

AGREEMENT

BETWEEN

CITY OF SOUTH MIAMI

AND

DADE COUNTY POLICE BENEVOLENT  
ASSOCIATION

POLICE OFFICERS AND SERGEANTS

OCTOBER 1, 2010 – SEPTEMBER 30, 2013

## Table of Contents

PREAMBLE.....	3
ARTICLE 1 RECOGNITION.....	3
ARTICLE 2 NON-DISCRIMINATION.....	3
ARTICLE 3 DUES CHECK-OFF.....	3
ARTICLE 4 ASSOCIATION REPRESENTATIVES.....	4
ARTICLE 5 SERVICES TO THE ASSOCIATION.....	4
ARTICLE 6 PERSONNEL RECORDS.....	5
ARTICLE 7 INTERNAL AFFAIRS INVESTIGATION AND OBLIGATION TO THE PUBLIC.....	5
ARTICLE 8 SHIFTS.....	8
ARTICLE 9 VEHICLES AND SAFETY EQUIPMENT.....	10
ARTICLE 10 PROMOTIONS.....	11
ARTICLE 11 TRAINING.....	11
ARTICLE 12 GRIEVANCE AND ARBITRATION PROCEDURE.....	12
ARTICLE 13 HOLIDAYS.....	15
ARTICLE 14 SICK LEAVE.....	15
ARTICLE 15 FUNERAL LEAVE.....	17
ARTICLE 16 LEAVE OF ABSENCE.....	18
ARTICLE 17 VACATION LEAVE.....	18
ARTICLE 18 EXTRA-DUTY POLICE EMPLOYMENT.....	19
ARTICLE 19 INSURANCE BENEFITS.....	19
ARTICLE 20 HOURS OF WORK AND OVERTIME.....	19
ARTICLE 21 MANAGEMENT RIGHTS.....	21
ARTICLE 22 WORK STOPPAGES.....	23
ARTICLE 23 AWARDS.....	23
ARTICLE 24 MILITARY LEAVE.....	23
ARTICLE 25 AUTHORIZED USE OF PRIVATE AUTOMOBILE.....	24
ARTICLE 26 BULLETIN BOARDS.....	24
ARTICLE 27 SEVERABILITY CLAUSE.....	24
ARTICLE 28 COMPENSATION.....	24
ARTICLE 29 PROHIBITION AGAINST RE-OPENING OF NEGOTIATIONS.....	25
ARTICLE 30 UNIFORMS AND EQUIPMENT.....	26
ARTICLE 31 NON-PROMOTIONAL VACANCIES.....	27
ARTICLE 32 PHYSICAL EXAMINATION AND WORKERS' COMPENSATION BENEFITS.....	28
ARTICLE 33 RETIREMENT BENEFITS.....	28
ARTICLE 34 EDUCATIONAL INCENTIVE.....	31
ARTICLE 35 EMPLOYEE PREGNANCY/MATERNITY LEAVE.....	31
ARTICLE 36 EMPLOYEE ASSISTANCE PROGRAM.....	32
ARTICLE 37 ABOLISHMENT OR MERGER.....	32
ARTICLE 38 AMERICANS WITH DISABILITIES ACT.....	32
ARTICLE 39 TERM OF AGREEMENT.....	33

## **PREAMBLE**

This Agreement is entered into by the City of South Miami, Florida, hereinafter referred to as the "Employer" or the "City" and the Dade County Police Benevolent Association, Inc., hereinafter referred to as the "Association", for the purpose of promoting harmonious relations between the Employer and the Association, to establish an orderly and prompt procedure for the resolution of grievances, to insure continuation of normal activities and departmental operations, to settle differences which might arise and to set forth the basic and full agreement between the parties concerning rates of pay, wages, hours of work and all other conditions of employment.

## **ARTICLE 1 RECOGNITION**

The Employer hereby recognizes the Dade County Police Benevolent Association as the collective bargaining agent for all permanent full-time sworn police personnel of the rank of police officer, and police sergeant, including probationary employees, but excluding all other employees of the City of South Miami, including the Chief of Police, Assistant Chief, Police Captain, and Police Lieutenants. The parties hereto agree to jointly petition the Public Employees Relations Commission to clarify the bargaining unit by removing the reference to "Internal Affairs Sergeants" and by adding "Police Majors" to the list of excluded positions.

## **ARTICLE 2 NON-DISCRIMINATION**

There shall be no discrimination, interference, restraint, or coercion by the Employer or the Association against any employee because of Association membership or non-membership, or because of race, creed, color, age, sex, religion, marital status, sexual orientation, disability and national origin. All references to employees in this Agreement designate both sexes and wherever the male gender is used, it shall be construed to include male and female employees and vice versa.

## **ARTICLE 3 DUES CHECK-OFF**

1. Any member of the Association, who has submitted a properly executed dues authorization card or written statement to the City Manager or their designee in accordance with a format prescribed or approved by the City may, by request in writing have their membership dues in the Association deducted from their wages. Dues shall be deducted each bi-weekly pay period, and shall, thereafter, be transmitted to the Association. However, the City shall have no responsibility or any liability for any monies once sent to the Association, nor shall the City have any responsibility or any liability for the improper deduction of dues. Further, the Association shall hold the City harmless for non-intentional errors in the administration of the dues deduction system.

2. It shall be the responsibility of the Association to notify the City Manager or their designee of any change in the amount of dues to be deducted at least thirty (30) days in

advance of said change. Under no circumstances shall the City be required to deduct Association fines, penalties, or assessments from the wages of any member.

3. Any member of the Association may, on thirty (30) days written notice to the City and the Association, request the City to cease deducting dues from their wages.

#### **ARTICLE 4 ASSOCIATION REPRESENTATIVES**

1. Two members of the Association shall be allowed to attend bargaining sessions for the purpose of re-negotiating this Agreement without loss of pay, should the meeting take place while the member is on duty, if approved in advance by the Chief of Police. Should the member be off duty during a bargaining session, he shall not be entitled to any compensation. All bargaining sessions shall be set by mutual agreement between the parties.

2. The Association Representative shall be allowed to process grievances without loss of pay, should such processing take place while the Association Representative is on duty. There shall be a cap of one (1) hour total time which the Association Representative may spend on any one grievance. It is understood and agreed, however, that the foregoing is subject to the manpower needs of the Department at all times.

3. The Association Representative shall be allowed to attend the Dade County PBA Board of Directors meeting once a month without loss of pay or *leave* time, should the meeting take place while the Association Representative is on duty.

#### **ARTICLE 5 SERVICES TO THE ASSOCIATION**

1. The City will furnish the Association a copy of the Police Department's Rules and Regulations.

2. The City will allow the Association and its representative's reasonable access to the City Commission Chambers for the conducting of Association business when such facility is not in normal use, upon (5) days written request therefore to the City Manager or their designee.

3. The City will provide a mailbox for each employee for use by the City and the Association to distribute mail and other communications. The aforesaid mailboxes may be used by the Association strictly for the purpose of transmitting material of an informational nature, and shall not be used for the purpose of communicating material tending to, directly or indirectly, disparage any elected or appointed official of the City.

4. Upon written request by the Association, the City will provide, on a semi-annual basis, a complete roster of the bargaining unit, including name, rank, address, telephone number, social security number and current pay scale.

## **ARTICLE 6 PERSONNEL RECORDS**

1. Employees covered by this Agreement shall have the right to inspect their official personnel file and/or their closed Internal Affairs file during normal business hours and shall not be compensated should said inspection occur outside employee's regular duty hours. The employee shall have the right make duplicate copies of any items in their official files, upon payment of the usual charge thereof.

2. Employees covered by this Agreement shall receive copies of any disparaging items, which are placed in the employee's official personnel file. Employees covered by this Agreement shall also have the right to add written responses to any such disparaging items, which are placed in the employee's official personnel file. All written responses shall be sent to the Chief of Police via chain of command not more than ten business days following the day of receipt by the employee. Written responses shall strictly parallel the disparaging item(s) of concern. Any refusal to sign a document shall be documented on all copies by the issuing officer (i.e. "Employee Refused to Sign"); however, no retaliatory or disciplinary action shall be taken against any employee who refuses to sign a document.

