



AGREEMENT

between

THE CITY OF MELBOURNE, FLORIDA

and

**PUBLIC EMPLOYEES LOCAL 678
LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA, AFL-CIO**

October 1, 2013 through September 30, 2016

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AGREEMENT

This Agreement is entered into as of October 1, 2013 between the CITY OF MELBOURNE, FLORIDA, hereinafter referred to as the City, and PUBLIC EMPLOYEES LOCAL 678, LABORERS' INTERNATIONAL UNION OF NORTH AMERICA (AFL-CIO), hereinafter referred to as the Union. It is the intent and purpose of the Agreement to assure sound and mutually beneficial working and economic relationships between the parties hereto; to provide an orderly and peaceful means of resolving any misunderstandings or differences which may arise; and to set forth herein basic and full agreement between the parties concerning rates of pay, wages, hours of employment, and other terms and conditions of employment. There shall be no individual arrangement contrary to the terms herein provided. Either party hereto shall be entitled to require specific performance of the provisions of the Agreement. It is understood that the CITY OF MELBOURNE is engaged in furnishing essential public services which vitally affect the health, safety, comfort, and general well-being of the public, and both parties recognize the need for continuous and reliable service to the public.

ARTICLES OF AGREEMENT

ARTICLE 1

UNION RECOGNITION

1.1 The City of Melbourne recognizes the Union as the exclusive collective bargaining representative for all full time labor and trades employees in the laborer, maintenance, service and trades classifications of the City of Melbourne; excluding elected officials, supervisors, and management personnel who have authority to hire, fire, or discipline employees; excluding employees of the Police and Fire Departments; and excluding white collar, clerical, technical, and professional employees of the City; for the purpose of collective bargaining with respect to rates of pay, wages, and hours of employment who have freely, without fear or coercion, requested such in writing.

1.2 It is further understood and agreed that the International Representative or Business Manager of Public Employees Local 678, Laborers' International Union of North America (AFL-CIO), or an alternate will be the official spokesman for said Union in any matter between the Union and the City. Any alternate designated by the Business Manager shall be designated in writing and the period of time covered by such designation shall be included in such designation.

ARTICLE 2

UNION SECURITY AND CHECK-OFF

2.1 The City will place one permanent copy of this Agreement at each work location on a designated bulletin board.

2.2 An employee covered by this Agreement, who has submitted a properly executed written dues authorization card or statement to the Personnel Manager, may have his membership dues in the Union deducted from his wages. The City will deduct from the employee's pay the amount owed to the Union by such employee for Union dues. It is understood that this provision will provide for 26 deductions per year. If an employee is on vacation during the payroll period for which dues would normally be checked off, and this employee's check is prepared in advance, dues will be deducted from the advance check. The City will remit to the Union such sums within 30 days. Changes in the Union membership dues will be certified to the Personnel Manager in writing over the signature of the authorized officer or officers of the Union and shall be done at least 30 days in advance of the effective date of such change.

2.3 The Union will indemnify, defend, and hold the City harmless against any claims made and against any suit instituted against the City on account of check-off of Union dues.

2.4 Any employee may withdraw his membership in the Union upon 30 days written notice to both the City Personnel Manager and to the Union.

2.5 No deduction shall be made from the pay of any employee for any payroll period in which the employee's net earnings for the payroll period, after other deductions, are the same or less than the amount of dues to be checked-off.

ARTICLE 3

MANAGEMENT SECURITY

3.1 Neither the Union nor any of its officers, agents, or any employees covered by this Agreement will instigate, promote, sponsor, engage in or condone any strike, slow-down, concerted stoppage of work, picketing, or any intentional interruption of the operations of the City during the term of the Agreement regardless of the reason for doing so; the consideration of such provision being the right to a resolution of disputed questions. Management shall have the right to discharge or otherwise discipline for cause, any or all employees who violate the provisions of this paragraph. The only question that may be raised in any proceeding, grievance, judicial setting or otherwise contesting such action is whether the provision preventing work stoppage, slow-down, strike, or withholding services was violated by the employee to be discharged.

3.2 The City and the Union agree that the basic intent of this Agreement is to provide a fair day's work in return for a fair day's pay, and to provide conditions of employment suitable to maintain a competent work force. The City and the Union affirm their joint opposition to any discriminatory practices in connection with employment, promotion, or training, remembering that the public interest requires the full utilization of employees' skills and abilities without regard to race, color, creed, age, national origin, sex, religion, or handicap (if such handicap does not interfere with the duties to which assigned), and other non-merit factors or artificial barriers.

3.3 The City and the Union agree that the use of masculine gender pronouns to indicate employees of the bargaining unit shall be interpreted to mean both male and female employees. Such usage is in the interest of readability; it follows the proper rules of English; and it is not intended, nor shall be interpreted as, sexual discrimination.

ARTICLE 4

MANAGEMENT RIGHTS

4.1 The Union recognizes the prerogative of the City to operate and manage its affairs in all respects in accordance with its responsibilities. The powers or authority which the City has not officially abridged, delegated, or modified by this Agreement are retained by the City. Management officials of the City retain the rights, in accordance with all applicable laws, regulations, and the provisions of the Personnel Rules and Regulations, but are not limited to the following:

1. To manage and direct the employees of the City.
2. To hire, promote, transfer, schedule, assign, and retain employees in positions with the City.
3. To suspend, demote, discharge, or take other disciplinary action against employees for just cause.
4. To relieve employees from duties because of lack of work funds, or other legitimate reasons.
5. To maintain the efficiency of the operations of the City.
6. To determine the methods, means, and personnel by which such operations are to be conducted, including the right to contract and subcontract existing and future work, so as to not adversely affect the existing personnel work force.
7. Organization of City government.
8. The number of employees to be employed by the City.
9. The number, types, and grades of positions or employees assigned to an organizational unit, department, or project.
10. Internal security practices.
11. Those matters covered by the Personnel Rules and Regulations which are not abridged or amended by this Agreement.

4.2 The exercise of the above rights does not preclude employees or their representatives from conferring or raising grievances about the practical consequences that decisions on these matters may have on terms and conditions of employment.

4.3 If, in the sole discretion of the City Council, it is determined that civil emergency conditions exist, including but not limited to riots, civil disorders, hurricane conditions, or similar catastrophes, the 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. In the event that an employee is disciplined or discharged during the declared emergency, the parties agree at the end of the declared emergency, the discipline is subject to the grievance process.

ARTICLE 5

SPECIAL MEETINGS

5.1 The City and the Union agree to meet and confer on matters of interest upon written request of either party. The written request shall state the nature of the matters to be discussed and the reason for requesting the meeting. Discussion shall be limited to matters set forth in the

request or other subjects mutually agreed to, but it is understood that these special meetings shall not be used to renegotiate this Agreement. Such special meetings shall be held within 10 calendar days of the receipt of the written request, at a time and place mutually agreeable to both parties. The Union shall have the right at these special meetings to recommend to the City corrections to any inequities known to the Union. Informal meetings may be held at any time upon verbal agreement of the Union and the City.

5.2 In the event either party desires to modify a specific article contained in this Agreement, then by mutual consent a letter of agreement may be drafted and signed by both parties to supersede said article or provision.

ARTICLE 6

UNION STEWARDS AND UNION REPRESENTATION

6.1 The City recognizes and shall deal with all of the designated Union Stewards, and any other officer listed in Article 1.2 of this Agreement, in all matters relating to grievances and interpretation of this Agreement.

6.2 Employees covered by this Agreement will be represented by 7 Stewards to be designated by the Union.

6.3 A written list of the Union Stewards, alternates, and their work locations shall be furnished to the City prior to the effective date of their assuming duties of office. The Union shall notify the City promptly of any changes of Union Stewards or work locations. No Union Steward will be granted time off from his job to perform any grievance work unless the above provisions have been met.

6.4 There shall be no deduction of pay from either a grievant or a Union Officer or Steward when they are directly involved with management during working hours.

6.5 One employee may be designated by the Business Manager as a Chief Steward. The Chief Steward shall have the authority to speak for and in behalf of the Union in matters involving interpretation of this Agreement, and shall have the authority to handle grievances up to and including Step 3 as outlined in the grievance procedure. It is expressly understood that no more than one Union Steward representing the grievant shall be present at the Step 1 or Step 2 hearings unless agreed upon by both parties. Further, the Chief Union Steward and one Union Steward may be present at the Step 3 hearing.

ARTICLE 7

UNION ACTIVITY

7.1 The following sections outline the duties and responsibilities of Stewards in performing their functions as recognized Union representatives. In those cases which cannot be resolved otherwise, Union Stewards shall be granted reasonable time off, without loss of pay, during working hours to investigate and settle grievances at the job site which is within their jurisdiction, upon notifying and securing the approval of their immediate supervisor. It is agreed that productivity loss must be minimized. Union Stewards shall not investigate, present, or adjust

grievances or disputes on premium time except in emergencies involving discharge, and then only after securing permission from their supervisor.

7.2 Union Stewards shall be employees in the bargaining unit who have satisfactorily completed their probationary period.

