

**AGREEMENT**

**between**

**CITY OF TALLAHASSEE**

**and**

**BIG BEND CHAPTER**

**FLORIDA POLICE BENEVOLENT  
ASSOCIATION, INC.**



**Police Officers and Investigators Bargaining Unit**

*Effective October 1, 2014 through September 30, 2017*

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## AGREEMENT

**THIS AGREEMENT**, entered into this 1 day of October, 2014, between the **CITY OF TALLAHASSEE** (hereinafter referred to as the "City" or the "Employer") and the **BIG BEND CHAPTER OF THE FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.**, (hereinafter referred to as the "PBA" or the "Association") and their successors and assigns:

## PREAMBLE

**WHEREAS**, it is the intention of the parties to this Agreement to set forth the entire agreement of the parties with respect to matters within the scope of negotiations; **NOW, THEREFORE**, in consideration of the mutual covenants and agree as follows:

## ARTICLE 1 RECOGNITION

- 1.1** The City hereby recognizes the Big Bend Chapter of the Florida Police Benevolent Association, Inc., as the exclusive representative for the purposes of collective bargaining with respect to wages, hours, and terms and conditions of employment for all employees in the bargaining unit.
- 1.2** The bargaining unit for which this recognition is accorded is as defined in the Certification issued by the Florida Public Employees Relations Commission on December 30, 1981 (Case No. RC-81-056) and includes all sworn police officers in the Tallahassee Police Department with the rank of Police Officer (including those classified as Police Investigator) and specifically excludes all other employees both sworn and unsworn, in the Police Department, managerial employees, reserve officers, confidential employees, and all other employees of the City of Tallahassee.

## ARTICLE 2 NO STRIKE

- 2.1** "Strike" means the concerted failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted submission of resignations by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or participating in a deliberate and concerted course of conduct which adversely affects the services of the public employer; the concerted failure of employees to report for work after the expiration of a collective bargaining agreement; and picketing in furtherance of a work stoppage. The term "strike" shall also mean any overt preparation including but not limited to the establishment of strike funds with regard to the above-listed activities.

- 2.2 Neither the Association, nor any of its officers or agents, nor members covered by this Agreement, nor any other employees covered by this Agreement, will instigate, promote, sponsor, or engage in, or condone any strike, sympathy strike, slowdown, concerted stoppage of work, unlawful picketing, or any other interruption of the operations of the City, regardless of the reason for so doing.
- 2.3 Each employee who holds a position with the Association occupies a position of special trust and responsibility in maintaining and bringing about compliance with this Article and the strike prohibition in F.S. 447.505 and the Constitution of the State of Florida, Article I, Section 6. Accordingly, the Association, its officers, stewards, and PBA representatives agree that it is their continuing obligation and responsibility to maintain compliance with this Article and the law, including their responsibility to abide by the provisions of this Article and the law by remaining at work during any interruption which may be initiated by others; and their responsibility, in event of breach of this Article or the law by other employees, and upon the request of the City; to encourage and direct employees violating this Article or the law to return to work, and to disavow the strike publicly.
- 2.4 Any or all employees who violate any provisions of the law prohibiting strikes or of this Article may be dismissed or otherwise disciplined by the City, and any such action by the City shall not be grievable or arbitrable under the provisions of Article 5 – Grievance Procedure.

## **ARTICLE 3**

### **NO DISCRIMINATION/HARASSMENT AND RETALIATION**

- 3.1 The City agrees to continue its policy of not discriminating against any employee on the basis of color, gender, sexual orientation, gender identity, age, disability, marital status, veteran status, genetic information, religion, national origin, union membership or any other characteristic protected by law, including, but not limited to, claims made pursuant to Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Florida Civil Rights Act or any other similar laws, rules or regulations. Any claim of discrimination by an employee against the City, its officials or representatives, may be grieved under the provisions of Article 5 – Grievance Procedure, or the grievance procedure contained in City Personnel Rules and Regulations.
- 3.2 The Association shall not interfere with the right of employees covered by this Agreement to become or refrain from becoming members of the Association, and the Association shall not discriminate against any such employees because of membership or non-membership in any employee organization.
- 3.3 All references in this Agreement to employees of the male gender are used for convenience only and shall be construed to include both male and female employees.
- 3.4 The Association and the City agree to support the principles of equal opportunity and promotion as prescribed by applicable state statutes and federal codes. The parties agree that intimidating, hostile or offensive language or conduct, based

on a person's race, color, gender, sexual orientation, gender identity, age, disability, marital status, veteran status, genetic information, religion, national origin or any other characteristic protected by law is unacceptable in the workplace.

**3.5** Further, the Association and the City agrees to not tolerate any form of retaliation directed against an employee or other person who complains about such harassment or discrimination or who participates in any investigation concerning discrimination or harassment.

## **ARTICLE 4**

### **CONSULTATION**

**4.1** The Chief of the Police Department and/or his designated representatives (up to a total of five [5]) shall meet and consult on an as needed basis but at least once per quarter with five (5) representatives designated by the President of the Association on City law enforcement activities, on any matters which are not covered by this Agreement, and on questions relating to the implementation of this Agreement.

**4.2** Each party shall submit an agenda to the other party at least seven (7) calendar days prior to each meeting date, and only agended items will be discussed at the meeting; except with the mutual agreement of the parties, other items not on the agenda may be discussed.

**4.3** It is understood that these meetings shall not be used for negotiation purposes.

**4.4** Members of the bargaining unit who serve as Association representatives shall be excused without loss of pay for consultation purposes. Attendance at the consultation meetings outside of regular working hours shall not be deemed time worked.

