowed to negotiate a successor agreement to this Agreement on their own time, at no expense to the City.

ARTICLE 21

INSURANCE

- 21.1 The City will enable the employees to insure themselves under a group life insurance plan with the amount available being one times base annual salary rounded to the next higher thousand. The employer will pay the premium.
- 21.2 The City agrees to maintain a health insurance program for the employees, with the City paying the lowest "employee only" rate among all health insurance plans with a co-pay offered. Dependent coverage will be at the employee's expense. The employee electing coverage with a carrier which has a higher rate shall pay the difference in any premium charged by that carrier. Dependent coverage will also be at the employee's expense.
- 21.3 The City will continue to provide the Department with the personal injury liability and false arrest program provided either by a commercial insurance company or through self-insurance.

ARTICLE 22

UNIFORMS AND EQUIPMENT

- 22.1 The City will provide to all Officers the following equipment and clothing and other items as necessary:
- 4 Trousers
 - 2 Long sleeve shirts
 - 3 Short sleeve shirts
 - 1 Winter jacket
 - 2 Badges
 - 1 Identification card and carrier
 - Portable radio holder swivel
 - 1 Rechargeable flashlight
 - 1 Pair non-prescription sunglasses for employees in the Traffic Division
 - 1 Bullet proof vest to be worn in accordance with Department policy
 - 1 pair Handcuffs
 - 4 Summer shirts
 - 1 Pair of duty boots, as needed. Not to exceed two (2) pair per year
 - 1 Pair of dress shoes for Class A uniform wear
- 22.2 The City agrees to furnish all sworn Officers, at City expense, those replacement uniform items that are worn, torn, or damaged through normal wear and tear, rather than through negligence or misconduct.
- 22.3 Any employee who shall receive any breakage or damage to his personal equipment in the line of duty shall have it replaced at no cost to the employee, to a maximum of one hundred (\$100.00) dollars per item. However, if the employee is not negligent, then, in the case of loss or damage to prescription eyeglasses they will be replaced or repaired, as the case may be, without regard to the one hundred (\$100.00) dollar limitation.
- 22.4 The City agrees to provide each uniformed and non-uniformed employee dry cleaning at City expense for all uniforms and clothing—used for employment.
- 22.5 The City agrees to arrange to have each police vehicle maintained by a mechanic on a regular basis. The employee will be responsible for regular vehicle inspections and reporting any concerns in accordance with Department Policy.
- 22.6 The City will provide each Officer with a two-way portable radio.

- 22.7 City-issued uniforms and other articles of clothing are provided for wear while at work and are not to be worn for non-duty purposes.
- 22.8 The City will issue uniforms in compliance with IRS regulations pertaining to work clothes and Uniform Allowances and Reimbursements.
- 22.9 The City and the Association agree that sworn Officers who are required to wear non-issue clothing in the course of their employment shall receive a clothing allotment. Sworn Officers who are required to wear non-issue clothing shall receive their first-year clothing allotment prorated monthly to the end of the calendar year, prior to the commencement of assignments that require them to wear such clothing. The clothing allotment will be \$1,000.00 pro-rata per year. This allowance shall be paid in one installment annually during the first pay period in January. Upon departure from assignment, employee will be responsible to re-pay the prorated share for the time not in the assignment for an amount that exceeds \$150.00. If an employee works any given day in a month, they will not be required to repay the prorated amount for that given month.

ARTICLE 23

BEREAVEMENT LEAVE

- 23.1 All employees may be granted time off with pay to arrange and/or attend funeral services in the event of death(s) in the family. Such time off shall ordinarily not exceed four (4) calendar days (i.e., 48 hours for extended shift employees or four (4) work days for employees working a forty hour work week) per event, for a maximum 96 hours annually for extended shift employees, or eight (8) work days for employees working a forty hour work week, and shall not be charged as annual leave or sick leave. Requests for time off shall be submitted in writing to the employee's supervisor when possible. In extraordinary circumstances, where the employee has exhausted the maximum bereavement leave provided for in this part, the Department Head may, in his discretion, grant an employee additional leave time. The decision of the Department Head to grant or not grant the employee additional leave time beyond the maximum hours provided for in this part shall not be subject to grievance and arbitration proceedings.
- 23.2 Management may require the employee to verify the employee's relationship to the deceased and to provide proof of death.
- 23.3 In the event of the need for additional time for a death, an employee may use accrued sick or vacation leave.