7.3 It is agreed that all Stewards have productive work to perform as assigned by the City. The parties agree that each will cooperate with the other in reducing to a minimum the actual time spent by Union representatives in investigating, presenting, and adjusting grievances or disputes. Solicitation of any and all kinds by the Union, including the solicitation of grievances, membership, and the collection of Union monies shall not be engaged in during working hours. No general Union membership meetings shall be held on the City's time.

7.4 While on a leave of absence, no employee shall function as a Union Steward.

7.5 Prior to any proposed investigations of grievances, the Union Steward shall obtain permission from both his immediate supervisor and the grievant's supervisor, which permission will be granted unless the Steward or grievant is performing duties requiring their immediate attention. If permission cannot be granted immediately, the City will arrange to allow investigation of the grievance at the earliest possible time.

7.6 The International Representative, Business Manager, or their designees shall notify the Personnel Manager at least 24 hours (one (1) business day) in advance when planning to conduct business at City work locations. An official as defined above shall be able to talk with employees before or after regular working hours, or during lunch breaks, on City property in an accessible area designated by the City.

ARTICLE 8

GRIEVANCE PROCEDURE

8.1 Any grievance defined as a claim reasonably and suitably founded on a violation of the terms and conditions of this Agreement shall systematically follow the grievance procedure as outlined herein. Any grievance filed shall refer to the provision or provisions of the Agreement alleged to have been violated, and shall adequately set forth the facts pertaining to the alleged violation, and such grievance shall be limited to an application or non-application of this Agreement.

8.2 Rules of Grievance Processing - It is agreed that:

- (A) A grievance must be brought forward as soon as it might reasonably have become known to exist.
- (B) A written list of Division Managers, and where appropriate, their Assistants, and their work locations shall be furnished to the Union. The City shall notify the Union promptly of any changes of Division and Assistant Division Managers and their work locations. The City shall provide the Union with a current organization chart, and will provide updates as they occur.

- (C) The time limit at any stage of the grievance procedure may be extended by written mutual agreement of the parties involved in that step.
- (D) A grievance presented at Step 1 and above shall be dated and signed by the aggrieved employee presenting it. A decision rendered shall be written to the aggrieved employee and shall be dated and signed by the City's representative at that step.
- (E) A grievance may be transmitted to the appropriate City representative for processing either via email or by hard copy. When a written grievance is presented in person, the City's representative shall provide a dated and signed receipt for it at that particular step. When a written grievance is submitted via email, the City representative will acknowledge receipt.
- (F) A grievance not advanced to the higher step within the time limit provided shall be deemed permanently withdrawn, and as having been settled on the basis of the decision most recently given. Failure on the part of the City's representative to answer within the time limit set forth in any step will entitle the employee to proceed to the next step.
- (G) When a grievance is reduced to writing there shall be set forth:
 - 1. A complete statement of the grievance and facts upon which it is based;
 - 2. The section or sections of this Agreement claimed to have been violated; and
 - 3. The remedy or correction requested.
- (H) In the settlement of any grievance resulting in retroactive adjustment, such adjustment shall be limited to ten (10) calendar days prior to the date of the filing of the grievance.
- (I) The term City Manager used herein shall mean Aviation Director for those employees employed by the Airport Authority.
- (J) In cases where grievances arise in departments other than the department where grievant is employed, the following shall apply:
 - 1. The grievant will notify his immediate supervisor of his grievance; then he will discuss the grievance with the immediate supervisor of the department in which the grievance applies.
 - 2. In following the Steps of the Grievance Procedure, the management representatives referred to in the steps shall mean those representatives in the department in which the grievance applies.

- (K) If the aggrieved employee requests Union representation, the chosen steward and the grievant shall be notified by the City representative in a timely manner of all grievance hearings. The chosen steward shall receive a copy of all management decisions at each step of the grievance procedure. In all cases, the Chief Steward shall receive a copy of any management decisions at each step.
- (L) If a grievance is filed to contest or appeal a disciplinary action, such grievance shall originate at Step 2 of the grievance procedure. Accordingly, the written grievance shall be filed directly with the Department Director, with copy to the Division Manager.
- (M) At any grievance hearing where the grievant is represented by the union, the union steward will have the opportunity to "present" the grievance immediately after the grievance hearing commences, which will include the steward having an opportunity to describe both the facts supporting the grievance and the reasons why it is alleged that the City's conduct violated the CBA.
- (N) After the steward presents the grievance in this fashion, the management representative may then ask the grievant questions relating to the grievance, such as what exactly occurred and when.
- (O) Questions relating to why it is asserted that the CBA was violated will generally be directed to the union steward. If such a question is posed to the grievant, the grievant will be afforded the option at his or her request of either directly responding to the question or directing the steward to respond in his or her stead as to the allegation.
- (P) Either party may briefly caucus outside of the presence of the other party at any time during the course of the hearing.

STEPS FOR GRIEVANCE PROCESSING

Step 1: The aggrieved employee shall present his grievance to his Division Manager within seven (7) calendar days after he had knowledge of his grievance. The Division Manager shall meet with the aggrieved employee who may be accompanied by a Union Steward or Representative within seven (7) calendar days. Discussions will be informal for the purpose of settling differences in the simplest and most direct manner. The Division Manager shall reach a decision and communicate it in writing to the aggrieved employee within seven (7) calendar days from the date of the Step 1 grievance hearing. The parties agree that should the final calendar day fall on a weekend or a Holiday when City Hall is closed, the deadline shall fall on the next business day.

Step 2: If the grievance is not settled in the first step, the aggrieved employee, within seven (7) calendar days, shall forward the written grievance to the Department Director. The Department Director shall meet with the aggrieved employee, who may be accompanied by a Union Steward or a Union Representative within seven (7) calendar days after the receipt of the grievance, unless such time is mutually extended in writing. The Department Director shall render a decision and communicate it in writing to the aggrieved employee with a copy to the Union within seven (7) calendar days of the Step 2 hearing. The parties agree that should the

final calendar day fall on a weekend or a Holiday when City Hall is closed, the deadline shall fall on the next work day.

Step 3: If the grievance is not settled at Step 2, the aggrieved employee shall, within seven (7) calendar days, forward the written grievance to the Personnel Manager. The Personnel Manager shall meet with the aggrieved employee, who may be accompanied by a Union Steward and/or a Union Representative, within fourteen (14) calendar days after receipt of the grievance, unless such time is mutually extended in writing. The Personnel Manager shall obtain the facts and forward his recommendations to the City Manager within ten (10) calendar days after the meeting, unless this period is extended by mutual agreement. The City Manager shall have ten (10) working days to consult with any of the parties involved and render a decision in writing to the Union with copy to the employee, unless this period is extended by mutual agreement in writing. The parties agree that should the final calendar day fall on a weekend or a Holiday when City Hall is closed, the deadline shall fall on the next work day.

Step 4: In the event that the grievance is not settled at Step 3 within the time allowed, it may then be submitted to arbitration. Submission to arbitration must be made within ten (10) days of the last grievance period, provided, however, this period may be extended upon the mutual agreement of both parties. If the parties fail to agree in the first instance of an appointment, the Federal Mediation and Conciliation Service shall be requested to provide a panel of arbitrators from which a selection shall be made. Hearings before the arbitrator shall be conducted in accordance with the rules of the Federal Mediation and Conciliation Service. Expenses for the arbitrator's expenses shall be borne by the losing party. The arbitrator's decision shall be final and binding on the parties, but no arbitrator shall have the power to alter, modify, amend, add to, or detract from the terms of this Agreement.

ARTICLE 9

DISCIPLINE AND DISCHARGE

9.1 No regular employee shall be disciplined, removed, discharged or reduced in rank or pay, suspended or given a formal letter of reprimand except for just cause. In any proceedings the employee shall have reasonable time to prepare for a defense against the charges preferred and shall have the right to retain counsel and shall be afforded due process. Included in the disciplinary action or formal letter of reprimand shall be a written statement of charges indicating the charges and the reason for the disciplinary action.

9.2 The procedure for discipline, dismissal, demotion, and suspension shall be progressive and corrective in nature. This does not prevent the employer from taking more severe action under unusual circumstances. At no time shall this procedure be retaliatory in nature.

9.3 After an employee has had a clean record for two (2) years, all prior written reprimands shall not be used in any other disciplinary proceedings. A suspension or major offense in a personnel file shall not be used in any disciplinary proceedings after a five (5) year clean record unless the employee has been given another suspension or been charged with another major offense.

9.4 Disciplinary action must be timely in order to be effective. Hence, any action taken on an offense must be issued within ten (10) calendar days following the time the occurrence should have reasonably become known to exist. Should an employee be off on leave during this ten (10) day period, the issue date shall be extended by the number of days the employee was away from work.

9.5 No record of any disciplinary charge, expressed or implied, shall be included in an employee's official City personnel file, unless appropriate disciplinary action was taken. If a grievance is filed by the employee and the grievance is upheld, such discipline will not be placed in the employee's file.