## **ARTICLE 5**

### **GRIEVANCE PROCEDURE**

**5.1** It is the policy of the City to encourage discussion on an informal basis between a supervisor and an employee of an employee complaint. Such discussion should be held with a view to reaching an understanding which will resolve the matter in a manner satisfactory to the employee, without need for recourse to the formal grievance procedure. An employee's complaint should be presented and handled promptly and should be resolved at the lowest level of supervision consistent with the authority of the supervisor.

**5.2 Definitions**

(1) A "grievance" is defined as a dispute involving the interpretation or application of the provisions of this Agreement, except as exclusions are noted in other Articles of this Agreement.

If an employee has a grievance under this Collective Bargaining Agreement, the grievance must be filed under the provisions of this article of the Collective Bargaining Agreement only. Performance evaluations are not subject to the grievance procedure provided for in this article, but shall be subject to the performance evaluation appeal procedure outlined in Article 18 – Performance Evaluations and Conditional Status.

(2) As used in this Article, the term "employee" shall mean also a group of employees having the same grievance. In such event, one (1) employee shall be designated by the group to act as spokesperson and be responsible for processing the grievance.

A dispute involving the interpretation or application of a provision of this Agreement which gives a right to the Association as an employee organization may be presented by the Association as a grievance. Such grievance shall be initiated at Step 2 of this procedure, in accordance with the provisions set forth therein, within fifteen (15) days of the first occurrence of the event giving rise to the grievance.

Nothing in this Article or elsewhere in this Agreement shall be construed to permit the Association to process a grievance:

- (a) in behalf of any employee without his consent, or
- (b) with respect to any matter which is the subject of a grievance, appeal, administrative action before a governmental board or agency, or court proceeding, brought by an individual employee or group of employees, or by the Association.

(3) The term "days" as used in this Article shall mean Monday through Friday, excluding any day observed as a holiday pursuant to Article 7 of this Agreement.

(4) Where any provision of this Agreement involves responsibility on the part of the Association which, in the view of the City, is not being properly carried out, the City may present the issue to the Association as a grievance. If such grievance cannot be resolved by discussion between the City and the Association on an informal basis, the grievance shall be initiated at Step 2 of this procedure by the Manager-Human Resources and submitted in writing to the President of the Association. If not resolved within twenty (20) days following receipt by the Association of the written grievance, the City may submit the grievance to arbitration under the provisions of Section 5.4 (3) below.

### **5.3 Representation**

(1) Where Association representation is requested by the employee and the Association agrees to represent the employee, the employee's representative shall be a PBA Grievance Representative. Where Association representation is not requested by the employee or the Association declines to represent the employee, the employee's representative shall be any bargaining unit member of his choice. Representation by legal counsel is permissible at all steps; however, the grievant is required at the time of grievance submittal to advise the City of

legal representation. If the employee is not a member of the union, it is the employee's responsibility to obtain a PBA representative, if desired.

(2) The Association shall furnish to the City and keep up-to-date a list of employees and staff members authorized to act as PBA Grievance Representatives. Any employee who is designated as an Association Grievance Representative must be an employee in the bargaining unit.

#### **5.4 Procedures**

Grievances shall be presented and adjusted in the following manner:

##### **(1) Step 1-Department Level**

An employee having a grievance may, within the fifteen (15) days following the first occurrence giving rise to the grievance, submit the grievance in writing to the Police Chief setting forth specifically the complete facts on which the grievance is based, the specific provision or provisions of the Agreement allegedly violated, and the relief requested. The Chief or his designee and the Division Director shall have a meeting with the employee, accompanied by his representative if the employee so desires, to discuss the grievance. The Chief or his designee shall communicate a decision in writing to the employee and to the representative, if any, within fifteen (15) days following receipt of the written grievance. This is the final step in an oral reprimand. The grievance shall not proceed to Step 2 until deemed to be unresolved at Step 1 upon receipt of the written decision, expiration of the fifteen (15) day response period, or a mutually agreed upon extension has been exhausted.

##### **(2) Step 2-City Level**

If the grievance is not resolved at Step 1, the employee may submit the grievance in writing to the City Manager within fifteen (15) days after receipt of the decision at Step 1. The City Manager or his designee may have a meeting with the employee, accompanied by his representative if the employee so desires, to discuss the grievance. The City Manager or his designee shall communicate a decision in writing to the employee and to the representative, if any, within twenty (20) days following receipt of the written grievance. This is the final step in a dismissal hearing for an employee serving a probationary period, and it is the final step in a written reprimand.

##### **(3) Step 3-Arbitration**

If the grievance is not settled in accordance with the foregoing procedure, the employee or the Association, or the City as the case may be, may request arbitration by delivering written notice of intent to appeal to the other party no later than fifteen (15) days after receipt of the decision at Step 2 with a written statement of the specific provision(s) of this Agreement at issue. If the grievance is not appealed to arbitration within said fifteen (15) days, the City Manager's Step 2 answer shall be final and binding upon the aggrieved employee or the Association, as the case may be.

Within fifteen (15) days after receipt of the appeal to arbitration the parties shall jointly request the Federal Mediation and Conciliation Service, the sole function of that body being to assist in the selection of the arbitrator, to furnish a panel of seven (7) impartial arbitrators particularly skilled in matters involving local government employee relations. Both the City and the Association shall have the right to strike three (3) names from the panel. Within five (5) days after receipt of the list, the parties shall meet and alternatively cross out names on the list. Lot chance shall determine who shall cross out first.

Where there is a threshold issue regarding arbitrability, it is understood that in such cases the Request for Arbitration form shall be accompanied by a special request to the Federal Mediation and Conciliation Service for a panel of only three (3) arbitrators who would be available for an expedited arbitration hearing on only the arbitrability issue. Another arbitrator shall be selected to hear the case on its merits. The hearing on this issue shall be limited to not more than one day, and the arbitrator shall be required to make a bench decision on the issue before the hearing is closed. The party losing the arbitrability issue shall pay the fees and expenses of the expedited arbitration.