3. To the extent permitted by law, all personnel records of the employees shall be kept confidential and shall not be released to any person except: authorized officials of the City, or in response to a subpoena from a court of competent jurisdiction, or upon written authorization from the employee. In this regard, the PBA recognizes the City's obligation to comply with Chapter 119, Florida Statutes.

4. At no time shall the news media be directly or indirectly furnished with the home address, telephone number or photograph of any employee or relatives without their express written consent.

5. The City shall purge, upon written request from the employee covered by this Agreement, all records of counseling/coaching and oral warnings from the employees' personnel files after one (1) full year of service without receiving further related counseling or oral warnings or as prescribed by Florida State Statute, Title X, Chapter 119 and Title XVIII, Chapter 257.36, which ever is the greater period. Such documents shall be kept in a separate file.

## **ARTICLE 7 INTERNAL AFFAIRS INVESTIGATION AND OBLIGATION TO THE PUBLIC**

The parties recognize that the security of the City and its citizens depends to a great extent upon the manner in which the employees covered by this Agreement perform their various duties. Further, the parties recognize that the performance of such duties involves those employees in all manner of contacts and relationships with the public and out of such contacts and relationships, questions may arise or complaints may be made concerning the actions of employees covered by this Agreement. Investigation of such questions and complaints must necessarily be conducted by, or under the direction of,

departmental supervisory officials whose primary concern must be the security of the City and the preservation of the public interest.

1. In order to maintain the security of the City and protect the interests of its citizens, the parties agree that the City must have the unrestricted right to conduct investigations of citizens' complaints and matters of internal security; provided, however, that any investigative interrogation of an employee covered by this Agreement relative to a citizen's complaint and/or matter of internal security shall be conducted under the following conditions:

- A. The interrogation shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
- B. The employee under investigation shall be informed of the nature of the investigation prior to any interrogation, and he shall be informed of the name of all complainants, if known to the Department.
- C. The employee under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the employee under investigation shall be asked by and through on (1) interrogator at anyone time.
- D. Interrogation sessions shall be for reasonable periods and shall be timed to allow for such rest periods as are necessary. All interrogations will be held at the headquarters of the South Miami Police Department, insofar as possible.
- E. Any employee under investigation shall be informed of the right to be represented by counselor any other representative of their choice who shall be present at all times during such interrogations whenever the interrogations relate to the employee's continued fitness for law enforcement services.
- F. The formal interrogations of an employee, including all recess periods, shall be recorded, and there shall be no unrecorded questions or statements.
- G. If the employee under interrogation is under arrest or is likely to be placed under arrest as a result of the interrogations, he shall be completely informed of all of his rights prior to the commencement of the interrogation.
- H. During interrogations covered hereunder, questions shall be limited to the circumstances surrounding the allegations, which are the subject of the investigation.
- I. An employee under investigation may obtain, upon request and at no cost, a copy of any written statement he has executed.
- J. The employee shall not be subjected to any offensive language, nor shall he be threatened with transfer, dismissal, or other disciplinary measures. No promise of reward shall be made as an inducement to answering questions.

- K. No employee may be compelled to testify before, or be questioned by any nongovernmental agency unless under proper court subpoena.
- L. The following procedure shall be followed with regard to the administration of polygraph examinations. If a citizen files a complaint against an employee or employees covered by this Agreement and signs an affidavit acknowledging that he/she will take a polygraph examination concerning said complaint, the City may request that the employee or employees in question also take a polygraph examination concerning the complaint. In the event an employee in question agrees to take a polygraph examination concerning the complaint, the City agrees not to administer the examination unless first successfully taken by the complainant. For the purpose of their paragraph, "successfully taken" shall be defined as the examiner's opinion that the complainant's polygraphs do not reflect reactions normally indicative of deception in their responses to the pertinent test questions. The City will not order or require any employee to submit to a polygraph examination or PSE test.
- M. The City agrees that no adverse action will be taken against any employee who exercises the rights provided for in this Article.
- N. An employee, who is criminally charged in any jurisdiction with a felony or a serious misdemeanor included but not limited to, DUI, lewd and lascivious conduct, indecent exposure or perjury may, upon review of the circumstances by the Chief of Police, be relieved of duty without pay or benefits. If exonerated, employee shall be compensated for back pay and benefits retroactive to the date the employee was relieved from duty. Any employee placed on leave without pay shall remain on the City's Employee Census but shall be responsible for the full cost of health insurance premiums, during the relief from duty period.
- O. Upon conclusion of an internal review investigation, employees, designated as subjects, shall be given a written disposition of said investigation.
- P. Not sustained or unfounded letters of complaint from citizens will not be inserted into an officer's official personnel record.
- Q. The Charge of "conduct unbecoming" and all similarly vague charges will not be used by the City unless further substantiated by specific charges.
- R. Should disciplinary action result from an internal investigation, an employee may, at the option of the Chief of Police, be allowed to use vacation time to satisfy a suspension which is for five (5) days or less.
- S. The City shall make every effort to investigate, determine and complete Administrative Investigations (i.e. personnel complaints regarding rudeness) within 180 days of the complaint being filed. Failure to investigate, determine and complete such investigations within the above time limits shall prevent the City from taking disciplinary action against the bargaining unit employee against whom the complaint is made. Any continuances requested by the PBA or the employee shall extend the time limit accordingly.

## ARTICLE 8 SHIFTS

1. Seniority shall consist of continuous accumulated paid service by classification with the City. Seniority shall be computed from the date of appointment to the classification and shall accumulate during paid absences because of illness, injury, vacation, military or other authorized compensated leave. In the event bargaining unit employees have the same seniority by classification, seniority shall then be determined as set forth in paragraph 5.c. below.

2. Non-probationary patrol officers and sergeants shall bid (semi-annually) for their choice of shift assignments and days off. Days off are not bid until shift assignments are set, including the Chiefs mandatory assignments if any. The determining factor in said bid process shall be each employee's seniority as defined in paragraph 5.c. below. In order to meet department operational needs, the Chief may, at his discretion, make no more than two specific assignments to each shift (during the semi-annual bid process) beginning with the first shift change of 1999, in order to assure proper allocation of personnel resources. The Chief's assignment of two officers is without regard to seniority and appealable only to the City Manager.

3. A seniority list by shift and work assignment shall be established and shall be utilized when the department calls in for or holds over personnel, except in emergency or unusual situations.

4. Vacancies in specialized units shall be filled by permanent employees in all cases unless no permanent employee can demonstrate the experience or potential to properly function in such assignment. Should no permanent employee demonstrate said capacity, probationary employees may be considered. Assignment determinations shall be made by the Chief of Police based on the recommendations of a selection panel appointed by the Chief and such assignment determinations are not grievable.

5. The parties understand and agree that Seniority for the purposes of this Agreement, unless otherwise stated shall be determined within each rank for employees covered by this Agreement. Additionally, the following shall be adhered to for purposes of determining seniority as follows:

a. Seniority within Sergeant's Rank shall be determined by date of promotion to that rank. In case of ties, the same procedure outlined in paragraph c. shall be utilized.

b. Seniority within a Specialized Unit shall be determined by length of assignment within that specific specialized unit (CID, Motors, K-9) and solely within that specialized unit, and such specialized unit seniority has preference and precedence over departmental seniority. In case of ties, the same procedure outlined in paragraph 5. c. shall be utilized.

c. Departmental Seniority shall consist of continuous accumulated service within the City of South Miami Police Department. Departmental Seniority shall be computed from the date of taking the Police Officer's Oath with the City of South Miami. Where two or more officers take the oath on same date, the drawing of lots shall determine which officer is senior.

6. In the event of a layoff for any reason, employees shall be laid off in the inverse order of their seniority in their classification. Any employee to be laid off who has advanced to their present classification from a lower classification in which he held a permanent appointment, shall be given a position in a lower classification in the same Department. Their seniority in the lower classification shall be established according to the date of their permanent appointment to the classification. Employees shall be called back from layoffs according to the seniority in the classification from which the employee was laid off. No new employee shall be hired in any classification until all employees on lay-off status in that classification have had an opportunity to return to work (for which he/she is qualified). Written notice of recall shall be sent by certified mail to the employee's last known address, as long as the employee is still qualified to be an officer. Recalled employees shall notify the Employer if they desire to return to work within ten (10) days of receipt of recall notice, and must return to work within twenty-one (21) days from receipt of recall notice. An employee will be kept on the callback list for two (2) years.