ARTICLE 24

WAGES

24.1 Effective the first full pay period following April 1, 2024, employees will be slotted into the following pay schedule:

	Annual
PROB	\$96,000
All	\$98,940

Any employee whose current annual base rate of pay is at a level higher than the stated rate of pay will not be eligible to receive any adjustment to their pay.

24.2 The City performance evaluation system will be a satisfactory/unsatisfactory procedure. If the employee's performance for the previous year has been satisfactory, they will receive a rating of satisfactory. The employee will then undergo performance evaluations each year thereafter. Should the employee receive a rating of unsatisfactory, they will be placed under an intensive management program and re-evaluated in ninety (90) days. Failure to receive a "satisfactory" performance rating after the re-evaluation period will result in disciplinary action, up to and including termination. Any employee with an "unsatisfactory" rating on their last performance evaluation will not be eligible for a salary adjustment on the next October 1st if one is granted by the City Council.

24.3 In addition to wages, incentive pay, if appropriate, shall be provided in accordance with pertinent Florida Statutes 943.22.

24.4 Specialty pay will be provided to all employees who are assigned by the Chief as regular members of a specialized or hazardous unit (division) or other groups which are herein specified as follows:

Specialty Assignment	Amount of Pay (Per Pay Period)
Canine Officer	\$75.00
Crisis Negotiation Team	\$75.00
Crime Suppression Team	\$75.00
Detective Assignment	\$110.00
Drug Recognition Expert	\$75.00
Emergency Response Team	\$75.00
Field Training Officer	\$75.00
Traffic Homicide Investigator	\$75.00

Meth Team	\$75.00
Motorcycle Officer	\$75.00
Range Master	\$75.00

ARTICLE 25

RETIREMENT PLAN

25.1 The parties hereto recognize that the employees in the Bargaining Unit are participants in a Retirement Plan of the City as provided for by Chapter 185, Florida Statutes. The Police Pension Fund Ordinance of the City is set forth in the Port Orange City Code. Pensions and other retirement benefits for Bargaining Unit employees not specifically set forth in this Labor Agreement are as set forth in the Police Pension Fund Ordinance.

The City of Port Orange agrees to maintain a retirement plan for Police Officers as required by City Ordinance.

The City agrees to maintain the benefits and member contributions set forth in the Police Pension Fund Ordinance, with the changes provided below affecting this bargaining unit.

There will be no change in the accrued benefits of Plan members.

Should an issue arise with the State Division of Retirement regarding any provisions in this Article; both parties agree to return to the table to negotiate the issues to resolve the issues in order to gain approval of Plan changes.

The parties agree to amend the Police Pension Fund Ordinance, effective the first of the month following the adoption of the Ordinance as follows:

(a) In year one of this Agreement (October 1, 2023 – September 30, 2024), the City will bring forward an ordinance amending the Police Pension Fund in the City's Code of Ordinances to provide the following changes for all members who are employed and not participating in the DROP on the effective date of the ordinance:

(1) Average final compensation shall mean one-twelfth of the average annual compensation of the three highest years of service.

(2) The normal retirement age shall be the date a member attains age 48 with 10 years of service, or the date a member completes 20 years of service regardless of age.

(3) DROP eligibility at the Normal Retirement Date.

25.2 Mutual Consent Agreement:

In accordance with section 185.35(6), F.S., a defined contribution plan component ("share plan") shall be established as part of the defined benefit

pension plan, to be funded exclusively with Ch. 185 premium tax revenues. However, the City and the Union have mutually agreed that no Ch. 185 premium tax revenues will be allocated to a share plan at this time. The share plan shall not be activated until Ch. 185 premium tax revenues are allocated to the share plan by mutual agreement of the parties. At such time as the City and Union agree to allocate Ch. 185 premium tax revenues to the share plan, the parties will negotiate the details of the share plan.

- A. All annual premium tax revenues received pursuant to Ch. 185 will continue to offset the City's pension contributions.
- B. All accumulated excess premium tax revenues as of 10/01/2016 will be used to offset the City's pension contributions.