The arbitrator shall issue his decision not later than thirty (30) days from the date of the closing of the hearings or the submission of briefs, whichever is later. The decision shall be in writing and shall set forth the arbitrator's opinion and conclusions on the issue(s) submitted and the appropriate remedy, if any. The arbitrator shall limit his decision strictly to the application and interpretation of the specific provisions of this Agreement, and he shall be without power or authority to make any decisions:

- (a) contrary to, or inconsistent with, adding to, subtracting from, or modifying, altering or ignoring in any way, the terms of this Agreement or of applicable law or rules or regulations having the force and effect of law;
- (b) limiting or interfering in any way with the powers, duties and responsibilities of the City under applicable law and the City Charter.

The decision of the arbitrator, if made in accordance with his jurisdiction and authority under this Agreement, shall be final and binding on the City, the Association, and the employees in the bargaining unit.

In reaching his decision in all cases, the arbitrator shall utilize a preponderance of the evidence standard of proof.

The arbitrator may fashion an appropriate remedy where he finds a violation of this Agreement, but no liability, monetary or otherwise shall accrue against the City, or the Association in cases arising under Section 5.2 (4) of this Article, prior to the date of the event which gave rise to the grievance. With respect to grievances involving transfer, demotion, suspension or termination of employment, the arbitrator shall not modify the City's disciplinary action unless

he finds the City's action to be arbitrary or capricious. However, this shall not eliminate the proper cause provision contained in Article 21.

The fees and expenses of the arbitrator and the cost of a transcript (where both parties agree that a transcript is necessary or where a transcript is requested by the arbitrator) shall be borne by the losing party as determined by the arbitrator. In the event of a compromise award, the arbitrator's fee, expenses, and transcript cost, if any, shall be divided equally by the parties to the arbitration. Each party shall be responsible for compensating and paying the expenses of its own representatives and witnesses, except that the employee filing the grievance and a PBA Grievance Representative shall be excused without loss of pay if the arbitration hearing is held during their regular working hours.

## **5.5 Time Limits**

(1) Failure to initiate a grievance within the time limit in Section 5.4 above, shall be deemed a waiver of the grievance. Failure at any step of this procedure to submit a grievance to the next step within the specified time limit shall be deemed to be acceptance of the decision at that step. However, vacation time shall not be counted in determining time limits which apply to either party.

(2) Failure at any step of this procedure to communicate the decision on a grievance within the specified time limit shall permit the employee, or the Association where appropriate, to proceed to the next step.

(3) The number of days indicated at each step should be considered as a maximum, and every effort should be made to expedite the process. However, the time limits specified in any step of this procedure may be extended, in any specific instance, by mutual agreement.

## **5.6 General Provisions**

(1) If a grievance arises from the action of the Police Chief, the grievance shall be initiated at Step 1. If a grievance arises from the action of an official higher than the Police Chief, the grievance shall be initiated at Step 2.

(2) The written submission of a grievance to Steps 1 and 2 shall include a copy of the grievance form submitted at all the formal steps and the written decisions at each preceding step of the grievance procedure.

(3) There shall be no reprisals against any of the participants in the procedures contained herein by reason of such participation.

(4) If a grievance meeting is held during the working hours of any required participant, such participant shall be excused without loss of pay for that purpose. Attendance at grievance meetings outside of regular working hours shall not be deemed time worked.

(5) The filing or pendency of any grievance under the provisions of this Article shall in no way operate to impede, delay or interfere with the right of the City to

take the action complained of, subject however to the final disposition of the grievance.

## ARTICLE 6

### HOURS OF WORK AND OVERTIME

#### **6.1 Workweek**

The normal workweek shall consist of forty (40) hours of actual working time. Actual working time shall include pre-approved personal leave under the following conditions:

- (1) Before the beginning of the workweek and before the employee is scheduled to work any extra hours during the forthcoming workweek, the employee requests and is authorized to take personal leave during the forthcoming workweek, in accordance with the department's established procedure, and
- (2) During the same workweek for which personal leave has been approved as described above, the employee is subsequently required to work extra hours on a scheduled workday and/or works on a regularly scheduled day off. For the purpose of this provision, extra hours are defined as time worked beyond the employee's normal work schedule for the day, or working on a regularly scheduled day off.

Time off for non pre-approved personal leave, sick leave, compensatory leave, military leave, administrative leave, and leaves without pay and suspensions shall not count as actual working time.

#### **6.2 Overtime**

All work in excess of the normal workweek which has been authorized by supervisory personnel shall be overtime and shall be compensated as follows:

- (1) Payment at time and one-half (1 ½) the employee's regular rate of pay when the number of hours actually worked during the workweek is at least forty (40), and payment at the employee's straight time base rate of pay when the number of hours actually worked during the workweek is less than forty (40); or
- (2) During the term of this Agreement, at the employee's option, compensatory leave equal to one and one-half (1 ½) times the number of overtime hours worked when the hours actually worked during the workweek are at least forty (40), and compensatory leave equal to the number of overtime hours worked when the hours actually worked during the workweek are less than forty (40) will be granted in lieu of payment. The amount of compensatory leave accrued shall not exceed eighty (80) hours. All overtime hours which would result in a compensatory leave balance in excess of eighty (80) hours must be paid according to the provisions of Section 6.2 (1) above.

Compensatory leave must be depleted before any vacation leave is granted, unless the employee will lose vacation leave due to the vacation leave carryover rule.

Upon separation, employees will be paid for all unused compensatory leave.

### **6.3 Call Back**

(1) "Call back" is defined as requiring an employee to return to his work station while on on-call status or for non-scheduled overtime assignments. Call back shall not include a return to work for reasons attributable to the employee (i.e., completion of reports, etc.).