7. Upon application to the Chief of Police, employees may exchange shifts, provided that:

- a) The shift exchange is between employees of like rank and experience.
- b) The shift exchange is requested in writing at least five (5) days in advance by both employees involved in the exchange.

8. When a vacancy occurs on a patrol shift, the entire shift shall re-bid days off no later than two weeks after the vacancy has been filled. This provision shall apply only to the shift on which the vacancy occurs and not to any other shifts. The re-bidding provisions also do not apply should the Chief of Police approve an exchange of shifts as provided for in Section 5 of this Article and shall not apply if the vacancy is filled within one (1) month of the next shift/days off picked.

9. The Chief retains the right to transfer employees from shift to shift to meet arising operational needs. After a transfer between shifts, days off will be re-bid if the new assignee is junior to others on that shift. Shift transfers are appealable via the chain of command to the Chief of Police. Denial of a shift transfer appeal shall be given in writing with the specific departmental needs identified. Bargaining unit employees may exercise an appeal to the City Manager within five days, in writing, identifying their concerns.

10. The City Manager will review the employees(s) concern(s) and will render a final decision which is not grievable. Their section shall not exclude or hinder a bargaining unit employee from utilizing Section 6, A, B, of this article.

11. Effective October 1st, 2005, the Department shall not modify, alter, adjust or otherwise change an employee's shift in order to avoid the payment of overtime for the purpose of staffing the following pre-planned City special events:

- Santa's Elves Parade
- Fourth of July
- Martin Luther King Parade
- Sunday's on Sunset
- Safe Streets Halloween

## **ARTICLE 9 VEHICLES AND SAFETY EQUIPMENT**

1. The City will make a good-faith effort to maintain police vehicles and safety equipment in proper working order. Police vehicles operated by the City shall comply with the standards and requirements of applicable Florida State Statutes governing motor vehicle safety equipment. Employees will as soon as possible report any broken and/or malfunctioning equipment to their supervisor. Employees shall keep the vehicles cleaned and fueled. It is the responsibility of officers with assigned Take-Home Vehicles to promptly deliver their vehicle to the Motor Pool when repairs are necessary for scheduled preventative maintenance.

2. The City shall, insofar as possible, equip its marked patrol vehicles with the appropriate light bar (including take-down and alley lights), siren, two-way mobile radio, first-aid kit, emergency road flares, yellow crime scene tape and fire extinguishers.

3. The City shall furnish riot gear (torso, shoulder, leg and knee, forearm, and gloves) and helmets, riot shields (if applicable) and gas masks individually to all uniformed officers and sergeants. The City shall furnish one flashlight and firearm of the design approved by the Police Chief to each sworn law enforcement officer covered under this Agreement. The City shall furnish each sworn law enforcement officer covered under this Agreement with the appropriate amount of ammunition for the authorized and issued City firearm.

4. Employees agree to be bound by and abide by the Revised Take Home/Assigned Vehicle Policy as revised by the Chief of Police in office at the time of ratification. The City shall provide the Association with two (2) weeks advance notice of any modifications to the aforesaid Revised Take-Home Vehicle Policy which become effective after the Ratification of this Agreement.

5. Upon ratification of this Agreement sworn law enforcement officers covered under this Agreement shall be responsible and pay for the change of motor oil and filter of their assigned take home vehicle as recommended by the manufacturer. The change of motor oil and filter shall be done by an establishment having an ASE certified mechanic. The bargaining unit member must submit a copy of the receipt detailing the vehicle license plate number, the make and model of the police vehicle, the name of the driver, the date of the motor oil change, and the name, address, and contact information of the

establishment performing the oil change to the City's Motor Pool, through their chain of command. Each bargaining unit member must retain a copy of the receipt for a period of three years and must make it available upon request by the police chief or his designee.

## **ARTICLE 10 PROMOTIONS**

1. Whenever a budgeted promotional vacancy exists in a police sergeant classification, the City shall fill such vacancy within thirty (30) days from an existing eligibility list, if a valid eligibility list is in existence. A promotional eligibility list will expire two years from the date of the examination which led to its creation.
2. Promotional examinations shall be validated in accordance with validation standards and techniques as established by the Chief of Police. Criteria to be used by the Chief of Police for promotions shall be promulgated and distributed to the bargaining unit at least forty-five (45) days prior to any examination.
3. The City will list the areas which the examinations will cover and the sources from which the examination is drawn.
4. The probationary period of employees promoted to sergeant shall be one (1) year. Such employees shall have no right to utilize the procedures of the Personnel Board, nor have any other right of review or appeal, concerning demotion.
5. Employees shall be eligible to take a promotional examination after three continuous years of service as a police officer in the South Miami Police Department.
6. The Chief of Police will have authority to promote any of the three top ranked candidates on the eligibility list.

## **ARTICLE 11 TRAINING**

1. Employees who are required to attend off-duty weapons training will be compensated at the rate of time and one-half their regular straight-time rate. However, an employee who has not actually worked a forty (40) - hour workweek will be compensated for their attendance at off-duty weapons training at their regular straight-time rate. Commencing at ratification of this Agreement the City will provide midnight shift law enforcement officer covered by this Agreement, administrative leave for the last four (4) hours of regular duty if the training is approved by the Chief of Police and the training is within four (4) hours of their end of tour of duty.
2. The City will provide each employee a copy of training bulletins. Additionally, the City will promptly post in a prominent place, City training bulletins as well as approved training advertisements.

3. The City agrees to pay for any course at the Southeast Florida Institute of Criminal Justice (located at Miami-Dade North Community College) which employees are required to attend.

The City agrees to provide at least forty (40) hours of training every four years to meet Florida statutory certification requirements. The City may provide additional training in its discretion.

4. Employees who are required by the City to attend off-duty training shall be compensated at the rate of time and one-half of regular straight-time rates. The City shall have the right to change or alter work schedules in order to avoid overtime when scheduling training. Insofar as possible, the City shall give forty-eight (48) hours notice to employees of such off-duty training. However, individual employees may waive such notice.

5. The City shall attempt to provide weapons training for all employees, but in no event will such training be less than once annually. Their training is in addition to the training provided under paragraph 11.3. Upon qualification and a demonstration of proficiency, employees shall be permitted to carry, on duty, semiautomatic weapons which have been approved by the Department and in accordance with Article 30. The department will make every reasonable effort to facilitate the employee attending the firearm range during their normal working hours. In the event the department is unable to schedule the employee to attend the firing range during their normal working hours, the employee may be required to attend the firing range during their off-duty hours; provided, however, that the actual time spent by the employee in acquiring such training during their off-duty hours shall be compensated in accordance with the hours and overtime provisions contained herein. The City agrees to provide ammunition for firearms training.

6. Insofar as possible, the City agrees to continue its present training programs for the duration of this Agreement.

## **ARTICLE 12 GRIEVANCE AND ARBITRATION PROCEDURE**

1. In a mutual effort to provide a harmonious working relationship between the parties to this Agreement, it is agreed and understood that there shall be a procedure for the resolution of grievances between the parties. For the purpose of their Article, a grievance is defined as, and limited to, any dispute, difference or controversy involving the interpretation and application of this Agreement.

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

3. Grievances shall be presented in the following manner:

**STEP 1:** The employee shall first take up their grievance with the Immediate Supervisor within seven (7) calendar days of the occurrence of the event(s) which gave rise to the grievance, or within seven (7) calendar days after the employee's return to work from authorized leave, as the case may be. Their first step (between the employee and their immediate supervisor) shall be on an informal and oral basis and shall not involve the Association or any other representative of the employee;

**STEP 2:** Any grievance which cannot be satisfactorily settled with the Immediate Supervisor shall be reduced to writing by the employee and shall next be taken to the supervisor above the Immediate Supervisor. Such grievance shall be presented to their supervisor in writing within seven (7) calendar days of the deadline date for completion of Step 1. The supervisor shall, within ten (10) calendar days after presentation of the grievance (or such longer period of time as is mutually agreed upon), render their decision on the grievance in writing;

**STEP 3:** Any grievance which cannot be satisfactorily settled with the previous supervisor shall next be taken up with the Chief of Police, or their designee, either through a representative of the Association and the employee, or by the employee himself at the employee's option. The grievance as specified in writing in Step 2 shall be discussed by and between the employee (or the representative of the Association and the employee) and the Chief of Police or their designee, within seven (7) calendar days after the completion of Step 2: The Chief of Police, or their designee, shall within ten (10) calendar days after their discussion (or such longer period of time as is mutually agreed upon), render their decision in writing, with a copy to the Association;

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

4. Where a grievance is general in nature in that it applies to a number of employees rather than a single employee, or if the grievance is directly between the Association and the Department or the City, such grievance shall be presented in writing directly to the Chief of Police within ten (10) calendar days of the occurrence of the event(s) which gave rise to the grievance. The grievance shall be signed by the aggrieved employees or the president or the representative of the Association. Thereafter, the grievance shall be processed in accordance with the procedures set forth in Step 3 and Step 4.