ARTICLE 26

ALCOHOL AND DRUG TESTING

26.1 The parties agree to work together to fully comply with the Criminal Justice Standards and Training Commission Rules (11B 27.0011 et seq., F.A.C), Florida's Drug Free Workplace Program (F.S. Sections 440.101 and 440.102), and the Florida Workers' Compensation Act. Employees will be generally governed under the City's Drug Free Workplace Policy, General Administrative Policy 1-12.

26.2 Illegal Controlled Substances

- A. The City prohibits employees at any time, whether on or off duty or whether on or off City property, from manufacturing, selling, attempting to sell, distributing, possessing, using, being under the influence of illegal controlled substances, or having the presence of illegal controlled substances in an individual's body. Prohibited substances consist of any controlled substances as defined by applicable state and/or federal laws. For purposes of this policy, marijuana is considered a controlled substance under federal law.
- B. The City does not distinguish between marijuana and medical marijuana for its policies. The use of marijuana in any form, including but not limited to medical marijuana used pursuant to a "physician certification" that is in compliance with Section 381.986 of the Florida Statutes, is prohibited. If an employee's drug test result is positive confirmed for marijuana due to the employee's use of medical marijuana, even if such use was pursuant to a "physician certification" that is in compliance with Section 381.986 of the Florida Statutes, will be considered a positive result.
- C. For purposes of this policy, CBD products containing tetrahydrocannabinol ("THC") are considered a prohibited substance. Use of CBD products in any form, including but not limited to oils, body creams, beverages, chocolates, and gummies, that contain THC is prohibited. If an employee's drug test result is positive confirmed for marijuana due to the employee's use of CBD products containing THC, this will be treated as a positive result. An employee who chooses to use CBD products does so at their own risk. An employee's or job applicant's violation of this policy will not be excused because they were unaware that the CBD product that was used contained THC.

26.3 Alcohol Abuse

- A. The City prohibits employees from using or possessing alcohol while on duty, while on the City's premises, while driving or being a passenger in a City vehicle, or while operating the City's equipment; reporting to work under the influence of alcohol; reporting to work with the presence of alcohol in an individual's body; or from otherwise using alcohol in a manner at any time that adversely affects the City's business interests.

26.4 Use of Legal Drugs

- A. The term "legal drug" means (1) a controlled substance prescribed by a licensed physician for a specific medical purpose; or (2) an over-the-counter medication that has the potential to interfere with the safe and effective performance of the employee's duties, the operation of vehicles or equipment, or the safety of employees or the general public.
- B. Employees must notify their immediate supervisor before beginning work when they are taking a legal drug that may possibly impact an employee from safely performing their duties so that the City can evaluate the impact, if any, that the employee's use of the legal drug may have on the safe and efficient operation of the City

26.5 Testing

- A. Reasonable Suspicion (to include Post Accident Testing)
 - a. Supervisors are responsible for monitoring employees for drug and alcohol use and other policy violations and for contacting the Police Chief or the Administrative Services Director (or designee) when there is articulable reasonable suspicion that an employee is under the influence of drugs or alcohol or otherwise using drugs on or off the job or alcohol on the job. Supervisors who have reasonable suspicion must prevent the employee from further engaging in work and from leaving the work area and must notify the employee of the need for testing. The supervisor shall provide articulable facts in writing to substantiate their reasonable suspicion.
 - b. Reasonable suspicion may be based upon, but not limited to, the following:

- i. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of drugs or alcohol.
 - ii. Abnormal conduct or erratic behavior while at work.
 - iii. A significant deterioration in work performance.
 - iv. A report of drug or alcohol use provided by a reliable and credible source.
 - v. Evidence that an employee has tampered with a drug test during his or her employment with the City.
 - vi. Information that an employee has caused, contributed to, or been involved in an accident while at work giving rise to a reasonable suspicion of drug or alcohol use
 - vii. Evidence that an employee has used, possessed, manufactured, sold, solicited, or transferred drugs.
 - viii. Frequent absences from work without a satisfactory explanation.
- c. In the event that the City has reasonable suspicion that an employee is under the influence of drugs or alcohol or may be in the possession of drugs or alcohol, the City reserves the right search, without employee consent, all City areas and property, including, but not limited to, an employee's office, locker, or workspace.