(2) If an employee is called back to work as defined in Section 6.3 (1) above, he shall be paid for all time worked but not less than two (2) hours at a rate of time and one-half (1 ½) his regular rate of pay. Each call back shall be a two (2) hour minimum.

(3) Required court attendance that is continuous with the beginning or end of a regular shift shall mean any required court attendance that begins fifteen (15) minutes from the beginning or thirty (30) minutes from the end of the regular shift, in which case the employee is paid from the end or up to the beginning of his regular shift. Other required court attendance that falls outside these parameters would be treated as call back.

(4) Call back shall not count as hours worked for the purpose of computing overtime pay.

### **6.4 On-Call**

(1) "On-call" is defined as that time, outside the normal working hours of the employee concerned, when the employee is otherwise considered to be off duty, but has previously been ordered by the Police Chief or his designee to be available to promptly return to work if called.

(2) An employee on call is required to leave a telephone number where he can be reached or carry a pager (even if that means the employee must remain within a reasonable call-back radius).

(3) In the event that an employee is required to be on call as defined in paragraph 6.4 (1) above, he shall be paid on the following basis:

<u>Day</u>	<u>Amount</u>
Weekday	\$15.00
Saturday or Sunday	\$28.00
Observed Holiday	\$28.00

(4) On-call status shall not apply to the Crisis Intervention and Special Response teams. On-call status shall apply to the TAC Team only when TAC

Team members are officially notified and placed in on-call status by the TAC Team leader.

#### **6.5 Special Event Assignments**

(1) Special events are generally defined as events which require pre-planning and coordination of personnel and other resources. Examples would include, but are not limited to, football games, parades, demonstrations, charity events (walk-a-thons), Springtime Tallahassee, Fourth of July, Winter Festival, etc.

(2) Employees who are required to work overtime to cover special events shall be given at least fourteen (14) calendar days' notice of such assignments except in cases of emergency or when the City does not have at least seventeen (17) calendar days' prior notice of such events. Any violation of this notice requirement shall be grievable under the provisions of Article 5 – Grievance Procedure, but shall not be grievable under the City's grievance procedure. In the event the grievance is resolved in favor of the employee, the disputed hours will be counted as working time for the purpose of computing overtime during the pay period in which the violation occurred.

#### **6.6 Working Out of Classification**

An employee covered by this Agreement who is required by management to work in an "acting" capacity in a higher classification for a period of more than two (2) weeks shall be paid a differential of five percent (5%) over his base rate of pay starting with the first day so worked.

#### **6.7 K-9 Officers**

Police officers assigned to the K-9 unit will be permitted six (6) hours per week from their work schedule to care for and groom their dogs. The training for the handlers of K-9 dogs will take place during duty hours. The City will provide spraying for fleas in the officers' homes once a month year round. The City will provide carpet cleaning in the officers' homes twice a year.

#### **6.8 Shift Realignment**

Every effort will be made to provide employees with as much advance notice as possible prior to shift realignments. Except in cases of emergency or when changes must be made to accommodate employee requests, the shift realignment schedule shall be posted at least fourteen (14) calendar days in advance of the realignment.

#### **6.9** Within sixty (60) days of the ratification of the collective bargaining agreement, a joint committee shall be convened to consider alternatives to the workweek/work period.

(1) The joint committee shall be comprised of three representatives from the City, three representatives from the Association, and two alternatives from each party.

- (2) Attendance at committee meetings by appointed representatives or alternatives shall be on working time, scheduled at mutually convenient times to avoid incurring overtime.
- (3) The committee shall submit recommendations to the Police Chief within sixty (60) days.
- (4) The Police Chief may at his discretion accept or reject any or all of the recommendations brought forward by the committee.
- (5) Any modifications to the current workweek which have been approved by the Police Chief shall be incorporated into the current Agreement via Memorandum of Understanding.

## ARTICLE 7

### HOLIDAYS

#### **7.1 Designated Holidays**

The following holidays are designated as paid holidays:

- New Year's Day
- Martin L. King Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day
- Friday after Thanksgiving
- Christmas Day

If the City Manager designates any additional day as a holiday for all other City employees, the same holiday shall be recognized for employees in the bargaining unit.

#### **7.2 Holiday Observance**

If any of these holidays falls on Saturday, the preceding Friday shall be observed as the holiday, or if any of these holidays falls on Sunday, the following Monday shall be observed as the holiday.

#### **7.3 Holiday Compensation**

(1) Eligible employees shall receive eight (8) hours of holiday compensation for each designated holiday as defined below.

(a) An employee shall receive holiday pay:

- i. for hours the employee works on an observed holiday. The rate of pay shall be one and one-half times (1 ½) the employee's base pay and shall not exceed eight (8) hours; or
- ii. when a holiday is observed on the employee's regular scheduled day off and the employee does not work. The rate of pay shall be at the employee's straight time.

All holiday pay shall be in addition to the employee's base pay. Holiday pay hours shall not be counted as working time for the purpose of computing overtime.

*Example: An officer works ten (10) hours on a holiday. The employee will receive ten (10) hours of pay in accordance with Article 6.2 for the actual hours worked and eight (8) hours of holiday pay at one and one-half (1 ½) times the employee's base pay. The eight (8) hours of holiday pay will not count as working time for the purpose of computing overtime.*

*Example: The observed holiday falls on the employee's regular scheduled day off and the employee does not work. The employee shall receive eight (8) hours of holiday pay at his straight-time rate of pay, which will not count as time worked for the purpose of computing overtime.*

- (b) An employee shall receive holiday leave/observed holiday pay, not to exceed eight (8) hours, when a holiday falls on an employee's regular scheduled workday and the employee observes the holiday. All holiday leave/observed holiday pay hours shall be included in the employee's base pay and shall be counted as working time for the purpose of computing overtime.