5. Where a grievance involves discharge, suspension or demotion invoked by the City, such grievance shall be filed at Step 4 within ten (10) calendar days from the date the employee receives the discipline notice. Coaching, Counseling, and Written Reprimands

shall be filed at the appropriate initiation level; however, Coaching and Counseling shall only be grievable through Step 3 of the Grievance Procedure. Satisfactory evaluations are not grievable; however, the employee may forward his or her comments regarding an evaluation through the chain of command prior to the Reviewer's finalization of the evaluation. The probationary period of newly hired employees shall be one (1) year.

6. In the event a grievance processed through the grievance procedure has not been resolved at Step 4 above, either party may request that the grievance be submitted to arbitration within fifteen (15) calendar days after the City Manager, or their designee, renders a written decision on the grievance. The arbitrator may be any impartial person mutually agreed upon by and between the parties. However, in the event the parties are unable to agree upon said impartial arbitrator, the parties shall jointly request the American Arbitration Association to furnish a panel of five (5) names from which each party shall have the option of striking two (2) names in alternating fashion, thus leaving the fifth, which will give a neutral or impartial arbitrator. The party requesting arbitration will strike the first name.

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

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

9. The parties shall attempt to mutually select an impartial arbitrator within seven (7) calendar days of the submission of request for arbitration in paragraph 6 of this Article. If the parties fail to mutually agree to the selection of an impartial arbitrator, the party requesting arbitration shall request a panel of arbitrators from the Federal Mediation and Conciliation Service (FMCS). The parties shall make their choice of the impartial arbitrator by alternately rank ordering the panel of arbitrators (i.e. 1-7 with 1 being the most acceptable and 7 being the least acceptable) within seven (7) calendar days after receipt of the panel from FMCS. The parties may extend the time frame for rank ordering the panel of arbitrators on mutual written agreement. Copies of the arbitrator's

award made in accordance with the jurisdiction and authority under this Agreement shall be furnished to both parties within thirty (30) days of the close of the arbitration hearing. The arbitrator's award shall be final and binding on the parties. Either party may reject up to two (2) arbitration panels in any given case.

### ARTICLE 13 HOLIDAYS

1. The below-listed paid holidays shall be granted under the following conditions:

- |                              |                                    |
|------------------------------|------------------------------------|
| 1) January 1                 | New Year's Day                     |
| 2) 3rd Monday of January     | Martin Luther King's Birthday      |
| 3) 3rd Monday of February    | President's Day                    |
| 4) 4th Monday of May         | Memorial Day                       |
| 5) July 4                    | Independence Day                   |
| 6) 1st Monday of September   | Labor Day                          |
| 7) November 11               | Veteran's Day                      |
| 8) Last Thursday in November | Thanksgiving Day                   |
| 9) Friday after Thanksgiving |                                    |
| 10) ½ day December 24        | Christmas Eve                      |
| 11) December 25              | Christmas Day                      |
| 12) Birthday                 | After 1 year of continuous service |
| 13) 2 Floating Holidays      | After 1 year of continuous service |

2. Where observance of these holidays may interfere with the work schedule, such observance on alternate date may be made at the department head's discretion, with the approval of the City Manager. In such circumstances, an employee shall receive, at the employee's option, an additional day's pay at their straight-time rate of pay, or compensatory time at their straight-time rate of pay.

3. When a holiday falls on the regularly assigned day off for an employee, such employee shall receive, at the employee's option, an additional day's pay at their straight-time rate of pay, or compensatory time at their straight-time rate of pay.

4. When a holiday falls on a Sunday, the following Monday shall be observed and when it falls on a Saturday, the preceding Friday shall be observed. In such circumstance, and effective October 1, 2011 employees shall work the holiday and receive an additional eight (8) hours of pay at time and one-half their straight time pay, or compensatory time at time and one-half with the approval of the Chief of Police or his designee.

### ARTICLE 14 SICK LEAVE

1. Sick leave shall be granted to employees for absence because of:
  - (a) Personal illness or physical disability resulting in the incapacity of the employee to perform the regular duties of their position and not arising from a service-connected injury or accident.

(b) Medical, dental or optical treatments and examinations.

(c) Personal illness or physical disability resulting in the incapacity of the employee to perform the usual duties of their position and arising from a service-connected injury or accident, but only after all available disability benefits offered under Workmen's Compensation are exhausted, provided further that use of sick leave in this manner shall be at the employee's request and is not mandatory.

(d) Illness or injury to a member of a bargaining unit member's immediate family that requires the employee to care for that immediate family member.

2. Employees shall be credited with one (1) day of sick leave at the end of each month during the year.

3. Sick leave may be taken only to the extent that it is accrued. No advance sick leave shall be granted except in an emergency and upon approval of the City Manager.

4. Current employees will be eligible to receive the sick leave payout, with the existing cap of 600 hours, for the term of this Agreement. Employees who are hired on or after October 1, 1995, will not be eligible to receive any sick leave payout.

5. Effective October 1, 1995, employees will be allowed to accrue sick leave in excess of the 600 hours cap. Nevertheless, the sick leave payout will be governed by Section 4 of this Article.

6. All current employees, as of October 1, 1995, will retain current payout provision upon termination of employment, and will have no cap on sick leave accrual. All employees hired after October 1, 1995, shall receive no sick leave payout upon termination, but will have a "no-cap" maximum on sick leave accrual. All employees who have attained a sick leave balance of a minimum of 36 days (288 hours) shall be eligible on their first anniversary date following that accumulation to convert up to 32 hours of their annual unused sick leave balance in excess of 288 hours to vacation leave. An employee who uses in excess of 32 hours of sick leave during a one-year period will not be eligible for this benefit. The catastrophic illness bank will be abolished and accrued hours will be returned to employees who have accrued this leave.

7. An employee whose service with the City is terminated and who has taken sick leave that is unearned at the date of termination, shall reimburse the City for all salary paid in connection with such unearned leave, except in cases where the employment is terminated by the death of an employee, or in cases where an employee is unable to return to duty because of their disability, the evidence of which shall be supported by an acceptable medical certificate.

8. In all cases of absence on sick leave in excess of three (3) work days and in cases of absence on sick leave for any period less than three (3) work days when the Personnel Department or Department Head shall so direct, the written request for sick leave shall be accompanied by a certificate signed by the physician or other licensed medical practitioner treating the employee, certifying as to the incapacity of the employee during such period to perform the usual duties of their position. Such directives shall be valid and in force for a period not to exceed four (4) months. The Personnel Department or Chief may issue additional directives not to exceed four (4) months in duration, in their discretion. The issuance of all such directives may be appealed to the City Manager. Failure to furnish such a medical certificate for absences in excess of three (3) workdays,

or for any absence when so directed by the Department Head or Personnel Department, shall result in the absence being charged to the vacation leave of the employee.

9. Employee hired prior to October 1, 1995, who voluntarily terminates employment from the City, shall receive payment for leave deposited in the sick leave bank in accordance with following schedule:

After 5 years of continuous service 25%

After 10 years of continuous service 50%

After 15 years of continuous service 75%

After 20 years of continuous service 100%

10. The parties agree that the City may take any steps it deems appropriate to strictly administer and enforce the City sick leave policy in such a manner as to eliminate abuse of sick leave privilege.

11. In the event an employee is killed in the line of duty, or a death by natural causes, their heirs shall receive one-hundred percent (100%) of their accumulated sick leave time.

12. Any sick leave donated to other City employees shall not be counted against the donating employee in terms of use or rollover of sick time to vacation time.