ARTICLE 10

VACATION LEAVE

10.1 Annual leave for regular employees covered by this agreement shall be earned in accordance with the following formula:

<u>Years of Employment</u>	<u>Work Hours per Year</u>
1 - 5	96
6 - 9	112
10 - 14	136
15+	192

For employees hired on or after January 1, 2011, annual leave will accrue according to the following schedule:

<u>Years of Employment</u>	<u>Work Hours per Year</u>
1 - 7	96
8 - 19	136
20 +	192

10.2 Vacation shall be earned during the first year of employment. Employees completing six (6) months of service are entitled to use their accrued vacation.

10.3 Vacation leave not taken in any one (1) year may be accumulated for use in succeeding years as follows:

- under ten (10) years service - to four hundred (400) hours maximum
- over ten (10) years service - to five hundred twenty (520) hours maximum

10.4 An employee who is permanently separated from the City after six months of continuous service, and who has provided his supervisor with the proper written notice of intent to resign, shall be paid in a lump sum for accumulated vacation leave at his current rate of pay, not to exceed five hundred twenty (520) hours.

10.5 An employee who is on leave due to an illness, injury, or disability, and who has exhausted all accrued sick leave shall utilize their accrued vacation leave prior to going into an unpaid status. Employees who are on an FMLA covered absence and receiving employer provided supplemental income through workers compensation or disability benefits may choose to supplement this income with accrued vacation leave and/or accrued compensatory time.

10.6 Should a legal holiday fall within an employee's scheduled vacation period, the time off shall be charged to the holiday and not to vacation leave.

10.7 Vacation requests shall be submitted in advance on a day for day basis and in no case shall be required in excess of five (5) days prior to the dates requested. No advance request need be given in the event of an unforeseeable emergency.

Advance vacation requests (vacation requests submitted at least seven (7) calendar days in advance of the dates requested) shall be reviewed by Management and either approved or denied within three business days of the request and communicated to the employee. If the employee is not actively at work on the third day, the date shall be extended until the next business day that the employee returns to work.

ARTICLE 11

HOLIDAYS

11.1 Definitions:

- (a) Shift Employee - an employee covered by this Agreement who is employed by the City as an Operator or Operator Trainee at the City's water treatment plants or wastewater treatment (water reclamation) plants. The Day Shift shall be considered a shift for such employees.
- (b) Non-Shift Employee – an employee covered by this Agreement who is not included in Section 11.1(a) above.

11.2 All employees covered by the Agreement shall be paid at a regular rate of pay for each of the following designated holidays:

- (1) The first day of January (New Year's Day)
- (2) The third Monday in January (Martin Luther King, Jr.'s Birthday Observance)
- (3) The last Monday of May (Memorial Day)
- (4) The fourth day of July (Independence Day)
- (5) The first Monday in September (Labor Day)
- (6) The day in November proclaimed as Thanksgiving
- (7) The day in November after Thanksgiving Day
- (8) The twenty-fourth day of December (Christmas Eve)
- (9) The twenty-fifth day of December (Christmas Day)
- (10) If the City Council declares an extra paid holiday for general employees

11.3 For non-shift employees:

- a. Whenever any of the established holidays falls on a Sunday, the following Monday shall be observed as the official holiday.
- b. Whenever any of the established holidays falls on a Saturday, the preceding Friday shall be observed as the official holiday.

For shift employees, any established holiday falling on a Saturday shall be observed on that Saturday, and any established holiday falling on a Sunday shall be observed on that Sunday.

11.4 Any regular employee of the bargaining unit who shall be required to perform work or to render services on one of the holidays listed in Article 11.2 shall be compensated at one and one half (1 ½) times his hourly rate for those hours worked, in addition to receiving his straight time holiday pay.

11.5 Employees absent from regular duty on authorized sick leave when a holiday occurs shall be accorded the holiday on the appropriate date.

11.6 Whenever a holiday shall occur on a scheduled day off for shift employees, those employees shall be compensated at the straight time rate.

11.7 For an employee to be eligible for holiday pay he must work the day before and the next work day following the holiday, or be on authorized paid leave. Furlough days, if any, shall be considered days worked for purposes of this section. A disciplinary suspension will not prevent an employee from receiving holiday pay.

ARTICLE 12

SICK LEAVE

12.1 Sick leave with pay shall be credited at the rate of 8 hours for each calendar month of employment, or 96 hours per year with a maximum accrual of 720 hours. For employees hired on or after June 9, 2011, sick leave shall be credited at the rate of 6 hours for each calendar month of employment, or 72 hours per year and the maximum accrual will be 360 hours. Sick leave credit will begin upon the first pay period and will accumulate each pay period thereafter. No sick leave with pay may be granted to an employee until the employee has satisfactorily completed the probationary period.

12.2 Sick leave is time away from work which may be granted to an employee without deduction from his regular compensation for:

- (A) Incapacitation which prevents the performance of his duties by reason of sickness or injury.
- (B) Medical, dental, or optical treatment or examination.
- (C) When through exposure to contagious disease, the presence of the person at his post of duty would jeopardize the health of others.

- (D) Treatment or consultation for mental illness.
- (E) Rehabilitation or therapy for alcoholism, drug addiction or any other addictive condition which is dangerous to his health.
- (F) Any other purpose authorized by the Family Medical Leave Act of 1993 (FMLA).

Violation of Article 12.2 may subject the employee to disciplinary action up to and including dismissal after a thorough investigation.

12.3 In addition to the sick leave benefits provided herein, an employee shall be entitled to and receive compensation upon his retirement for a period of time equal to one-half of his unused, accumulated sick leave. Retirement is defined as an employee's termination from City employment for retirement under the provisions of the Florida Retirement System (FRS) or the Melbourne Municipal General Employees' Retirement Fund. Employees participating in the FRS Investment Option must meet the eligibility requirements under the FRS normal or disability retirement option to qualify for this benefit. There shall be no sick leave buyback at retirement for employees hired on or after June 9, 2011.

12.4 An employee who accumulates more than 720 hours of unused sick leave shall be entitled to receive payment for one-half the excess beyond 720 hours in any one year. Said payment shall be made at the regular rate of pay, and shall be made on the first payday in December. Effective in 2011, for employees hired prior to June 9, 2011 who accumulate sick leave in excess of the maximum accrual, Payroll will convert the overage to vacation time at the rate of 50% (2 sick leave hours for 1 vacation leave hour) on the first pay period in December. Due to this conversion, employees may be afforded the ability to carry any excess vacation leave over the maximum accrual at the end of the year if approved by the presiding Department Director due to staffing requirements. For employees hired on or after June 9, 2011, there shall be no annual sick leave to vacation leave conversion.

12.5 The Department Director/Division Manager may require medical certification for any sick leave after five (5) unscheduled days based on a calendar year.

12.6 Sick Leave accrual may be used to care for immediate family member's illnesses. The immediate family is defined as the employee's father, mother, spouse, children and step children as cited in the Family Medical Leave Act of 1993.

12.7 Layoffs: An employee who is laid off from a position and re-appointed within 12 months, will be credited, upon reappointment, with all unused sick leave existing at the time of layoff as defined in the Separation Policy and return to the accrual rate in place upon the date of layoff.

12.8 An employee requesting sick leave must contact his supervisor or designee within 30 minutes after his scheduled start time. Failure to initiate a timely request may result in unapproved leave without pay.

12.9 Any employee involuntarily separated from the City due to medical reasons shall receive payment for 50% of his sick leave balance.

ARTICLE 13

OVERTIME PAYMENT

13.1 Except where otherwise specified herein, overtime will be paid at the rate of time and one-half (1-1/2) for all hours worked in excess of 40 hours in any work week. Overtime will also be paid for all hours worked in excess of 8 hours in any work day provided that the employee completes the 8 regular work hours or alternatively provides an approved absence. Sick time is not considered an approved absence. For employees assigned to an odd workweek, overtime shall commence with hours worked over the established work period.

13.2 An employee who has left his normal place of work for his residence, and is called back for overtime work, shall be paid for such overtime in accordance with the above, provided that he shall receive a minimum payment of 2 hours at time and one-half (1-1/2) his regular rate. The minimum time provided herein does not apply if an early call-in period extends into the start of an employee's regular work period.

13.3 Overtime work shall be equally distributed among employees in each division on the basis of seniority based on the work he customarily and ordinarily performed and the nature of the work. A list of eligible employees of each division shall be posted and maintained by the Division Manager and the division steward of each division.

13.4 Employees who are entitled to overtime payment may, with mutual consent of the parties, receive compensatory time in lieu of overtime payment. A maximum of seventy-five (75) hours of compensatory time, which equates to fifty (50) hours of overtime, may be accrued. Once an employee has reached maximum accrual, all overtime hours will be paid at one and one-half times his normal pay until such time as his accrued time has been reduced. Requests for compensatory time off should be submitted in advance consistent with requests for vacation leave for staffing purposes.

13.5 Employees assigned to standby duty shall be entitled to compensation at the overtime rate of two (2) hours per week day and four (4) hours per weekend day and holiday.

ARTICLE 14

WAGES

14.1 Upon ratification and Council approval of this contract, employees covered by this Agreement shall receive a 1% lump sum payment. Effective for the duration of this contract, bargaining unit members will receive the same increases (COLA, step, or lump sum) provided to general employees as approved by the City Council.