*Example: An officer observes a holiday on his regular scheduled workday. The officer receives eight (8) hours of holiday leave/observed holiday pay, which counts as working time for the purpose of computing overtime. (See 4 below for employees who work a ten [10] hour workday).*

- (c) A combination of holiday pay and holiday leave. The combined total number of holiday pay and holiday leave/observed holiday pay shall total eight (8) hours. The holiday pay hours shall be in addition to the employee's base pay and shall not be counted as working time for the purpose of computing overtime. The holiday leave hours shall be included in the employee's base pay and shall be counted as working time for the purpose of computing overtime.

*Example: An employee observes a holiday that falls in his regular scheduled workday; however, the employee is called back and works five (5) hours. The employee will receive five (5) hours of pay in accordance with Article 6.3 for the actual hours worked. The officer will also receive holiday compensation in the amount of five (5) hours holiday pay at one and one-half (1 ½) times the employees base pay (does not count as working time for purpose of computing overtime) and three (3) hours of holiday leave/observed holiday pay at straight time (does count as working time for purpose of computing overtime) for a total of eight (8) hours of holiday compensation.*

(2) When a designated holiday is observed on a date other than the actual date of the holiday, an employee who is in a position to observe the holiday and is scheduled to work on the actual holiday shall elect in advance whether he will receive holiday compensation for the observed holiday or for the actual holiday.

*Example: A holiday falls on a Sunday and the city observes the holiday on Monday. The officer is scheduled to work the actual holiday and the observed holiday falls on his regular scheduled day off. The officer selects to receive holiday compensation for Sunday, the actual holiday.*

(3) If an employee's workday begins on one day and carries over to the next (e.g., Friday night and Saturday morning), and the day on which the workday begins is designated as a holiday, the employee's entire workday will be considered as occurring on a holiday. Conversely, if the workday begins on a day that is not a holiday and ends on a day that is designated a holiday, the employee's entire workday or any portion thereof will not be considered to have occurred on the holiday.

(4) An employee who is scheduled to work on an observed holiday but is on approved personal, sick, military or administrative leave shall receive eight (8) hours of holiday leave/observed holiday pay at his straight-time rate of pay and he will be charged for one (1) of the above leaves only for those hours taken in excess of the eight (8) hours observed for the holiday.

*Example: An officer working a ten (10) hour shift who is scheduled to work on a holiday and calls in sick will receive eight (8) hours of holiday leave (which will count as working time for the purpose of computing overtime) and two (2) hours of sick leave (which will not count as working time for the purpose of computing overtime).*

(5) An employee who is on approved leave without pay for a period exceeding two consecutive workweeks immediately prior to, immediately following, or encompassing the holiday shall not receive holiday pay for the observed holiday.

## ARTICLE 8

### PERSONAL LEAVE

#### **8.1 Personal Leave Accrual**

Employees in the bargaining unit shall accrue personal time on the following basis:

<u>Creditable Service</u>	<u>Hours per Service Hour</u>
0–5 Years	.046154
5–10 Years	.057693
10–20 Years	.069231
Over 20 Years	.080770

**8.2** Accrued personal leave may not be carried over in excess of two hundred sixty-four (264) hours. As of the end of the calendar year (December 31), accrued personal leave in excess of two hundred sixty-four (264) hours shall be reduced to no more than two hundred sixty-four (264) hours for any individual employee.

#### **8.3 Use of Personal Leave**

An employee will be entitled to use accrued personal leave after having completed at least six (6) months of service.

Employees should make requests for the use of personal leave on the appropriate City leave form. Since personal leave is generally granted on a "first come, first served" basis, the request should be made as early as possible, but at least forty-eight (48) hours in advance of the date personal is scheduled to be taken. The scheduling of personal leave is subject to the approval of the immediate supervisor, but subject to review and possible disapproval by the Division Commander. Review by the Division Commander should occur within forty-eight (48) hours of the request.

In cases where forty-eight (48) hours notice is not possible, the immediate supervisor should obtain confirming or disapproving action as quickly as possible from the Division Commander or, if he is not available, from the Watch Commander within eight (8) hours of the request.

#### **8.4 Leave Sharing Plan, Advance Personal Leave and Leave Donations**

In situations when an employee is required to be absent from work for an extended period of time, as certified by the employee's physician, as a result of a non-work-related illness or injury sustained by the employee and when the employee has exhausted all sick and personal leave, the employee may request additional paid personal leave. The types of additional personal leave is listed below and must be requested in sequential order (if applicable) – first – Leave Sharing Plan, second – Advance Personal Leave and third – Leave Donation Policy. The provisions of these policies are listed below.