13. It is further understood and agreed that all issues pertaining to Sick Leave Usage shall be governed by City of South Miami Sick Leave Policy implemented on March 1, 2004 and made part of Personnel Manual amended on February 17, 2009.

## ARTICLE 15 FUNERAL LEAVE

1. Employees covered by this Agreement shall be entitled to funeral leave with pay up to a maximum of four (4) workdays in the event of a death in the employee's family. Two (2) additional days of leave may be granted if travel in excess of 250 miles one way is necessary.

2. The immediate family shall be defined as wife or husband, grandparents, parents, stepparents, children, stepchildren, grandchildren, brothers, stepbrothers, sisters, stepsisters, father-in-law, mother-in-law, brother-in-law and sister-in-law.

3. Proof of death in the immediate family in the form of death certificate or public obituary must be provided to the City Manager or their designee before compensation is approved.

4. Funeral leave shall not be charged to sick leave or annual leave.

5. Should an employee require more funeral leave above the allotted time, may request up to additional time not to exceed ten (10) days. Such requests must be submitted at least five (5) days prior to the start of the requested leave and be pre-approved by the Chief of Police. Moreover, the employee requesting such leave must have at least ten (10) days in either their sick, vacation or compensatory leave banks.

## ARTICLE 16 LEAVE OF ABSENCE

1. "No Pay" leave may be granted by the City Manager for a period not to exceed six (6) calendar months to enable the employee to receive professional or technical training which will improve their work upon their return to service, or because of the employee's extended illness or non-job-related disability. Maternity leave shall be treated the same as any other extended illness or non-job-related disability. "No Pay" leave may be granted by the City Manager to an employee for a period not to exceed one (1) calendar month for any other purpose.
2. "No Pay" leave granted to any employee shall not to be charged against vacation leave, but entry thereof shall be made upon the leave records of such employee.
3. Any employee granted leave without pay for six (6) months or more shall be entitled to be placed by the City only if a job position is available, it being clearly understood that if the job position last held has been filled or eliminated, the City will make every effort to place the employee in another job position for which said employee qualifies. If placed in another job position, said employee shall be entitled only to the wage scale for such new position. If no job position is available, the City will give priority to said employee as soon as a new job position for which the employee qualifies, is available.

## ARTICLE 17 VACATION LEAVE

1. The term "Vacation Leave" shall be used to designate leave with pay granted to an employee on the following prorated basis:

<u>Years of Uninterrupted Service</u>	<u>Amount of Vacation</u>
1) 1 to 5 years inclusive	2-2/5 weeks or 12 working days
2) 6 to 14 years inclusive.	3 weeks or 15 working days
3) 15 to 19 years inclusive	3-3/5 weeks or 18 working days
4) 20 years and over	4-1/5 weeks or 21 working days

- (a) Vacation shall require approval of the Chief of Police or their designee, and at no time shall an employee be allowed to use more vacation leave than has been accumulated.
- (b) Earned vacation time is principally intended for use during the year in which it is earned. Under exceptional circumstances and upon written request within the year in which the vacation time is earned, such time may be used up to 30 days past the employee's anniversary date with the written approval of the City Manager.
- (c) Vacation leave may be taken to the extent that it is earned by the employee, subject to the prior approval of the Chief of Police, upon written application by the employee in advance, and at the convenience of the City.
- (d) Any earned and credited vacation leave to the credit of an employee when terminating employment with the City will be paid prorated at the employee's current rate of pay with the last paycheck received.

2. An employee may request their vacation paychecks in advance of scheduled vacation pay by submitting a written request to the City's Payroll Department at least two (2) weeks prior to starting their vacation.
3. Employees will be permitted to split their vacation dates at the discretion of the Chief of Police.

## **ARTICLE 18 EXTRA-DUTY POLICE EMPLOYMENT**

Employees agree to be bound by and abide by the Revised Extra-Duty Police Employment policy as developed by the Chief of Police. The City shall provide the Association with two (2) weeks advance notice of any modifications to the aforesaid Extra-Duty Police Employment policy which becomes effective after the ratification of this Agreement.

## **ARTICLE 19 INSURANCE BENEFITS**

The City agrees to pay for HMO health insurance for all employees covered by this agreement. Employees wanting the optional POS or PPO health insurance will pay the difference between the two plans. The City will also continue the current levels of coverage for dental, life and disability insurance. The employee agrees to pay for 100 % of dependent coverage for health and dental insurance.

## **ARTICLE 20 HOURS OF WORK AND OVERTIME**

1. Forty (40) hours shall constitute a normal workweek for an employee covered by this Agreement. Nothing herein shall guarantee any employee payment for a forty (40) hour workweek unless the employee actually works forty (40) hours or their actual hours worked and their authorized compensated leave totals forty (40) hours. Employees whose hours of actual work exceed forty (40) hours in a workweek or eight (8) hours in a day shall be compensated at the rate of time and one-half of the employee's regular straight-time rate for the additional time or as set forth in paragraphs 3 and 4 below. All available overtime shall be offered to bargaining unit employees in order of seniority barring the existence of emergency or exigent circumstance that would not allow a reasonable amount of time to contact employees on a seniority basis.
2. No employee covered by this Agreement will be eligible to use sick leave time toward overtime.
3. If an employee covered by this Agreement is called out to work at a time outside their normal working hours, he shall receive a minimum of three (3) hours' pay at the rate of time and one-half their regular-straight time. However, an employee who has not actually worked a forty (40) hour workweek or an eight (8) hour day shall be compensated for the call out at their regular straight-time rate.

4. Employees who are required to make off-duty court appearance as a subpoenaed witness in the federal or state courts or as a deponent in pending criminal, civil or traffic cases involving or arising out of the discharge of the employee's duties in the course of their employment with the City will receive a minimum of three (3) hours pay at the rate of time and one-half their regular straight-time rate. If the officer is required to hold over for any reason within an hour of the normal tour of duty, it will be considered an extension of the shift, entitling the officer to normal overtime pay. However, an employee who has not actually worked a forty (40) hour workweek or an eight (8) hour day shall be compensated for the off-duty appearance at their regular straight-time rate. Employees shall be allowed to retain witness and travel fees received for court and deposition appearances.

5. Insofar as possible, employees covered by this Agreement shall be given forty-eight (48) hours notice of any changes in their regular hours of work. Further, insofar as possible, the Department will avoid scheduling an employee to work on continuous shifts. Should an employee be scheduled to work continuous shifts, their days off may be adjusted within the same pay period by the Department. Employees shall be given two (2) weeks' notice of normal shift change.

6. No supervisor or official shall take action to cause the non-payment of overtime in circumstances wherein an employee covered by this Agreement has performed work, which entitles him to payment of overtime provided that nothing herein shall restrict the City or the Department from altering work schedules or taking any other action to reduce the number of overtime, court time, or call-out hours worked by the employee covered by this Agreement.

7. The Department reserves the right to institute any procedure or system it deems appropriate to measure, record and/or verify attendance at and duration of off-duty court appearances. Strict compliance with any procedure or system so instituted by the Department shall be a condition precedent to obtaining compensation for an off-duty court appearance under Paragraph 4 above.

8. Compensatory time shall be administered in accordance with the following guidelines:

(a) Compensatory leave may be accrued to a maximum of two hundred twenty (240) hours. Current employees, on October 1, 1995, who have an accrual in excess of the current cap, will be "grandfathered" to allow them to retain their accrued balance. However, such employees shall not be eligible for accrual of any additional compensatory leave until their balance falls below the 240-hour cap.

(b) Compensatory leave may be taken in unlimited blocks of time, provided operational needs have been met, as determined by the Chief of Police. In the event of disapproval, the written response shall contain a specific explanation of the operational needs that cannot be met.

(c) Compensatory leave shall be requested in writing at least one (1) week prior to the effective date of requested leave unless there is an emergency or the one (1) week time frame is agreed to and waived by the Chief of Police or his designee. Approval or disapproval shall be made in writing within 3 business days after the request is submitted. Under exceptional circumstances as approved by the Chief of Police, the time limits for request of compensatory leave may be waived.

(d) Once approved, compensatory leave will not be canceled by the Employer unless an emergency situation as determined by the Chief of Police exists.

9. Upon recommendation of the Chief of Police and upon approval of the City Manager the parties agree that the City may implement either ten (10) hour or twelve (12) hour shifts which may be accomplished by a Memorandum of Understanding between the parties without re-opening this Agreement to negotiate that implementation.