14.2 Employees in the Mechanic and Mechanic's Assistant classifications who provide their own tools shall receive a tool allowance of \$280 paid semi-annually in installments of \$140 each, after inspection of each employee's tools to insure the presence of all tools required. Required tools are shown in Appendix A of this Agreement.

14.3 Employees covered by this Agreement who are assigned to the second shift shall receive an evening premium of 20 cents per hour. Employees assigned to the third shift shall receive a night premium of 30 cents per hour. Said premiums shall be in addition to the regular rate of pay.

14.4 There shall be no furlough days during the first year of the contract. Any furlough days instituted in the second and third years of the contract would only be implemented after mid-year budget amendments are adopted by the City Council clearly stating an unforeseen or significant exigency in the City's fiscal condition. Should this occur, the City Council may declare up to three furlough days per fiscal year. In the event of continued economic decline and the City Council declares a fiscal hardship anticipating possible additional bargaining unit furloughs, the City and the Union agree to meet within fourteen (14) days for the purpose of negotiating changes to the Agreement to prevent or minimize furloughs. In the event negotiations are unsuccessful, either party may declare impasse. In such event, the impasse will be resolved in accordance with Section 447.403, Florida Statutes.

14.5 Each year of this contract, and at least three months prior to October 1st, the Union may request a review of four positions within the bargaining unit to determine if the pay grade for the positions selected is competitive to other public agencies with comparable population, workforce size and assigned duties. The employer list to be surveyed shall be agreed upon by both parties prior to the start of the review and shall be based on these criteria. If it is determined that any or all of the positions surveyed warrant an upgrade (the minimum pay for the City's position is 5% or more below the average minimum of the survey) then the reclassification shall take place at the same time as the annual pay adjustments in October of the same year.

14.6 When an employee works out of his classification for a period of 10 working days or more, and where that classification pays a higher rate than that of his own classification, the employee will be paid at a rate equal to the minimum of the higher classification, or two steps above his current rate, whichever is greater, for that time worked.

14.7 It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described, and employees may be required to perform duties not within their job description. Employees who are required to work in a higher classification shall be paid the higher rate in accordance with Article 14.6 of this Agreement. However, under no circumstances will wages be lowered in the event an employee is required to work in a lower classification.

ARTICLE 15

HEALTH AND WELFARE

15.1 Members of the Bargaining Unit and covered retirees shall participate in the City's group health insurance plan on the same basis as general employees and retirees as may be authorized from time to time by the City Council including, but not limited to benefits provided, contributions rates, deductibles, and co-payments.

For existing employees: In no event will the City contribute less than \$473.80 or 90%, whichever is greater, per month of the HMO Standard Plan premium for individual coverage.

For dependent coverage the City will contribute no less than \$600.54 or 75%, whichever is less, per month of the HMO Standard Plan. For employees with 22 or more years of continued City service as of October 1, 2010, at retirement the City will contribute no less than \$236.90 or 50%, whichever is less, per month of the Standard HMO Plan premium for retirees participating in the City's health insurance program. For employees with between 7 years and 22 years of continued City service as of October 1, 2010, the City will contribute no less than \$120 or 25%, whichever is less, per month of the Standard HMO Plan premium for retirees participating in the City's health insurance program for a period of five years after the date of retirement. Excluding active employees in the DROP program, City contributions toward retiree health insurance coverage shall cease when a retiree reaches normal Medicare age. For employees with less than 7 years of City service as of October 1, 2010, there will be no City contribution towards retiree health insurance.

For new employees hired on or after January 1, 2011: In no event will the City contribute less than \$426.42 or 90%, whichever is less, per month, of the HMO Standard Plan premium for individual coverage. For dependent coverage the City will contribute no less than \$520.47 or 65%, whichever is less, per month of the HMO Standard Plan premium. There will be no City contribution towards retiree health insurance for new employees hired on or after January 1, 2011.

Any additional amount will be the responsibility of the employee or retiree.

15.2 The LIU has the right to appoint one representative to the Health Insurance Advisory Committee.

15.3 The City shall have the right to amend the comprehensive group health insurance plans offered to employees.

15.4 The City agrees to provide \$25,000 group term life insurance coverage for each member of the bargaining unit.

15.5 If an employee is temporarily suspended from work, the City will continue his Health and Life Insurance Program until final disposition of the case.

15.6 In the event of an employee's death, the beneficiary or estate as established on the employee's group life insurance beneficiary form shall receive any accrued overtime, vacation time, compensatory time, or terminal leave benefits to which the employee would have been entitled.

15.7 The City agrees to make available to all members of the bargaining unit a comprehensive group Dental Insurance Plan. The City will not participate in any premium amount for either employee or dependent coverage.

15.8 All employees covered by this Agreement shall have the right to participate in the City's cafeteria (pre-tax) benefit plan.

ARTICLE 16

BEREAVEMENT LEAVE

16.1 Upon the death of an immediate family member, three (3) days paid bereavement leave will be granted to employees. For purposes of this section, immediate family is defined as parent, spouse, parents of spouse, children, brother, sister, half-brothers and sisters, step brothers and sisters, step parents, grandchildren, legal guardian, grandparent of the employee or their spouse, brother and sister-in-law, son and daughter-in-law.

16.2 When an employee has to travel outside the State of Florida, two (2) additional days bereavement leave will be granted.

ARTICLE 17

SAFETY AND HEALTH

17.1 The City agrees that it will conform to and comply with laws as to safety, health, sanitation, and working conditions properly required by federal, state, or local law. The City and the Union will cooperate in the continuing objective of eliminating accidents and health hazards.

17.2 Protective devices, wearing apparel, and other equipment necessary to protect employees from injury shall be provided by the City. Such items, when provided, must be used and the Union agrees that willful neglect and failure by an employee to obey safety regulations and to use safety equipment shall be just cause for disciplinary action. Protective devices, apparel, and equipment applicable herein are listed below:

1. gloves
2. rubber boots (when required)
3. safety hard hats (when required)
4. rain coats or suits
5. safety vests (when required)
6. safety goggles (when required)
7. ear protection
8. respirators

17.3 It is agreed that the Union will appoint 2 members of any in-house safety committee.

17.4 The City shall provide work uniforms with cleaning service to all employees in the bargaining unit at no cost to the employee. Each employee shall receive 1 shirt and 1 pair of trousers for each regular work day (overtime days excluded). The City will provide a carbon laundry slip to be used by the employee to verify the number of uniforms turned in for cleaning. Employees will be required to fill out the laundry slip when uniforms are turned in for routine maintenance. The carbon copy will go with the uniforms and the original will go to the employee for personal files or verification. Upon receipt of clean uniforms, the employee will verify that the proper number of uniforms was returned to him, with any shortage reported to his immediate supervisor.

17.5 When an employee is required to wear safety shoes the City shall pay up to \$125.00 per pair, per fiscal year. A receipt of the purchase or repair is required before reimbursement will be made.

17.6 The City agrees to assign all shift personnel to permanent shifts subject to the following provisions:

1. The only exception to a permanent shift assignment shall be when an employee occupies a trainee position or is actively involved in an in-house training program. Such employee may be required to work irregular or rotating shifts provided such requirement is part of this training.
2. An employee may be rescheduled temporarily to another shift to fill in for another employee for the following purposes:
 - a. When an employee is on leave as a result of Workers' Compensation, sick leave, vacation, or other leave.
 - b. When equally qualified employees volunteer to trade shifts temporarily for attending school, or other personal matters. In such cases, a written request for shift trade shall be submitted by those employees involved to the employees' immediate supervisor for approval. Included in the request shall be the employees and shifts involved, and the duration of the shift trade. Such requests shall be made at least five working days in advance.
 - c. When a shift vacancy occurs due to retirement, resignation, or termination.

Employees will be given at least three calendar days notice prior to such change unless extraordinary circumstances occur as determined by the Department Director. Rescheduling shall be offered on a voluntary basis to all normally scheduled day-shift operators based on division seniority. No employee shall be required to be rescheduled for more than 30 calendar days.

17.7 The City and the Union mutually agree to provide an annual medical evaluation for each employee who is required to use a respirator in the performance of his job in compliance with the OSHA respirator protection standard found in the Code of Federal Regulations Title 29 Part 1910.134 (e). Such evaluation will be at the City's expense. Annual medical evaluations will be conducted during the employee's anniversary month. The content of the evaluation will be determined by the above CFR standard.

17.8 The City and the Union both realize that wearing sound equipment/earphones during the work day is a definite hazard to the health of the employee. It is agreed that the employee will not wear sound equipment/earphones during the work day.

ARTICLE 18

BULLETIN BOARDS

18.1 The City agrees to furnish and maintain suitable bulletin boards in convenient places in each major work area to be used by the Union. The Union shall limit the posting of notices and bulletins to such bulletin boards.

ARTICLE 19

JURY DUTY AND CIVIL LEAVE

19.1 Regular full time employees shall be granted time off with pay for jury duty and for attending court in compliance with a subpoena or other court order on behalf of a public jurisdiction upon presentation to their immediate supervisor of satisfactory evidence of their required presence. No deduction shall be made from any amount of compensation received from the court, nor shall the time off be charged to any accrued leave.