B. Follow Up Testing

- a. The City will require any employee who returns to work after successfully completing a voluntary drug or alcohol rehabilitation program to submit to drug and alcohol testing on at least a semi-annual basis for at least two (2) years as coordinated by Risk Management.

C. Random Testing

- a. Random test dates and times will not be announced and shall be spread reasonably throughout the year.
- b. Each employee in the unit shall have an equal chance of being selected for both drug and alcohol testing each and every time selections are made.
- c. The City agrees to provide the Association a list of all City employees who were selected for random testing at the end of each fiscal year upon request.

D. Testing Procedures

- a. Employees will be subject to a 10-Panel Urine Drug Screen by Immunoassay Methodology for Amphetamines, Barbiturates, Benzodiazepines, Cocaine, Methadone, Methaqualone, Opiates, Phencyclidine, Propoxyphene, and Tetrahydrocannabinol (marijuana metabolites).
- b. Procedures for testing for the presence of illegal controlled substances and alcohol shall be conducted consistent with the provisions of Section 440.102(5), (6) of the Florida Statutes and the corresponding regulations.
- c. Urine will be used for the initial test and confirmation test for controlled substances.
- d. Breath will be used as the initial test and confirmation test for alcohol.
- e. Direct observation collections, by an observer of the same gender as the employee, may be required for reasonable suspicion drug and alcohol testing.

26.6 Employees must notify their immediate supervisor, department director, or Administrative Services Director regarding any criminal drug or alcohol infraction, arrest, indictment, or conviction, as well as any resulting loss of driving privileges, within 24 hours of occurrence or as soon as reasonably possible.

26.7 Refusal to Test

- A. Employees who refuse to submit to a required test will be considered insubordinate.
- B. Refusal to submit to a required test may include, but is not limited to the following:
 - a. Failing to show at the collection site for a required test.
 - b. Inability to produce sufficient quantities of breath, saliva, or urine to be tested without a valid medical explanation.
 - c. Tampering with or attempting to adulterate the specimen.
 - d. Interfering with the collection procedure.
 - e. Not immediately reporting to the collection site. An employee must report to the testing site immediately upon notification. Immediately is defined as within thirty (30) minutes, unless otherwise authorized.
 - f. Failing to remain at the collection site until the collection

process is complete.

- g. Having a test result reported by a Medical Review Officer as adulterated or substituted.
- h. Leaving the scene of the accident without a valid reason before the tests have been conducted.

ARTICLE 27

JURY DUTY AND APPEARANCE AS A WITNESS

- 27.1 Any employee in the Bargaining Unit who is summoned to perform jury service during his/her normal working hours in any court (City, Federal, or County) shall be granted leave with pay for the time he or she is absent from work as a result of fulfilling this jury duty obligation. The employee summoned as a juror shall attach a copy of the summons to the Leave of Absence Request. An employee, who is released from jury duty prior to four (4) hours from his or her normal end of the workday, shall be required to report to their work site immediately after their release.
- 27.2 Upon proof of attending court, a deposition, or an administrative hearing during the employee's normal working hours pursuant to a subpoena or other court order involving a job-related case and not as a plaintiff or claimant in litigation against the City nor as a defendant in litigation by the City, the employee shall receive his or her regular rate of pay for such attendance. The City reserves the right to institute any procedure or system it deems appropriate to measure, record, and/or verify attendance and duration of an on-duty deposition, or court or administrative hearing appearance. In the event any employee claims time not actually spent in an on-duty deposition or court/hearing appearance, he or she may be discharged or disciplined. The employee will sign over all subpoena and witness fees, excluding travel fees, unless City transportation is furnished in which case such travel fee will also be signed over. The employee shall provide a copy of the subpoena to his or her supervisor within twenty-four (24) hours of its service or receipt.
- 27.3 An employee subpoenaed as a witness for a court or administrative proceeding or a deposition, other than a job-related case and other than a case involving personal litigation by the employee as a plaintiff, claimant or defendant, shall be granted leave without pay to appear and testify pursuant to the subpoena. If the employee is released from the subpoena prior to the expiration of twelve (12) hours for shift Lieutenants and four (4) hours for 40 hour employees from his or her normal starting time for that work day, the employee shall be required to report to his or her work site immediately after release from such subpoena. An employee may take sick or vacation leave when subject to a subpoena under this provision. The employee shall provide a copy of the subpoena to his or her supervisor within twenty-four (24) hours of its service or receipt.
- 27.4 An employee may take vacation pay, but not sick leave, when participating in any court or administrative proceeding of a personal nature in which the employee is a claimant, plaintiff or defendant.