## ARTICLE 21 MANAGEMENT RIGHTS

1. The Association and its members recognize that the City has the exclusive right to manage and direct all of its operations. Accordingly, the City specifically, but not by way of limitation, reserves the exclusive right to:

- A. Decide the scope of service to be performed and the method of service;
- B. Hire and/or otherwise determine the qualifications of employees and the criteria and standards for employment;
- C. Fire, demote, suspend or otherwise discipline employees for proper cause;
- D. Promote and determine the qualifications of employees;
- E. Layoff and/or relieve employees from duty due to lack of work;
- F. Transfer employees from location to location and from time to time;
- G. Rehire employees;
- H. Determine the starting and quitting time and the numbers of hours and shifts to be worked subject to Article 20;
- I. Determine the allocation and content of job classifications;

- J. Formulate and/or amend job descriptions;
- K. Merge, consolidate, expand, or curtail or discontinue temporarily or permanently, in whole or in part, operations whenever in the sole discretion of the City good business judgment makes such curtailment or discontinuance advisable;
- L. Contract and/or subcontract any existing or future work;
- M. Expand, reduce, alter, combine, assign, or cease any job;
- N. Determine whether and to what extent the work required in its operation shall be performed by employees covered by this Agreement;
- O. Control the use of equipment and property of the City;
- P. Determine the number, location, and operation of headquarters, annexes, substations and divisions thereof;
- Q. Schedule and assign the work to the employees and to determine the size and composition of the work force;
- R. Determine the services to be provided to the public and the maintenance, procedures, materials, facilities, and equipment to be used, and to introduce new or improved services, maintenance procedures, materials, facilities and equipment;
- S. Take whatever action may be necessary to carry out the mission and responsibilities of the City in emergency situations;
- T. Formulate, amend, revise and implement policy, programs, rules and regulations;
- U. Have complete authority to exercise those rights and powers that are incidental to the rights and powers enumerated above, including the right to make unilateral changes.

2. The above rights of the City are not all-inclusive but indicate the type of matters or rights which belong to and are inherent in the City as the employer. Any of the rights, powers, and authority the City had prior to entering their collective bargaining agreement are retained by the City, except as specifically abridged, delegated, granted or modified by this Agreement.

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

## **ARTICLE 22 WORK STOPPAGES**

1. The Association agrees that, under no circumstances, shall there be any work stoppage, strike, sympathy strike, safety strike, jurisdictional dispute, walkout, sit-down stay-in, sick-out or any other concerted failure or refusal to perform assigned work for any reason whatsoever, or picketing in the furtherance of any of the above-prohibited activities, nor shall any bargaining unit personnel refuse to cross any picket line at any location, whether the picketing is being done by the Association or any other employee organization or union.

2. The Association agrees that the City shall retain the right to discharge or otherwise discipline some or all of the employees participating in or promoting any of the activities enumerated in paragraph 1 above, and the exercise of such rights by the City will not be subject to recourse under the grievance/arbitration process.

3. It is recognized by the parties that the activities enumerated in paragraphs 1 and 2 above, are contrary to the ideals of professionalism and to the City's community responsibility. Accordingly, it is understood and agreed that in the event of any violation of their Article, the City shall be entitled to seek and obtain legal and/or equitable relief in any court of competent jurisdiction.

4. For the purpose of this Article, it is agreed that the Association shall be responsible for any act committed by its officers, agent, and/or representatives which act constitutes a violation of state law or the provision herein. In addition to all other rights and remedies available to the City under state law, in the event of a breach of the provisions herein, the City shall have the right to unilaterally and without further notice terminate their collective bargaining agreement, withdraw recognition from the Association, and cease dues deductions.

## **ARTICLE 23 AWARDS**

The City will endeavor to provide a formal system of awards for various degrees of outstanding service. Employees selected as Officer of the Month or Supervisor of the Month shall receive official awards which are to be posted conspicuously in the Police Station and City Hall. Additionally, formal recognition of employee's exceptional service shall be placed in personnel files.

## **ARTICLE 24 MILITARY LEAVE**

Any employee covered by this Agreement who presents official orders requiring their attendance for a period of training or other active duty as a member of the United States Armed Forces or the State of Florida National Guard shall be entitled to military leave pursuant to Chapter 115.07, Florida Statutes.

## **ARTICLE 25 AUTHORIZED USE OF PRIVATE AUTOMOBILE**

Any employee authorized to use their private automobile in the performance of their City duties will be compensated at the mileage rate prescribed by Florida Statutes. Such mileage shall be computed based on the distance between the employee's regular duty station and the place of assignment or the employee's residence and the place of assignment, whichever is shorter. Mileage shall not be paid for commuting to and from the regular duty station or for court appearances or case-related conferences.

## **ARTICLE 26 BULLETIN BOARDS**

The City shall permit the Association to post notices of an informational nature and names and addresses of officers, directors, and representatives of the Employee Organization on a 5' x 4' bulletin board in the squad room at the police station. A copy of each notice to be posted shall be transmitted to the Chief of Police or their designee prior to posting. Under no circumstances shall the Association tender for posting any notice training material tending to, directly or indirectly, disparage any elected or appointed official or employee of the City. An officer of the Association shall sign each notice to be posted.

## **ARTICLE 27 SEVERABILITY CLAUSE**

Should any provision of this Agreement or any part thereof, be rendered or declared invalid by reason of any existing or subsequently enacted state or federal legislation, or by any decree of a court of competent jurisdiction, all other articles and sections of this Agreement shall remain in full force and effect for the duration of this Agreement. Furthermore, should any provision of this Agreement become invalid, as described above, the parties shall meet within thirty (30) calendar days of such decision or legislation to discuss substitute provisions or ramifications of such action of this Agreement.

## **ARTICLE 28 COMPENSATION**

Employees covered by this Agreement shall receive a one (1)-time bonus equivalent to 2% of their base salary in FY 2011 which will not be subject to pension final average calculation and/or contributions.

Commencing with the ratification of this Agreement, Special Risk Pay shall be \$50.00 per pay period for term of this contract.

1. Bargaining unit employees who serve as Field Training officers pursuant to the criteria below will receive a seven percent (7%) of the base hourly rate supplement during the time that the employee performs FTO duties. In order to receive the FTO supplement,

the employee must: (1) secure an FTO certificate from the State of Florida, and (2) be assigned to and actually perform FTO duties. Thus, employees will receive FTO pay only during those days in which the employee is at work, is assigned to FTO duties and performs FTO duties. The seven percent (7%) FTO supplement will be added to the employee's base pay for the days during which the employee receives such supplement.

2. Bargaining unit employees covered by this Agreement who are temporarily assigned to a higher rank shall receive seven percent (7%) of his/her base hourly rate as a supplement for each full day worked in the higher rank.

3. Longevity pay shall be calculated based on the hourly rate of each bargaining unit employee.

4. Commencing with the ratification of this Agreement, police officers assigned to uniform patrol who are covered under this Agreement and are assigned to afternoon or midnight shifts shall receive a shift differential pay of \$0.35 (afternoon shift) or \$0.50 (midnight shift). Sergeants assigned to uniform patrol who are covered under this agreement and are assigned to afternoon or midnight shifts shall receive a shift differential pay of \$0.45 (afternoon shift) or \$0.60 (midnight shift). The shift differential, for overtime and pension calculation, is not tied to the base. Hours must be actually worked in order to receive the differential pay.

5. Commencing with the ratification of this Agreement police officers and sergeants covered under this agreement who are assigned to the following specialized units shall receive an assignment pay of \$0.50 per hour actually worked. The assignment pay is not tied to the base for overtime and pension calculation.

- a. Motors
- b. G.I.U.
- c. S.I.U.
- d. K-9

6. No Merit increases will be provided under this Agreement. However, on July 1, 2012 when the City receives Form DR 420 from the Miami-Dade County Property Appraiser's Office, if the "current gross taxable value for operating purposes" is greater than the amount of the previous year's value, negotiations under this Agreement may be re-opened solely to discuss the possibility of reinstating Merit increases for the following fiscal year.

## **ARTICLE 29 PROHIBITION AGAINST RE-OPENING OF NEGOTIATIONS**

Except as specifically provided herein, neither party hereto shall be permitted to re-open this Agreement or any part of this Agreement. This Agreement contains the entire agreement of the parties on all matters relative to wages, hours, working conditions, and all other matters which have been, or could have been negotiated by and between the parties prior to the execution of this Agreement.