**(1) Leave Sharing Plan**

- (a) Employees covered by this Agreement are provided the opportunity of donating a minimum of 4 hours up to a maximum of 20 Personal leave hours or compensatory time semi-annually (during the months of March and September) to a leave-sharing plan established solely for employees covered by this Agreement.
- (b) An employee who has completed his initial probationary period and who has donated personal leave hours or compensatory time to the leave sharing plan is eligible to receive leave from the leave-sharing plan whenever he is required to be absent from work for an extended period of time, as certified by the employee's physician, as a result of a non-work-related illness or injury sustained by the employee and when the employee has exhausted all sick and Personal leave. The employee's physician will determine whether or not the employee is able to perform the essential duties of the employee's position.
- (c) An extended non-work-related illness or injury is defined to include only those instances where an employee is expected to be absent from work for at least 30 consecutive calendar days after he has exhausted all of his sick and Personal leave time.
- (d) To request leave from the leave-sharing plan, a written request and a statement from the employee's physician providing an estimate of the amount of time the employee will be absent from work, must be submitted to the Police Chief by the employee or on behalf of the employee. The written request shall contain the number of hours being requested.
- (e) The Police Chief or his designee and the Association President or his designee shall review such request within five (5) business days, as well as the doctor's statement. The Police Chief and/or the Association President may require a second medical opinion before they approve or deny the use of the leave time from the leave-sharing plan or at any time during the period the employee is receiving leave from the leave-sharing plan. If the second medical opinion is in conflict with the opinion of the employee's doctor, a third medical opinion may be sought by the Police Chief and/or Association President. The medical opinion of the third doctor will prevail. The cost of the second and third medical opinions will be borne by the City.
- (f) Following review of the written request and the physician's statement, the Police Chief or his designee and the Association President or his designee shall mutually approve or disapprove the request, and their decision shall be final. In the event that the Police Chief or his designee and the PBA President or his designee cannot reach consensus, the leave request shall be denied.

- (g) The employee who submitted the request, or on whose behalf the request was made, shall be provided written notice by the Police Department Employee Resources Section of the outcome of his request, and if the request was approved, such notice shall include the number of hours the employee is authorized to draw from the leave-sharing plan.
- (h) The number of hours approved may be altered at any time by mutual agreement of the Police Chief or his designee and the PBA President or his designee. In the event that the Police Chief or his designee and the PBA President or his designee cannot agree on the alteration, the number of hours stated in the initial approval notice to the requesting employee shall stand, subject to the conditions stated in Section 8.4(1)(k) below.
- (i) The employee that has been approved to receive leave from the leave-sharing plan may continue to utilize such leave until he is released by his physician to return to work, the leave-sharing plan is exhausted, or until the doctor determines the employee's illness or injury has become a total and permanent disability, whichever occurs first.
- (j) Upon return to work from an illness or disability covered by the leave-sharing plan, medically certified periods of absence due to the previously medically certified illness or disability which are separated by less than 90 calendar days of active work shall be considered as one period of disability and, with the mutual approval of the Police Chief or his designee and the PBA President or his designee, may be paid from the leave-sharing plan via an amendment to the original notice of approval.
- (k) The leave-sharing plan will be administered by the Police Department Employee Resources Section which will be responsible for the development of all forms and for making the appropriate monetary conversions. Donors will forward donation forms to the Police Department Employee Resources Section where they will be date and time stamped. The donated time will be converted to a dollar value based on the current rate of pay for each donor at the time of donation times the number of hours donated. The amount of leave used by the recipient will be charged to the leave-sharing plan based on the recipient's rate of pay at the time the recipient exhausted all sick and Personal leave. The Employee Resources Section shall provide a quarterly usage report to the Police Chief and the PBA President.
- (l) The Employee Resources Section shall notify the Police Chief and the Association President when there is less than 120 hours left in the leave-sharing plan.

- (m) An employee in the bargaining unit who leaves the City may donate up to forty (40) hours of his accrued Personal leave to the leave-sharing plan.
- (n) No provision of this plan shall be grievable or arbitrable under the provisions of Article 5 – Grievance Procedure or under the City Grievance Procedure.

**(2) Advance Personal Leave**

- (a) When an employee has utilized all his personal leave for which he is eligible, he may request, where he has sufficient MAP funds to cover the amount of the request, advance personal leave of forty (40) hours up to one hundred sixty (160) hours. Such leave may be granted by the Police Chief, with notification to the Manager-Human Resources, for the following reasons:
  - i medically certified serious illness or disability of the employee when the employee has exhausted all sick leave for which he was eligible to receive
  - ii medically certified serious illness or disability of the current spouse or registered domestic partner of the employee, child, parent or other legal dependent of the employee and current spouse or registered domestic partner when the employee has exhausted all family sick leave for which he was eligible.
  - iii acquisition of a child either through birth or adoption
- (b) When the employee who was granted advance personal leave returns to work, these leave credits will be repaid through payroll deduction, of the value of the personal leave advance, figured at the employee's rate of pay during the period of the advance leave, over a period not to exceed twenty-four (24) months.
- (c) Upon termination, any advance personal leave not repaid shall be deducted from the employee's final compensation or MAP contribution refund.
- (d) No additional advance personal leave may be granted until the employee has repaid the previous advance personal leave.

**(3) Leave Donations**

- (a) When an employee must be absent from work due to personal illness, illness of a family member as defined in the sick leave policy, or a serious condition that creates a significant hardship for the employee, the employee may request authorization for leave donations. Consideration of the request and a decision regarding authorization for leave donation solicitation will be made by the Police Chief or his designee, and any solicitation for leave donations will be made by the Police Chief or his designee.

- (b) Qualifying conditions and the request/approval process are as follows:
  - i. The employee has to have exhausted all available paid leave.
  - ii. The situation has to require the employee to be absent for more than forty-eight (48) consecutive work hours.
  - iii. The employee must submit a written request for leave donations to the Police Chief who shall render a decision regarding the request. When the Police Chief or his designee authorizes leave donation solicitation, the Police Chief or his designee may determine to whom the solicitation is directed, either sworn, non-sworn or both. The Police Chief or his designee will transmit the solicitation request and will provide details about how leave donations are to be made.
- (c) Employees may only donate personal leave and earned compensatory leave. Leave will be credited based on the dollar value of the donator's leave at the time the donation is made and the receiving-employee's compensation at the time leave is credited to the employee.
- (d) Donated leave which is used for an absence covered by the Family and Medical Leave Act of 1993 (FMLA) will be counted against the employee's FMLA leave entitlement for the calendar year in which the sick leave is taken.
- (e) Donated leave will be applied first to the period of the employee's absence after qualifying for donated leave; secondly it will be used to pay-back advance leave associated with the absence, and then it will be refunded to donators on a prorated basis.