19.2 If an employee is released by the court five (5) hours before his normal quitting time, he shall be required to report to his work site within two (2) hours after his release.

ARTICLE 20

SEVERABILITY

20.1 If any provision of this Agreement shall be found to be invalid by any court having jurisdiction in respect hereof, such findings shall not affect the remainder of this Agreement, and all other terms and provisions shall continue in full force and effect. Upon any such judicial determination, the City and the Union will promptly negotiate and endeavor to reach an agreement on a substitute for the provisions found to be invalid.

ARTICLE 21

SAVINGS CLAUSE

21.1 The City agrees that all present privileges, benefits, and rights that are now in existence and maintained by the employees in the bargaining unit are hereby protected and will not be discontinued even though they are not specifically provided for in this Agreement. This limitation will not apply to previous benefits and rights when job practices and/or procedures have changed to the extent that the practice and/or procedure is no longer relevant, provided however that the City will give adequate notification to the Union of any intended change.

ARTICLE 22

PROBATIONARY PERIOD

22.1 The City will require a 180-day probationary period for all newly hired employees in all departments.

22.2 All probationary employees are to be evaluated verbally at the end of their first 90 days, and on an evaluation form at the end of 180 days.

22.3 After 90 days, probationary employees will be entitled to all benefits and rights enjoyed by all other members of the bargaining unit, but will not have recourse through the grievance procedure on any matters of termination.

The City may at its sole discretion terminate any employee during their new hire probationary period.

22.4 A favorable rating will place the probationary employee on regular status with the City. An unfavorable rating will make the probationary employee subject to further review, demotion, or discharge.

ARTICLE 23

SENIORITY

23.1 Definitions:

City Seniority - City Seniority is defined as the length of employment with the City of Melbourne. Such seniority shall be acquired by a full-time employee after completion of the probationary period, at which time seniority shall be retroactive to the first day of employment as a full-time employee effective for all employees hired on or after October 1, 2001. City seniority shall apply to accrual of benefits, promotional vacancies, and layoffs in accordance with Article 32.

Division Seniority – Division Seniority is defined as the length of employment within the division. Accrual of Division Seniority shall begin on the first day of employment or transfer into a Division. Division seniority shall apply to overtime, holiday work, and scheduling of vacations.

23.2 Cumulation - Seniority shall accumulate during absence because of illness, injury, vacation, or other authorized leave.

23.3 Break in Seniority - Seniority shall be broken when an employee:

1. Terminates voluntarily.
2. Is discharged for just cause.
3. Exceeds an authorized leave of absence.

ARTICLE 24

PROMOTIONAL VACANCIES

24.1 Notice of a promotional vacancy in an existing position filled by an employee covered by this Agreement shall be posted for a period of three (3) working days, such time to be prior to notifying the public, on appropriate City Bulletin Boards. Any regular employee of the City who is interested in filling the vacancy shall complete and submit to their Division Manager prior to the indicated closing date on the job announcement sheet, a career opportunity program application form.

24.2 All employees completing the career opportunity program application form before the closing date shall be considered for the vacant position. The vacancy shall be filled on the basis of qualifications and seniority. However, except for LIU grade one (1) positions, the best qualified applicant, based on skills and abilities demonstrated in objective tests, shall be recommended. If two (2) or more in-house employees' qualifications are equal for the vacant position, then seniority shall be the determining factor. It is expressly understood that qualifications shall be as outlined in the job description.

24.3 When an employee is promoted, the employee's rate of pay shall increase to the step in the new classification which is the equivalent to a two (2) step increase in the old classification.

24.4 It is expressly agreed that no vacancy will be released to the public, nor shall applications be accepted from the public unless there are not at least three (3) qualified career opportunity program applicants bidding to fill such vacancy.

24.5 All employees promoted, demoted or laterally transferred to a new position shall serve a 180 day probationary period.

24.6 Lateral Transfer: An employee who is transferred laterally to another position will not receive any pay increase or decrease.

24.7 Whenever an employee is demoted (reassigned to a lower graded position) for whatever reason (performance, discipline, to accommodate a disability or incapacity, reorganization, in lieu of layoff, voluntary request, etc.) he will have his pay adjusted consistent with the nature of the demotion and commensurate with the knowledge, skills, and abilities of the employee being demoted as compared to those employees currently performing the job, or most recently performing the job. Under no circumstances will a downgraded employee's pay rate exceed the maximum of his new salary range, or if the employee is being downgraded to a position he previously held, be at a rate higher than he would have attained had he remained in that position.

24.8 The City shall have latitude to offer candidates for skilled positions employment above the minimum pay provided for in the classification plan commensurate with the skills, abilities, experience and education of the applicant and fellow employees occupying the same job.

24.9 It is agreed by the parties that, when a skills test is administered to candidates for a position covered by this Agreement, the Union shall be entitled to have a representative present and to be given adequate notice of such testing.

ARTICLE 25

EDUCATION

25.1 Where the best interests of the City is served by schooling, seminars, or classes for the employees covered by this Agreement, and provided such schooling is authorized by the City, actual costs incurred shall be borne by the City as approved. Funding for courses are subject to Department Director approval. Repayment of educational assistance shall be in accordance with the City's Tuition Grant Program and shall only apply to college courses. See section 5.1 of the Personnel Policies and Procedures.

25.2 The City shall, subject to funds budgeted by the City, pay the tuition, in an amount not to exceed the prevailing credit hour rate for either undergraduate or graduate courses, as appropriate, at the University of Central Florida, for any accredited courses, not funded by other sources, which have been completed by an employee if the following requirements are met.

1. The course is directly job related.
2. Approval to attend is obtained by the employee prior to attendance.
3. A final grade of C or better is earned for undergraduate courses.
4. A final grade of B or better is earned for graduate courses.
5. The employee has completed the new-hire probationary period.

The costs for books and other fees assessed by the educational institution shall be borne by the employee.

Approval or disapproval for attendance shall be the decision of the Department Director. Employees who have announced their intention to leave employment with the City, including DROP participants, are not eligible to participate in the Tuition Grant Program.

25.3 No deduction shall be made from an employee's pay or accrued leave for time spent attending or travel to and from an approved class or seminar.

25.4 When an employee's position requires that he possess and maintain a Commercial Drivers License, the City agrees to reimburse the employee the difference between the cost of an Operators Drivers License and the cost of a Commercial Drivers License required for his position. Such reimbursement will be made for initially obtaining the CDL.

ARTICLE 26

DRUG TESTING

26.1 Purpose: The City and the Union mutually agree that the City of Melbourne is a drug-free workplace and is in compliance with Section 440.102, Florida Statute, Drug Free Workplace Program requirements as well as the Code of Federal Regulations – Title 49, Part 40, Transportation Workplace Drug and Alcohol Testing Programs. The City and the Union mutually agree that the use by employees of unlawful drugs and other illegal controlled substances, and abuse of alcohol, prescription drugs and/or over-the-counter medications constitutes a breach of the public trust and a serious danger to the employee, fellow employees, and the general public. It is further agreed that the safety of public property and equipment is placed at jeopardy if an employee is under the influence of drugs and alcohol. The term “drug”, as used herein, shall include all illegal drugs and/or controlled substances, alcohol, and controlled substances, whether or not prescribed, that impair an employee in the performance of his duties. “Drug testing”, as used herein, shall include testing for “drugs” as defined above. In testing for alcohol, a positive test shall be deemed to have occurred when the presence of alcohol exceeds the applicable legal limit.

To allay public concerns regarding the use of drugs or other illegal controlled substances by public employees, and to mitigate the danger to other employees in the workplace, the City and the Union mutually agree that the following drug testing procedure will be implemented.

26.2 Random Drug Testing: Any employee who is required, in order to perform his essential job duties, to possess a Commercial Driver License will be subject to random drug and alcohol testing in accordance with the Code of Federal Regulations – Title 49, Part 40 Transportation Workplace Drug and Alcohol Testing Programs.

26.3 Reasonable Suspicion Drug Testing: At any time the City believes there is a reasonable cause or suspicion that an employee may be placing himself or others at risk due to the influence of drugs and/or alcohol, that employee may be subject to drug testing. Reasonable suspicion shall be supported by evidence of an employee exhibiting erratic or unusual behavior, including but not limited to: chronic lateness or absenteeism, unexplained or lengthy disappearances during the day, irritability, paranoia, suspiciousness, sharp mood swings, changes of an employee's appearance, behavior, or ability to perform normal work duties. Observations of such behavior will be reported to supervisory personnel. An accident involving a City vehicle and/or resulting in a Workers' Compensation injury may also result in drug testing authorized by this Section. The decision to require the employee to submit to drug testing will require the approval of either the Department Director or his designee and coordinated through the Employee Health Nurse or designee prior to any testing taking place.

26.4 List of Drugs to be Tested:

A list of drugs for which the employee is subject to testing shall be found in Appendix B of this agreement.