ARTICLE 28

RULES AND REGULATIONS

- 28.1 The City shall have the right to establish, maintain and enforce, or rescind, amend or change reasonable rules and regulations and standard operational procedures, it being understood that such rules and regulations and standard operational procedures shall not conflict with the provisions of this agreement. If the proposed additions, deletions, or changes affects the terms and conditions of employment of any bargaining unit employee, the Union shall have the right to request bargaining over the proposed additions, deletions, or changes. The request must be made in writing to the Department Head and submitted to him/her within seven (7) days of the change being published. If no request for bargaining is made by the Union during this seven (7) day period, or the proposed additions, deletions, or changes do not affect the terms and conditions of employment of bargaining unit members, the modifications shall become effective on the date specified when published. If bargaining is timely requested, and the additions, deletions, or changes affect terms and conditions of employment of bargaining unit members, the changes shall not go into effect until the City and the Union reach agreement on the matter.
- 28.2 Failure to discipline an employee for violation of these rules, regulations and/or standard operational procedures shall not affect the right of the City to discipline the same or other employees for the same or other violations.
- 28.3 Any employee violating a rule or regulation or standard operational procedure may be subject to disciplinary action, including dismissal.

ARTICLE 29

EDUCATIONAL LEAVE

- 29.1 Any employee covered hereunder may be given educational leave for the purpose of taking courses or attending conferences and/or seminars directly related to the employee's work as determined in writing by the Department Head and the City Manager. Requests for such educational leave must be approved in writing in advance by the City Manager. The decision to grant (or not to grant) such educational leave and the determination as to whether such leave will be compensated shall be the sole and exclusive function of the City Manager and shall not be subject to the grievance and arbitration procedures of this Agreement.
- 29.2 An employee granted education leave with full pay shall be entitled to receive all City benefits in the manner as if he were on active duty during the period of the leave. Entitlement to benefits for employees on partially compensated or uncompensated educational leave shall be determined by the City Manager. Such determination shall not be subject to the grievance and arbitration procedures of this Agreement.

ARTICLE 30

MILITARY LEAVE

- 30.1 Bargaining unit members will be allowed military leave in accordance with conditions set forth in the Uniformed Services Employment and Reemployment Act (USERRA), and Sections 115.07, 115.09, 115.14 and 250.48, Florida Statutes and in accordance with the City's Military Leave Policy. This Policy, as amended from time to time, is set forth in the City's Civil Service Rules and Regulations, Chapter 3, Attendance and Leave, 3.07, Military Leave.

ARTICLE 31

WORKERS' COMPENSATION, HEALTH, SAFETY AND PHYSICAL FITNESS

- 31.1 The purpose of this Article is to promote the health, safety and physical fitness throughout the Port Orange Police Department.
- 31.2 Any bargaining unit employee who is temporarily disabled as a result of an injury sustained in the course of his employment with the City, shall be entitled to the following compensation:
- a. During such temporary, total disability, paid disability leave shall not exceed sixty (60) calendar days for any one injury. If as a direct result of the continuation of the disability involved, the employee is unable to return to work at the end of the sixty (60) calendar days, the employee shall revert to normal Workers' Compensation benefits.
 - b. While receiving Worker's Compensation benefits, the employee may utilize available sick and/or annual leave in order to receive compensation for the amount not paid under the Worker's Compensation carrier. At no point shall the compensation be in excess of their normally scheduled amount.
 - c. If, in the City's opinion, this benefit is being abused, this Article will be subject to renegotiation at that time and prior to the expiration of this contract. Benefits will remain unchanged until renegotiated.
 - d. Leave for Workers' Compensation shall run concurrent with leave as covered under Family Medical Leave Act (FMLA).
 - e. For employees that have exhausted their paid leave prior to any exhaustion of an approved FMLA will generally be separated from service upon exhaustion of the approved FMLA leave, except as otherwise provided for by law. For employees with accrued paid leave in excess of the standard FMLA time will be able to utilize their accrued leave to stay in a paid status beyond the standard FMLA time, however, this period will not generally extend beyond twelve (12) months, unless an imminent return has been documented by a physician, or as otherwise provided for by law.
- 31.3 The City and the Union agree that employees covered hereunder must maintain a high level of physical fitness in order to safely and efficiently perform their assigned duties and serve and protect the citizens.