## ARTICLE 30 UNIFORMS AND EQUIPMENT

1. Employees covered by this Agreement shall receive from the City upon appointment, at no cost to the employee, a new uniform, which shall consist of the following:

- (a) One ( 1 ) long sleeve shirt;
- (b) Five (5) short sleeve shirts;
- (c) Five (5) pairs of trousers;
- (d) One (1) hat;
- (e) Badge and name tag;
- (f) Leather goods and accessories to include: but not be limited to: handcuffs and case cartridge case, holster and hand held radio holder;
- (g) The appropriate quantity of shells;
- (h) One (1 ) jacket with zip-out lining;
- (i) Two (2) pairs police low quarter corfam shoes;
- (j) Raingear;
- (k) Upon employee's request, two pairs of uniform shorts shall be issued.

The above items shall be replaced as needed, by the City, within a reasonable amount of time from the employee's written request. Such requests shall include the reason for replacement and is contingent upon approval of the Division Commander via chain of command.

2. Commencing with the ratification of this agreement, employees who are required to wear non-issued clothing will receive a clothing allotment of \$700 dollars annually. One-half (1/2) of said allotment will be paid on the pay day nearest the 15th of December of each year and the other one-half (1/2) will be paid on the pay day nearest the 15th of June of each year provided that the employee is employed on said day.

3. Commencing with the ratification of this agreement, uniformed employees covered under this Agreement will receive a clothing allowance of \$400 dollars annually. One-half (1/2) of said allotment will be paid on the pay day nearest the 15th of December of each year and the other one-half (1/2) will be paid on the pay day nearest the 15th of June of each year provided that the employee is employed on said day. Any employee who receives a clothing/uniform allowance in advance who terminates employment, except for retirement, will have a prorated portion of that allowance deducted from the final paycheck. No final paycheck will be given the terminated employee until all city-owned property such as uniforms and equipment, ID, etc. has been returned to the City.

4. Commencing with the ratification of this agreement, each bargaining unit employee covered by this Agreement shall be provided with a Level III bullet resistant vest upon providing the Chief of Police or designee a written request as long as the "Vest Grant" remains active. Should the "Vest Grant" terminate the Chief may, at his discretion, issue either a Level II or Level III vest, however bargaining unit employees who are issued a Level II vest may upgrade to a Level III vest at their own expense. The wearing of the

vest will be at the option of employees, except in the performance of specialized duties and/or as specifically directed by the Department.

5. Each officer (upon request) will be issued surgical gloves and a plastic pocket resuscitation mask for use in administering first aid. Such items shall be replaced as needed.

6. Employees may be allowed to carry personally-owned shot-guns and ammunition which conform to department standards once the employee is qualified for use in that weapon or an identical weapon by a certified range master.

7. All personnel who intend to carry personal semi-automatic weapons on duty are subject to the following conditions:

- 1) The officer must complete transitional training prior to obtaining approval to carry the firearm as provided for in Article 11.3 - TRAINING.
- 2) A request to carry the firearm shall be approved by the Chief of Police.
- 3) Firearm shall be inspected and approved by a department armorer.
- 4) Sworn personnel shall not modify authorized firearms.
- 5) Holster and ammunition clip holder shall be purchased (by employee) and approved by the Chief of Police.
- 6) The officer shall complete a training course pertaining to the new firearm.
- 7) The officer shall qualify with firearm.
- 8) Firearms and magazines shall be carried with Department issue ammunition only.
- 9) The Department shall set forth the manufacturers and models approved for use.

8. Employees shall be issued PR-24 batons and shall receive appropriate training for use of such batons prior to issuance. Employees shall also be issued ASP's with holsters and shall receive appropriate training for use of such ASP's prior to issuance.

9. Uniformed personnel shall be permitted to wear, as part of their uniform, a standard knife case, the finish of which matches the leather accessories issued by the City. The uniformed personnel shall not carry any knife on their person other than that which is contained in said case (the blade of which shall not exceed three inches in length).

## **ARTICLE 31 NON-PROMOTIONAL VACANCIES**

The City agrees to post non-promotional vacancies within the Department for a period of three (3) days prior to the filling of the vacancy. However, it is understood and agreed that such posting shall not be construed to require the appointment of Departmental personnel to such vacancies. Further, the appointment of individuals to such vacancies shall remain within the sole discretion of the Chief of Police or their designee, based upon the recommendation of a review panel, from an existing eligibility list, except

where Article 8, Section 3 of this Agreement provides for mandatory consideration of seniority. Eligibility lists for non-promotional vacancies shall expire after a three (3) month period after which vacancies will be re-advertised and new interviews held.

## **ARTICLE 32 PHYSICAL EXAMINATION AND WORKERS' COMPENSATION BENEFITS**

1. Employees will receive an electrocardiogram, eye exam, and physical examination to include alcohol and drug screen testing at least once a year (12 months) performed by a physician selected by the City or when requested by the City. Scheduling of the above will be at the discretion of the City, and the results will become part of the employee's permanent record. The City will undertake the cost of the examination and will furnish the employee with a copy of the examination report.

2. In the event of an on-the-job injury to an employee, not as a result of negligence by the employee, such employee will be carried at full pay and benefits for a period not to exceed 180 calendar days.

3. Any employee injured on the job shall be paid the full eight (8) hours wage for the day of the accident if their treating physician advises that he should not return to work that day.

4. Employees covered by this agreement further agree that, in the interest of public confidence, there needs to exist a management right to submit employees at random and without notification for drug and alcohol testing. Said tests shall be in addition to the annual physical and may occur not more than one time per employee each year.

5. It is further understood and agreed that all issues pertaining to Drug and Alcohol Testing shall be governed by City of South Miami Drug and Alcohol Policy and be governed by City of South Miami Drug and Alcohol Policy and Work-Rules-implemented on March 1, 2004 and made part of Personnel Manual as adopted by the City Commission.

## **ARTICLE 33 RETIREMENT BENEFITS**

1. Each bargaining unit employee who retires on length of service or medical disability shall receive an honorary one-grade promotion and shall be issued a badge and identification card clearly marked "retired," at the discretion of the Chief of Police. The honorary one grade promotion shall not affect salary, benefits, or the calculations of pension and/or distributions.

2. The following changes in retirement benefits are hereby agreed and are incorporated hereto as historical data:

- (a) Effective October 1, 1995, the benefit accrual rate (multiplier) shall be increased from 1.9 % to 2.25% for services performed in the 1995-1996 fiscal year;
- (b) Effective October 1, 1996, the benefit accrual rate (multiplier) shall be increased from 2.25% to 2.50% for services performed in the 1996-1997 fiscal year;
- (c) Effective October 1, 1997, the benefit accrual rate (multiplier) shall be increased from 2.50% to 2.75% for services performed in the 1997-2001 fiscal years.
- (d) Effective October 1, 2001, the benefit accrual rate (multiplier) shall be increased from 2.75 to 2.80 percent for services performed in the 2001-2002 fiscal year.
- (e) Effective October 1, 2002, the pension benefit accrual rate (multiplier) for sworn police personnel shall be increased from 2.80 percent to 2.90 for services performed in the 2002-2003 fiscal year.
- (f) Effective October 1, 2003 and thereafter the pension benefit accrual rate (multiplier) for sworn police personnel shall be increased from 2.90 to 3.00 percent.
- (g) The multiplier factor for all years of service prior to October 1, 1993, the multiplier shall be 1.6%. For services rendered during fiscal year 1993-94 (October 1, 1993 through September 30, 1994), the multiplier shall be 1.8%. For services rendered during October 1, 1994 through September 29, 1995, the multiplier shall be 1.9% to be applied at the time of retirement of each bargaining unit employee covered by this Agreement.

3. Bargaining unit employees shall be 100% vested in the retirement plan when completion of ten (10) years continuous full time service in the retirement plan is completed. Accordingly, effective October 1, 1993, all bargaining unit employees in the retirement plan who have, as of October 1, 1993, between ten (10) and twenty (20) years of continuous service will be 100% vested.