26.5 Procedure for Drug Testing:

- (a) Test samples will be collected either at the City designated physician's office or at Employee Health Services. Tests will be conducted by an independent laboratory contracted by the City. An appropriate chain of custody will be established to ensure the veracity of test results. The original sample will be divided into three parts and retained by the independent laboratory. The first part will be used for screening, the second for confirmation of a positive test result on the first part, and the third part will be retained for use by the employee for independent testing.
- (b) Where it can be shown that the results of the first test were in error, the City will pay the cost of the independent test.

26.6 Positive Drug Test Results: A positive confirmatory test will result in an interview with the Department Director and the Employee Health Nurse. Outside counseling and rehabilitation will be offered through the Employee Assistance Program to help the employee correct any problem he may have. Dismissal will not be imposed for the first positive test. To ensure the safety of the general public and other employees, any employee testing positive will be removed from active duty and be placed on either annual leave, sick leave, or a leave of absence. Those employees who successfully complete a rehabilitation program will be subject to re-testing at least 2 times during the next year; said tests to be in addition to that which is required by law and/or in accordance with the provisions of this Article.

26.7 Employees who are using a drug lawfully prescribed by a physician are encouraged to notify the Employee Health Nurse of that situation.

26.8 Employees who refuse to comply with the provisions of this Article, or who do not successfully complete the rehabilitation program will be subject to disciplinary action, in accordance with Article 9 of this Agreement, up to and including dismissal.

26.9 City Personnel Policy 12.11:

City Personnel Policy 12.11, "Drug-Free Workplace", herein referred to as "the Policy", is incorporated by reference and attached hereto as Appendix B of this Agreement. Employees covered by this Agreement shall be subject to the provisions of the Policy, except when the Policy conflicts with other provisions of this Article or any other provision of this Agreement. In such cases, the affected provision or provisions of this Agreement shall take precedence.

ARTICLE 27

NON-DISCRIMINATION

27.1 The City agrees that there will be no discrimination against any employee or employees on account of membership or non-membership in the Union.

27.2 The City agrees that there will be no discrimination against any employee or employees on account of any steps taken or not taken to enforce rights under this Agreement or by law; or

for the filing and processing of a grievance or other lawful action, regardless of the outcome of such action.

27.3 The City and the Union affirm their joint opposition to any type of workplace harassment directed against any employee covered by this Agreement including, but not limited to workplace bullying and other abusive workplace behavior.

ARTICLE 28

WORKERS' COMPENSATION

28.1 Payment of Workers' Compensation to all employees who are disabled as a result of injury arising out of and in the course of performing their duties with the City will be governed by the Florida State Workers' Compensation Law.

28.2 In the event of an on the job injury to an employee covered by this bargaining agreement, time lost from work for the first seven (7) calendar days will be considered "injury leave," and the employee will not sustain any loss of pay or benefits while on such leave.

ARTICLE 29

RETIREMENT

29.1 Employees hired prior to January 1, 1996 are covered by the State of Florida Retirement System (FRS), while employees hired on or after January 1, 1996, will be covered by the City of Melbourne's Retirement System, which, at a minimum, will provide the same level of benefits presently provided for under the Florida Retirement System.

29.2 Effective August 1, 2008 the City of Melbourne rejoined FRS. All eligible employees hired on or after that date are covered by FRS. Upon re-entering the State retirement system, participants in the City of Melbourne's Retirement System were given the option to have their creditable service years transferred into FRS. This was an individual, one-time option. The City of Melbourne's Retirement System remains in effect for those employees who did not elect to join FRS during the transition period.

ARTICLE 30

ACKNOWLEDGEMENT OF ENTIRE AGREEMENT

This agreement constitutes the entire understanding of the parties on all subjects covered herein. Any changes to this agreement must be implemented pursuant to the collective bargaining process in Chapter 447, Florida Statutes.

When there is federal or State legislation or constitutional amendments enacted that have an adverse impact on the City's ability to pay benefits contained in this Agreement, the Union and the City agree to open the specific article(s) impacted. To invoke this article, the City Council must pass a resolution to declare a fiscal hardship.

ARTICLE 31

EMERGENCY OPERATIONS PAY POLICY

Purpose:

The purpose of this policy is to establish a comprehensive plan for pay, leave, and reporting requirements during an emergency declared by the City Manager or his designee. This policy is intended to cover short-term situations, lasting less than one week. A disaster situation lasting more than one week will necessitate re-evaluation of this Emergency Operations Pay Policy.

Policy:

The parties agree that Union members will be subject to the provisions of the Emergency Operations Pay Policy as established in the City's Administrative Policy, section 904.

ARTICLE 32

LAYOFF

32.1 **Layoffs:** In the event it becomes necessary for the City to lay off any employee covered by this Agreement, the parties agree the following procedure shall be adhered to:

- A. **Notification:** The City shall notify the Union of the decision to institute layoff of employees covered by this Agreement. A laid off employee not on his initial probationary period shall receive his unused accrued vacation leave.
- B. **Order of Layoff:** When any department in the City determined it is necessary to lay off employees in any classification covered by this Agreement, the following order of layoff shall apply:
 1. Temporary employees performing the same duties as members of this bargaining unit in that classification.
 2. Employees covered by this Agreement who are still serving an initial probationary period as of the effective date of the proposed layoff in that classification.
 3. Employees covered by this Agreement in that classification. City Seniority shall be used to determine the order of layoff among employees within such division classification, with the least senior employee being laid off first.
 4. If two (2) or more employees have the same seniority date, the Department Director will determine seniority based on performance.
- C. **"Bump Back" Rights:** An employee facing layoff by reason of reducing the number of employees employed in his classification shall have the right to secure employment in a lower classification, provided the following:

1. The employee meets the minimum qualifications for the position he would be entering.
2. The employee has more City seniority than at least one of the employees in the position he would be entering.
3. If more than one employee is eligible to exercise "bump back" rights as applied to the proposed position(s) and there are fewer employees in such position(s) who have less seniority than the employees exercising "bump back" rights, then seniority shall be the determining factor in who is eligible to move into the new position(s).

32.2 Recalls: If any position from which the City has laid off any employee covered by this Agreement becomes open within 12 months following the layoff, the City agrees to recall said laid off employee in accordance with the following:

- A. Employees who were laid off or who are working in a lower classification shall retain recall rights within 12 months following the layoff or reassignment.
 1. Employees shall be recalled to a classification in reverse order of layoff.
 2. Recalls to laid off employees shall be made by certified mail to the last known address of the laid off employees as shown in the City's records.
 3. Within 10 calendar days of receipt of the recall notice, the laid off employee must convey his intention in writing to return to work to the City Personnel Division. Failure to do so shall result in forfeiture by the laid off employee of his seniority and recall rights. A recall notice that is refused or returned as undeliverable shall also result in forfeiture.
- B. A recall will be offered to the laid off employee provided he is qualified to perform the essential functions of the job. The recalled employee must be able to return to work within two (2) weeks of the date of the recall notification.
 1. If the recalled employee is unable to return due to a documented physical or mental condition, the City shall proceed to the next senior laid off employee, or, if no other laid off employee is eligible for recall for the position, the City may post the position.
 2. A recalled employee unable to return to work due to a documented physical or mental condition shall be removed from the recall list until such employee notifies the City that he is now able to perform the essential duties of the position and provides supporting documentation. This option is available only during the recall period.
 3. Once the laid off employee provides the City with the appropriate notice and provides supporting documentation of his ability to perform the essential duties of the position, he will be placed back on the recall list in order of seniority.
- C. Upon recall to fill a vacancy in his classification at the time of the layoff, the employee shall receive the same hourly rate he received at the time of layoff in addition to any negotiated pay adjustment that came in effect during the period between layoff and the recall.

- D. No probation period shall be required of a recalled employee returning to his former position held at the time of layoff.
- E. Any laid off employee who has accepted another position with the City, with the exception of acceptance of a demotion, shall be removed from the recall list.
- F. Seniority shall not accrue during layoff. Upon returning to work under recall, an employee's seniority date shall be adjusted less the period of layoff.

DURATION OF AGREEMENT

The provisions of this Agreement shall remain in effect from October 1, 2013 through September 30, 2016. Either party to the Agreement may give notice in writing not less than 90 days prior to the expiration date to the other party of his desire to terminate or amend this Agreement.