## ARTICLE 9

### SICK LEAVE

#### **9.1 Sick Leave Accrual**

Employees in the bargaining unit shall accrue sick leave credit at the rate of .046154 hours per hour worked, which is the fractional equivalent of eight (8) hours per month.

#### **9.2 Use of Sick Leave**

(1) An employee shall give advance notification regarding sick leave to the Watch Commander at least one (1) hour before the scheduled reporting time (except in cases of emergency). This notification shall be given for each day the employee is unable to work, unless different arrangements are made in advance with the Watch Commander.

- (2) Accrued sick leave may be used for:
  - (a) employee's personal illness, disability, or medical appointment
  - (b) illness, disability, or medical appointment of member of employee's immediate family (as defined in Article 10).
- (3) Failure to give appropriate notice as outlined in Section 9.2 (1) above may result in denial of paid sick leave. The City reserves the right to investigate any possible abuses of sick leave.

### **9.3 Pay for Sick Leave**

Payment will be made for 33 1/3% (1/3) of the unused sick leave balance credited to an employee who is eligible under a normal or disability retirement (as defined in Tallahassee Code or Ordinances Part II Chapter 14 in effect at the time of ratification) to start receiving a retirement benefit on the date of termination or upon death while in active duty, up to a maximum of seven hundred (700) hours, provided that the unused sick leave balance credited to the employee equals at least three hundred (300) hours. If the unused sick leave balance credited to an employee who is eligible under a normal or disability retirement (as defined in Tallahassee Code or Ordinances Part II Chapter 14 in effect at the time of ratification) to start receiving a retirement benefit on the date of termination or upon death while in active duty equals less than three hundred (300) hours, payment will be made for 25% (1/4) of the unused balance.

In either of the above-described cases, the payment for unused sick leave will be made at the employee's straight time base rate.

Payment will be made for one percent (1.0%) per credited year served of the unused sick leave balance credited to an employee who resigns in good standing after ten (10) years of service but before normal retirement, up to a maximum of three hundred fifty (350) hours. Payment for unused sick leave will be made at the employee's straight time base rate.

### **9.4 Death**

The estate of a police officer killed in the line of duty resulting from a duty-related injury, shall be paid one hundred percent (100%) of the accrued but unused sick leave at the deceased employee's straight time rate of pay.

### **9.5 Sick Leave Conversion**

(1) A program of sick leave conversion will be effective on a calendar year basis. An employee who completes an entire calendar quarter (i.e., January through March, April through June; July through September; October through December) without using any sick leave may convert four (4) hours of sick leave to two (2) hours of vacation leave. If an employee elects such conversion, the hours converted shall be deducted from his accrued sick leave. In addition, an employee who uses no sick leave during the entire calendar year (four [4] quarters) shall be eligible for eight (8) hours of additional vacation, or eight (8) hours additional sick leave.

(2) In order to exercise the conversion option, an employee must have a minimum of three hundred (300) hours of sick leave at the end of the calendar year. Conversion will not be authorized if the employee is not on the payroll at the end of the quarter.

## ARTICLE 10

### BEREAVEMENT LEAVE

#### **10.1 Bereavement Absences**

Employees covered by this Agreement shall be granted time off with pay to arrange and/or attend funeral services in the event of death(s) in the immediate family. Such time shall not exceed three (3) days.

#### **10.2 Definition of Immediate Family**

The employee's immediate family is defined as the current spouse or registered domestic partner, and the grandparents, parents, brothers, sisters, children and grandchildren of both the employee and the current spouse or registered domestic partner, and other persons who are members of the employee's household.

#### **10.3 Additional Leave**

Bereavement leave as granted in Section 10.1 above, shall not be charged to personal or sick leave. In the event additional bereavement leave is requested, the division commander may grant up to an additional four (4) days of leave, chargeable to compensatory leave, or when compensatory leave has been exhausted, chargeable to personal leave or sick leave at the employee's discretion, or taken as leave without pay.

## ARTICLE 11

### SALARIES AND PENSION

#### **11.1** During the period of October 1, 2014, through September 30, 2017, bargaining unit members shall be paid on a biweekly basis, via direct deposit, in accordance with the step pay plan shown in Appendix A, which is attached to and made part of this Agreement. All wage and pension provisions apply to the fiscal year beginning October 1, 2014, through fiscal year ending September 30, 2017. All future wage and pension adjustments including step progression, if any, after the expiration of the collective bargaining agreement shall be negotiated between the parties.

#### **11.2 Across-the-Board Increases (ATB)**

Effective on the first day of the first biweekly pay period of FY15, FY16 and FY17, all bargaining unit members shall receive a base salary increase of 2.0%.

### **11.3 Step Progression**

For the duration of this Agreement only, step progression will occur as follows:

- (1) Effective on the first day of the first biweekly pay period for FY15, FY16 and FY17, all bargaining unit members who receive a performance evaluation rating of at least "meets expectations" will be advanced one (1) pay step, except for those already at the top step and those hired or rehired after the previous April 1.
- (2) Effective on the first day of the first biweekly pay period for FY15, FY16 and FY17, all bargaining unit members who have been at the top step for a minimum of two (2) years, and who receive a performance evaluation rating of at least "meets expectations" will be advanced to Police Career Plan Step 1.
- (3) Effective on the first day of the first biweekly pay period for FY15, FY16 and FY17, all bargaining unit members who have been in Police Career Plan Step 1 for a minimum of two (2) years, and who receive a performance evaluation rating of at least "meets expectations" will be advanced to Police Career Plan Step 2.

### **11.4 Salary Supplements**

#### **(1) Educational Incentive**

All members of the bargaining unit who qualify shall receive the educational incentive salary supplements provided for in Florida Statutes, Section 943.22.