31.4 Each bargaining unit employee shall be required to complete once every two years, a Physical Abilities Test (PAT) and required pre-test physical examination as defined in Departmental Policy.

31.5 It is acknowledged and agreed by the parties hereto that a statutory presumption exists, under Section 112.18F.S that any condition or impairment of health of a bargaining unit member that results in a disability or death, was accidentally suffered in the line of duty. Therefore, the parties further acknowledge and agree that the Port Orange Police Department is a tobacco free workplace and that it is condition of employment that each new member of this bargaining unit hired on or after ratification refrain from the use of tobacco during the period of his or her employment with the City. New employees or those offered conditional employment with this bargaining unit, shall be required to sign an affidavit that they be tobacco free throughout the term of their employment.

ARTICLE 32

VOLUNTARY SPECIAL EVENT DETAILS

- 32.1 Lieutenants will be permitted to work Voluntary Special Event Details when assignments cannot be filled by Officers and/or Sergeants. Voluntary, special event work performed for a second-party employer, other than work performed for City-sponsored events, shall be paid by the second-party employer to the City and the City shall, in turn, pay these second-party wages to the Lieutenant as a separate line-item on the employee's pay stub, after deducting a fifteen percent (15%) administrative per-hour fee thereof for use of City property while performing the special event work. The hourly rate charged to the second-party will be determined by the Department Head. These second-party wages will not be considered as wages paid by the City and will therefore be excluded for purposes of calculation of overtime and shall not be factored into the average final compensation for pension purposes. No pension contributions or insurance payments will be withheld from payments made for work performed for a second party employer.
- 32.2 Lieutenants shall observe their normal standards of conduct during such special event work and disciplinary action shall be taken against those who fail to do so.

ARTICLE 33

SEVERABILITY

- 33.1 In the event any Article, Section or portion of this Agreement should be held invalid and unenforceable by any court of competent jurisdiction, such holding shall apply only to the Article, Section or portion thereof specified in the court's decision; and all other Articles or Sections or portions not so invalidated shall remain in full force and effect. The parties may mutually agree in writing to renegotiate the affected Article, Section or portion specified in the court's decision.

ARTICLE 34

ENTIRE AGREEMENT

- 34.1 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.
- 34.2 Therefore, the City and the Association, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to, or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the same time they negotiated or signed this Agreement.
- 34.3 However, no language in this Agreement shall preclude the parties from mutually agreeing in writing to re-open any of the provisions covered by this contract.

ARTICLE 35

DURATION OF AGREEMENT

- 35.1 This Agreement shall commence and become effective upon ratification by both parties, except as provided in Article 24 Wages, and Article 25 Retirement Plan, and shall continue in full force and effect until midnight of the 30th day of September 2024, and thereafter from year to year unless revisions are mutually agreed to by the parties.
- 35.2 No item or provision of this Agreement shall be a proper subject for negotiation during the term of this Agreement unless it is mutually agreed by the parties in writing to renegotiate such items in negotiations.
- 35.3 As used in this Agreement, the term "he" or "she" shall be interpreted to be gender neutral and shall be understood to encompass both genders.

COASTAL FLORIDA POLICE BENEVOLENT ASSOCIATION LIEUTENANTS:

LT. Warren Carman 5/24
Warren Carman, Representative

Date: 9/27/24

CITY OF PORT ORANGE, FLORIDA

[Signature]
Donald Burnette, Mayor

Date: 5/7/2024

Attest:

[Signature]
Robin Fenwick, City Clerk