CITY OF MELBOURNE, FLORIDA

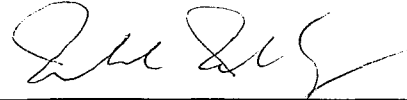
PUBLIC EMPLOYEES LOCAL 678,
LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA, AFL-CIO



Michael A. McNeas
City Manager

6-3-14

Date

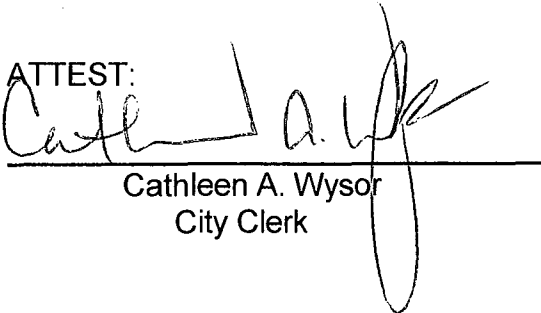


Michael Moakley
Chief Union Steward

6-2-14

Date

ATTEST:



Cathleen A. Wysor
City Clerk

APPENDIX A

REQUIRED TOOLS NEEDED TO BE ELIGIBLE FOR TOOL ALLOWANCE (ARTICLE 14.2)

Adequate tool box for tools listed
Spark plug gap gauge
Ignition gauge
Brake cyc hone
Brake spring pliers
Brake bleeder wrench
Brake adjusting tool
Hose clamp pliers
Punch and chisel set
Wedge bar
Creeper
Timing light
Compression gauge
Vacuum gauge
Flare nut wrench
6" adjustable wrench
10" adjustable wrench
12" adjustable wrench
Nut driver set
Open end wrenches
Open end wrenches - metric
Box end wrenches
Box end wrenches
Open & box end wrenches
Open & box end wrenches - metric
Torque wrench
Hex key wrench set
Hex key wrench - metric
32 oz. hammer
Screwdriver set
9" adjustable joint pliers
6" diagonal cutting pliers
7-1/2" locking pliers
10" locking pliers
Straight cut snips
Blow gun
3/8" air impact
1/2" air impact
3/8" drill
Drill bit set
Flex head ratchet wrench
3/8" flex sockets
1/4" socket set
1/4" socket set - metric
3/8" socket set

APPENDIX A, CONTINUED

REQUIRED TOOLS NEEDED TO BE
ELIGIBLE FOR TOOL ALLOWANCE (ARTICLE 14.2)

3/8" socket set - metric
1/2" socket set
1/2" socket set - metric
Multi crimp tool
Tap & die set
8" pipe wrench
10" pipe wrench
Flaring tool set
4 oz. hammer
12 oz. hammer

12.11 DRUG-FREE WORKPLACE

The City of Melbourne is a drug-free workplace and complies with Section 440.102, Florida Statute, Drug Free Workplace Program Requirements as well as the Code of Federal Regulations – Title 49, Part 40, Transportation Workplace Drug and Alcohol Testing Programs.

Policy:

The City of Melbourne is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any City of Melbourne employee illegally uses drugs on the job; comes to work under the influence; possesses, distributes or sells drugs in the workplace; or abuses alcohol on the job. It is the policy of the City that the possession, distribution, sale, or use, by employees, of unlawful drugs, as well as the abuse of controlled substances, and alcohol abuse, constitutes a danger to the employee, fellow employees, and the general public. Further, it is City policy that employees present themselves for duty free of the influence of illegal drugs, or other intoxicants to include legally prescribed controlled substances and over-the-counter medications that may result in impairment at work.

Any employee who is a certified Police Officer through the State of Florida Police Standards and Training Commission will comply and be held accountable to the Florida Department of Law Enforcement's "Zero Tolerance Substance Abuse Policy".

Any employee who is required to possess a Commercial Driver License will be subject to drug and alcohol testing in accordance with the Code of Federal Regulations – Title 49, Part 40 Transportation Workplace Drug and Alcohol Testing Programs.

Comment:

The use, consumption, possession, distribution, sale, or manufacturing of illegal drugs or controlled substances by employees while at work, is specifically prohibited. Employees are responsible for ensuring that lawfully prescribed prescription medications (Rx) or over-the-counter medications (OTC) do not adversely impact the employee's ability to safely perform his job functions. Employees have the personal responsibility to assess their fitness for duty while using an Rx or OTC medication. They should not report for or remain on duty while adversely affected by an RX or OTC medication or operate City vehicles/equipment if the medication taken has a warning label cautioning against it.

Provisions:

- A. **Confidentiality** - Except as otherwise provided by applicable laws or regulations, all information, interviews, reports, statements memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential unless the employee or job applicant authorizes the release by written consent.
- B. **Consequences of Applicant Refusal to Test** - All applicants recommended for hire will be subject to a mandatory drug test (urinalysis) to screen for the presence of drugs or illegal controlled substances. No applicant will be permitted to begin

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work until a confirmed negative result has been received. Applicants who test positive will be ineligible for hire. If an applicant refuses to submit to a drug test, the applicant will be ineligible for hire.

C. **Consequences of Employee Refusal to Test** - If an employee refuses to submit to a drug or alcohol test conducted under this policy, it will be cause for termination of employment.

D. **Over-the-counter or prescription drugs which could alter or affect the outcome of a drug test** - The following list contains the most common drugs/medications by brand name, common name, or chemical name which may alter or affect the outcome of a drug test. All or some of these drugs may be tested for under the employer's drug testing policy. The Agency for Health Care Administration list of common drugs/medications are:

- **Alcohol:** All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contac Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).
- **Amphetamines:** Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex
- **Cannabinoids:** Marinol (Dronabinol, THC)
- **Cocaine:** Cocaine HCl topical solution (Roxanne)
- **Phencyclidine:** Not legal by prescription
- **Methaqualone:** Not legal by prescription
- **Opiate:** Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, etc.
- **Barbiturates:** Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Florinal, Floricet, Esgic, Butisol, Mebaral, Butabital, Butabarbital, Phrenilin, Trian, etc.
- **Benzodiazepines:** Ativan, Axene, Clonopin, Dalmane, Diazepam, Librium, Serax, Tranzene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax, etc.
- **Methadone:** Dolophine, Methadose
- **Propoxyphene:** Darvocet, Darvon N, Doline, etc

** Several of the above drugs have nicknames and trade names other than what is mentioned. If you are in doubt about a drug, please ask a medical professional.

E. **The following is a list of all drugs (described by brand name, common name and/or chemical name) for which the City of Melbourne may test:**

- **Alcohol** (booze, wine, liquor, drink)
- **Amphetamines** (Binhetamine, Desoxyn, Dexedrine)
- **Cannabinoids** (marijuana, hashish, hash, hash oil, pot, joint, roach, spleaf, grass, weed, reefer)
- **Cocaine** (coke, blow, nose candy, snow, flake, crack)
- **Phencyclidine** (PCP, angel dust, hog)
- **Methaqualone** (714s, quaaludes, ludes, sporos)

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- **Opiates** (opium, dover's powder, paregoric, parepectolin)
 - **Barbiturates** (Phenobarbital, Tuinal, Amytal)
 - **Benzodiazophines** (Ativan, Azene, Clonopin, Dalmane, Diazepam, Halcion, Librium, Poxipam, Restoril, Serax, Tranxene, Valium, Vertron, Xanax)
 - **Methadone** (Dolophine, Methadose)
 - **Propoxyphene** (Darvocet, Darvon N, Dolene)
- F. **Employee Assistance Program** – The City's Employee Assistance Program provider is available by calling the Personnel Division or visiting the employee benefit website www.melbourneflorida.org/employee/personnel/index.htm . A list of local drug and alcohol rehabilitation programs and substance abuse professionals is available through the City's Employee Assistance Program provider.
- G. **Administrative or Civil Action** – Any applicant or employee pursuing administrative or civil action pursuant to this section has the responsibility of notifying the testing laboratory.
- H. **Employees Covered by Collective Bargaining Agreements** – Employees covered by collective bargaining agreements have a right to appeal as established by the Public Employees Relations Commission or applicable court.
- I. **Right to Consult with Medical Review Officer** – All applicants or employees tested under this section have the right to consult with a medical review officer for technical information regarding prescription or non-prescriptions.
- J. **Right to Contest Results** - An employee or job applicant who receives a positive confirmed test result may contest or explain the results to the medical review officer within 5 working days after receiving written notification of the test result. For CDL tests, the employee has 72 hours after receiving notification from the medical review officer to contest the results. If the employee's or job applicant's explanation of the challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the City. An employee or job applicant may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration or the Code of Federal Regulations for CDL drug and alcohol testing, or the applicable collective bargaining agreement.

Types of Testing:

The City of Melbourne conducts the following types of drug and alcohol testing:

- **Pre-Employment** - All job applicants recommended for hire by the City of Melbourne are required to submit to pre-employment drug testing. Applicants with a confirmed positive test result will be ineligible for hire.
- **Post-Employment** - Employees of the City of Melbourne will be subject to the following drug and alcohol testing in accordance with applicable laws and regulations:

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- Reasonable suspicion drug and alcohol testing
- Routine fitness for duty drug testing
- Post-accident drug and alcohol testing
- Follow-up drug and alcohol testing
- Random CDL drug and alcohol testing

Procedures for Reasonable Suspicion Testing:

Current employees will be required to submit to a drug and/or alcohol test upon reasonable suspicion that they have reported for duty under the influence. A member of management and at least one additional person must witness and confirm that the employee appears to be impaired at work. The decision to require the employee to submit to a drug and/or alcohol test, will require the approval of the employee's Department Director prior to any test taking place.