4. Effective October 1, 2001, the employee contribution to the retirement plan will be 7.5%. Should the total contribution be actuarially determined to exceed 15%, both the City and the employees will share equally the excess amount (e.g., should the total contribution be actuarially determined to be 17%, the City shall contribute a total of 8.5% and the employees shall contribute a total of 8.5%).

5. Effective October 1, 2001, in accordance with the new provisions of State Statute governing Chapter 185 Funds, the sum of \$12,498.00 will be paid from the Chapter 185 Police Retirement funds to the South Miami Police Pension Plan each year, regardless of

the growth or diminution in future Chapter 185 funds in partial exchange for the 25 years of service and out benefit improvement to the pension plan.

6. The retirement plan is mandatory for all employees, covered under this Agreement, hired after October 1, 1995.

7. Final average compensation shall mean the participant's annual compensation, as determined by the employer, acting in a uniform and nondiscriminatory manner averaged over the best five (5) year period of the participant's career with the City of South Miami ending on the participant's retirement date, date of disability, date of termination of employment, or date of termination of the plan, whichever is applicable. For the purposes of this Agreement the best five (5) years is defined as best five - 26 consecutive pay periods within a participant's career and such consecutive year periods shall not overlap one another.

8. The normal retirement date (the earliest date a bargaining unit employee may retire with full unreduced pension benefits) for a participant shall be completion of 25 years of credited police service, regardless of age, or attainment of age sixty 60 and completion of ten 10 years of credited police service.

9. Employees covered by this Agreement shall be allowed to apply for permission to purchase credit for active duty in the U. S. military service, up to a maximum of four (4) years in the South Miami Retirement System, pursuant to procedures to be promulgated by the City in consultation with the PBA.

10. Employees covered by this Agreement shall be allowed to apply for permission to purchase credit for immediate past City service as a member of the bargaining unit up to a maximum of five (5) years in the South Miami Retirement System pursuant to procedures to be promulgated by the City in consultation with the PBA. The actuarial and technical language is to be prepared by actuarial company, approved by the City and the PBA, and adopted by the Pension Board. Any condition or impairment of health of any police officer caused by tuberculosis, hypertension, heart disease, or hardening of the arteries, resulting in total disability or death, shall be presumed to be accidental and suffered in the line of duty unless the contrary be shown by competent evidence.

11. Effective July 1, 2011, or upon ratification of this Agreement, whichever comes first, the maximum amount of overtime hours for pension calculations for any one fiscal year shall not exceed 300 hours. The day following the ratification of this Agreement, any accumulated time which is eligible for payout upon separation from employment with the City shall remain eligible for pension calculations and subject to pension contributions upon payout. Any accumulated time that is eligible for payout after the ratification of this Agreement will be considered new accumulated time. Any and all new accumulated time, eligible for payout upon separation from employment with the City, shall not be eligible for pension calculation or subject to pension contributions

12. Effective upon the ratification of this Agreement employees hired on or after October 1, 2011 covered by this Agreement shall enter the pension plan immediately upon being hired as a sworn law enforcement officer.

13. Attached hereto and incorporated by reference herein, is Ordinance 16-08-1951 adopted May 20, 2008, entitled "Pension Plan," as amended.

#### **ARTICLE 34 EDUCATIONAL INCENTIVE**

1. The City agrees to bear the cost of tuition for specialized education courses to better equip the officers for the performance of the particular job and/or position in which they are employed.

2. Every application for educational assistance shall be subject to the approval of the Chief of Police and the City Manager. Such approval must be obtained at least thirty (30) days prior to the beginning of any course.

3. If any application is approved, guidelines for reimbursement are as follows:

a) 50% reimbursement of the course cost for a grade of "C" or better for undergraduate courses;

b) 50% reimbursement of the course cost for a grade of "B" or better for graduate courses;

c) Any such reimbursement shall be made only upon submission of proof of the grades as provided in sub-sections a and b above;

d) The credit hour cost of any courses approved shall be capped at the rate used by local publicly funded universities and/or community colleges.

4. Employees utilizing educational assistance must remain with the City for a period of at least two years following completion of any reimbursed course, or said money must be repaid to the City (amount may be deducted from final pay).

#### **ARTICLE 35 EMPLOYEE PREGNANCY/MATERNITY LEAVE**

1. An employee who becomes pregnant must notify the Chief of Police as soon as she receives a medical confirmation that she is pregnant. A pregnant employee is required to furnish a letter from her physician which will state the anticipated delivery date, the amount of time the employee may continue to work until the delivery and the types and limitations of duty to be performed the pregnant employee may, in the discretion of the City, be placed on light duty status with the approval of the Chief of Police or their designee and the City Manager. In the event that a light duty position is

not available at the police station, the pregnant employee may be utilized in other City of South Miami offices at the discretion of the City Manager. The employee's rate of pay will remain the same.

2. Pregnant employees shall be granted disability leave on the same terms and conditions as granted for other non-pregnancy-related disabilities. Any bargaining unit employee who becomes pregnant shall be entitled to unpaid maternity leave. Such maternity leave shall be granted for a period of up to six (6) months. In the event that the pregnant employee has any accrued annual leave, sick leave or comp time, she may use all or any part of the accrued leave at her request in lieu of unpaid leave.

#### **ARTICLE 36 EMPLOYEE ASSISTANCE PROGRAM**

The City and the PBA concur that an Employee Assistance Program (EAP) would be of great value in supporting the operations of the Police Department and to bolstering the welfare of the Department's law enforcement personnel. Therefore, it is agreed that the City Manager and the PBA unit representatives will meet, as needed, to develop an action plan to implement such a program that is responsive to the needs of the bargaining unit and is affordable to the City.

#### **ARTICLE 37 ABOLISHMENT OR MERGER**

1. Whenever the abolishment or merger of the police department is contemplated, the Association shall be informed of such plans in advance and be given an opportunity to negotiate concerning the impact of such abolishment or merger proposal upon this Agreement.

2. The abolishment or merger negotiations shall include discussion of provisions for the placement of personnel in other departments or, in the alternative, severance benefits.

#### **ARTICLE 38 AMERICANS WITH DISABILITIES ACT**

Notwithstanding any other provision of this Agreement, the PBA agrees that the City may take whatever actions may be necessary to comply with the Americans with Disabilities Act or the Florida Civil Rights Act to provide reasonable accommodation to individuals with disabilities as required under those laws. To accomplish this, the City shall notify the PBA of the action it intends to take to comply with the ADA or the Florida CRA. If the PBA disagrees with the action contemplated by the City, the PBA shall immediately request negotiations with the City to resolve the issue and to determine the parties' mutual obligations to comply with these laws. However, any contention or claim that the City violated any provision of the Americans with Disabilities Act or the Florida Civil Rights Act shall be exclusively resolved through available administrative or judicial remedies, and shall not be subject to the grievance procedure herein.

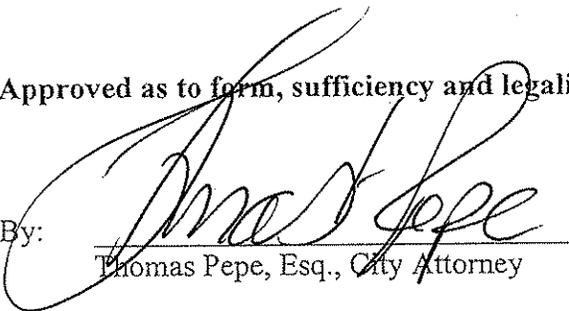
**ARTICLE 39 TERM OF AGREEMENT**

Except as provided herein, all provisions of this Agreement shall be effective upon ratification by the PBA and the City. This Agreement shall remain in full force and effect until and including September 30, 2013.

**City of South Miami:**

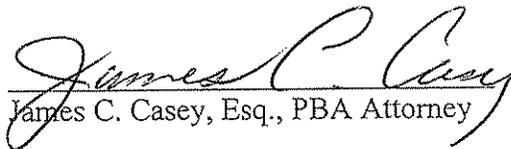
By:  Date: 9-8-2011  
Hector Mirabile, Ph.D., City Manager

**Approved as to form, sufficiency and legality:**

By:  Date: 9/8/2011  
Thomas Pepe, Esq., City Attorney

**Miami-Dade County Police Benevolent Association:**

By:  Date: Sept 08, 2011  
John Rivera, President

By:  Date: Sept 08, 2011  
James C. Casey, Esq., PBA Attorney