1. A supervisor may suspect that an employee is under the influence of alcohol or controlled substances by observing, but not limited to, the following:
 - a) Excessive absenteeism or chronic lateness
 - b) Drowsiness or sleepiness
 - c) Alcohol on the breath
 - d) Slurred or incoherent speech
 - e) Unusually aggressive behavior
 - f) Unexplained change in mood
 - g) Lack of manual dexterity
 - h) Lack of coordination
 - i) Unexplained work related accident or injury
2. Supervisors should not attempt to provide counseling services to suspected alcohol or drug users/abusers, since diagnosis and rehabilitation are the functions of qualified experts.
3. Employees who are using a drug lawfully prescribed by a physician are encouraged to notify the Employee Health Nurse of that situation. The use of a lawfully prescribed medication or over-the-counter medication that results in observed impairment while at work may result in progressive disciplinary action regarding the impact to job performance or safety concerns.
4. All test samples will be collected at the Employee Health Services office or a designated laboratory. Testing of the samples will be performed by an independent laboratory contracted by the City. An appropriate chain of custody will be established and maintained to ensure the accuracy of test results. While awaiting the results of the test, the employee will be removed from active duty, and placed on either sick leave, vacation leave, or leave without pay and the employee will be required to return City keys and access cards to equipment or buildings.
 - a. Where practical, all test samples will be picked up by the laboratory courier on the same day as collected.

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- b. When a test sample is not able to be delivered to the laboratory on the same day as collected, appropriate steps to preserve chain of custody will be followed.
5. A positive test result will result in an interview with the Division Manager or Department Director and the Employee Health Nurse. The employee shall immediately be referred by the Employee Health Nurse to representatives of the City's Employee Assistance Program (EAP). The employee shall be required to complete any actions, including completion of a recognized rehabilitation program, as may be recommended by the EAP. Failure to successfully complete the actions recommended by the EAP will result in immediate termination. Rehabilitation costs will be the responsibility of the employee.
 - a. Following a positive test result, the employee has the right to request that a portion of the sample be provided to a laboratory of his choice for an independent confirmatory test. The costs of the independent test will be borne by the employee, except where it can be shown that the results of the City's test were in error.
 - b. In the event that the sample produces different results from the laboratory contracted for by the City and the one determined by the employee, a third confirmation will be sought by another independent laboratory mutually agreed to by the City and the employee. The cost of the third independent test will be borne by the employee, except where it can be shown that the results of the test from the laboratory contracted by the City were in error.
6. The City desires to assist employees to overcome any dependency on alcohol, drugs, or controlled substances they may have. When in the best interests of the City and the employee, and in order to ensure the safety of the general public and other employees, any employee testing positive will be removed from active duty and will be placed on either sick leave, vacation leave, or an authorized leave of absence without pay until they have successfully completed a rehabilitation program. However, when circumstances warrant, the City reserves the right to impose appropriate disciplinary action, up to and including dismissal. If the employee refuses to follow the recommended rehabilitation program, the City will proceed with termination of employment.
7. Those employees who successfully complete a rehabilitation program will be randomly tested upon completing the program in accordance with the recommendations of the EAP/Substance Abuse Professional. A positive test within a two-year period after completion of treatment will result in immediate termination.

Procedure for Handling an Impaired Employee:

- A. If there is reasonable suspicion that an employee is impaired at work, the supervisor should notify the Department Director of his concern. The Department

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Director will then contact the Personnel Manager or designee to decide whether the process should be initiated.

- B. The employee should not be allowed to operate any equipment or drive a vehicle. Explain to the employee the behavior that has been observed and that he will be taken to the Employee Health Nurse for testing for "reasonable cause". Do not attempt to provide a diagnosis or counseling.
- C. Transport the employee to the Employee Health Nurse. In her absence, contact the Personnel Division for further direction.
- D. Following the administration of reasonable suspicion drug and/or alcohol tests, the Employee Health Nurse will schedule an appointment with the Employee Assistance Program (EAP), and the Employee Health Nurse will explain to the employee that he will be placed on sick leave until the results of the test are received. The employee will also be required to return City keys to equipment or buildings. This process will be handled in a confidential manner. A supervisor or designee will take the employee home.
- E. Employees who test positive for drug and/or alcohol will generally be provided the opportunity to enter a rehabilitation program as recommended by the EAP; however, when circumstances warrant, the City reserves the right to impose appropriate disciplinary action, up to and including dismissal.
- F. Once the Substance Abuse Professional/EAP Counselor releases an employee to work, the Employee Health Nurse will administer the appropriate drug and/or alcohol test. The employee is permitted to return to work following a negative test result. As a condition of employment, the EAP will require the employee sign a return to work agreement. All records regarding this agreement will be kept in a medical file and will remain confidential. They are not a part of the employee's Personnel File. If the employee fails to fulfill the agreement, he will be subject to disciplinary action up to and including dismissal. Disciplinary actions are a part of the employee's Personnel File.

Commercial Drivers License (CDL) Random Drug & Alcohol Testing:

The City is required by federal law to administer random drug and alcohol testing for employees required to possess a Commercial Drivers License. The federal guidelines state that 25% of affected employees will be randomly tested for alcohol and 50% will be randomly tested for drugs on a quarterly basis.

Post accident testing will be conducted if the accident involved a fatality, an injury treated away from the scene, a towed vehicle, and/or the driver is cited for a moving violation.

No employee shall refuse to submit to a post accident, random, reasonable suspicion, follow up alcohol or controlled substance test. The following will constitute refusal:

- Failure to provide adequate breath or urine without a valid medical explanation from a medical physician.

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- Engaging in any conduct that clearly obstructs the testing process.
- Refusal to sign the appropriate forms.
- Verbal/written refusal to consent to the testing.

Refusal to submit to testing shall result in termination.

1. A positive test result will result in an interview with the Division Manager or Department Director and the Employee Health Nurse. The employee shall immediately be referred by the Employee Health Nurse to representatives of the City's Employee Assistance Program (EAP). The employee shall be required to complete any actions, including completion of a recognized rehabilitation program, as may be recommended by the EAP. Failure to successfully complete the actions recommended by the EAP will result in immediate termination. Rehabilitation costs will be the responsibility of the employee.
 - a. Following a positive test result, the employee has the right to request that a portion of the sample be provided to a laboratory of his choice for an independent confirmatory test. The costs of the independent test will be borne by the employee, except where it can be shown that the results of the City's test were in error.
 - b. In the event that the sample produces different results from the laboratory contracted for by the City and the one determined by the employee, a third confirmation will be sought by another independent laboratory mutually agreed to by the City and the employee. The cost of the third independent test will be borne by the employee, except where it can be shown that the results of the test from the laboratory contracted by the City were in error.
2. The City desires to assist employees to overcome any dependency on alcohol, drugs, or controlled substances they may have. When in the best interests of the City and the employee, and in order to ensure the safety of the general public and other employees, any employee testing positive will be removed from active duty and will be placed on either sick leave, vacation leave, or an authorized leave of absence without pay until they have successfully completed a rehabilitation program. However, when circumstances warrant, the City reserves the right to impose appropriate disciplinary action, up to and including dismissal. If the employee refuses to follow the recommended rehabilitation program, the City will proceed with termination of employment.
3. Employees who test positive for drug and/or alcohol will generally be provided the opportunity to enter a rehabilitation program as recommended by the EAP; however, when circumstances warrant, the City reserves the right to impose appropriate disciplinary action, up to and including dismissal.
4. Once the Substance Abuse Professional/EAP Counselor releases an employee to work, the Employee Health Nurse will administer the appropriate drug and/or alcohol test. The employee is permitted to return to work following a negative test result. As a condition of employment, the EAP will require the employee sign a return to work agreement. All records regarding this agreement will be kept in a

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medical file and will remain confidential. They are not a part of the employee's Personnel File. If the employee fails to fulfill the contract, he will be subject to disciplinary action up to and including dismissal. Disciplinary actions are a part of the employee's Personnel File.

5. Those employees who successfully complete a rehabilitation program will be randomly tested upon completing the program in accordance with the recommendations of the EAP/Substance Abuse Professional. A positive test within a two-year period after completion of treatment will result in immediate termination.

Self Reporting of Drug, Alcohol, or Controlled Substance Dependency:

Employees are encouraged to seek assistance if they have concerns regarding drug, alcohol or controlled substance dependency. Employees who self report will be provided the opportunity for rehabilitation. All records related to the self reporting of drug, alcohol or controlled substance dependency will be confidentially maintained. Employees seeking assistance are encouraged to contact the Employee Assistance Program or the Employee Health Nurse for assistance. Employees who self report will be subject to reasonable suspicion drug and alcohol testing if there is reasonable suspicion that the employee is impaired at work. A positive test result will be treated in accordance with a positive test result under the provisions of this policy.

Conviction of a Drug Related Crime: Any City employee who is convicted of any drug crime is required to notify the City within 48 hours after such conviction. These employees will be subject to disciplinary action, up to and including dismissal.

Consequences of Failing to Comply with This Policy: As a condition of continued employment, all City employees will abide by the terms of this Policy statement.

Employees who refuse to comply with any provision of this Policy by:

- a. refusing to be tested,
- b. attempting to manipulate the outcome of the test, or
- c. not being available for testing within the appropriate time limits as determined by the professionals conducting the test

shall receive immediate disciplinary action up to and including immediate discharge from employment.