All members who file the required documentation (official transcript or training certificate) in the Police Department Employee Resources Section within ninety (90) days of completion of the course or education requirement, will receive the supplement retroactive to the completion date. After the ninety (90) day period, the supplement will commence on the date the documentation is filed. Courses must have prior approval from the Department's Training Section in order to qualify.

#### **(2) Physical Fitness Incentive**

Employees in the bargaining unit may, on a voluntary basis, seek to become eligible for a physical fitness incentive supplement. In order to be eligible for such supplement, an employee must sign a waiver which shall indemnify, defend and hold the City, its officers, officials, agents and employees harmless against any claim, demand, suit or liability (monetary or otherwise) in connection with his efforts to qualify for such supplement. An employee who seeks the physical fitness supplement must qualify and requalify at six (6) month intervals during the months of May and November in order to receive the supplement.

An employee who qualifies by passing a one and one-half (1.5) mile running test shall receive a physical fitness incentive supplement in accordance with the following chart:

### **MAXIMUM RUNNING TIME IN MINUTES**

Fitness Category	Under 30	Age			Amount Per Month
		30-39	40-49	50+	
D	16:30	17:30	18:30	19:00	\$15.00
C	14:30	15:30	16:30	17:00	\$25.00
B	12:00	13:00	14:00	14:30	\$35.00
A	10:00	11:00	12:00	12:30	\$45.00

### **Three Mile Walk**

Fitness Category	Under 30	Age			Amount Per Month
		30-39	40-49	50+	
D	44:00	46:30	49:00	52:00	\$15.00
C	42:00	44:30	47:00	50:00	\$25.00
B	38:30	40:00	42:00	45:00	\$35.00
A	34:00	35:00	36:30	39:00	\$45.00

The Training Section of the Police Department shall be responsible for administering the qualifying test provided for in this section.

#### **(3) Additional Compensation for Tactical Unit Members**

Upon ratification of this Agreement, each member of the Tactical Unit will receive one hundred fifty dollars (\$150.00) per bi-weekly pay period.

This additional compensation shall be paid regardless of whether the employee is at work or is on paid or unpaid leave, except that an employee who is medically unable to fully discharge his duties as a TAC team member shall not be entitled to this additional compensation.

#### **(4) Additional Compensation for Field Training Officers**

Each Field Training Officer will receive one (1) additional hour of pay for each day the FTO is at work and has been assigned a recruit. This additional compensation shall be considered as time worked for purposes of computing overtime.

#### **11.5 Legislated Costs**

If any additional compensation or benefits, beyond those already provided for in State statutes, are legislated by the State, and the cost of such additional compensation or benefits is not funded by the State, thereby increasing payroll and benefit costs to the City, the parties agree that such cost increases shall be the subject of negotiation as to impact on the salaries and benefits contained in this Agreement. "Compensation or benefits" includes, but is not limited to: pensions or other retirement benefits; workers' compensation or other disability programs; sick leave, holidays, or other paid leaves; uniform or clothing allowances; training, certification or educational incentive compensation; but excluding the benefits currently provided in Chapter 185, Florida Statutes.

## **11.6 Pension**

- (1) During the term of this Agreement, changes to the COLA for participants with a pension entry date earlier than January 1, 1998, shall be provided for in the Police Pension Plan, funded by the participants. These changes shall be funded by the plan participants based on the amount specified by the City's pension plan actuary. Participants shall receive a COLA that shall commence on the latter of the first October 1 after:
  - (a) Such retiree's normal retirement date, or
  - (b) Such retiree's 52<sup>nd</sup> birthday.
- (2) Effective October 1, 2014 through September 30, 2017, bargaining unit employees will be offered the Deferred Retirement Option Plan (DROP) period that is the same DROP period offered to general employees.
- (3) Effective October 1, 2014, the required employee pension contribution rate for all members employed prior to October 1, 2012, shall be 11.25% for FY15 – FY17.
- (4) Effective October 1, 2014, the required employee pension contribution rate for all members employed on or after October 1, 2012, shall be 13.69% for FY15 – FY17. This percentage required by these members is an additional 2.44% contribution rate to meet the total payroll savings under the City's Police Pension Plan.

## **11.7 Leave Payout – Pension**

Personal leave may be used in the calculation of an employee's pension benefit provided the employee was employed on the date of ratification of this agreement and had personal leave credited on September 30, 2013. A maximum of two hundred forty (240) hours of combined personal and sick leave may be used towards an employee's pension benefit calculation; however, an employee may have no more than the hours of sick and personal leave that were accrued as of September 30, 2013, included in the pension calculation upon retirement. Personal and/or sick leave used for this purpose will be deducted from the employee's leave balance(s) when the employee retires.

## **11.8 OPEB – Future Liability**

For the duration of this Agreement, the City agrees to provide at least one quarter percent (.25%) funding towards future OPEB liability incurred from retiree health subsidy, as provided by City Ordinance 10-O-11.

## **11.9 Salary Adjustment Documentation**

At the beginning of each contract and each subsequent pay adjustment, the City shall provide each employee written documentation of their current step position, to include the step number, hourly rate and yearly base rate.

## ARTICLE 12

### ALLOWANCES

#### **12.1 Clothing Allowance**

Police investigators will receive a biweekly allowance to purchase appropriate civilian clothing, in an amount totaling five hundred fifty dollars (\$550) per year. Police officers temporarily assigned to non-uniform duties will receive a clothing allowance retroactive to the first day of the temporary assignment, after serving in that assignment a minimum of ninety (90) consecutive days. This allowance will cover replacement of clothing that becomes unserviceable due to normal wear. Civilian clothing damaged outside of normal wear, and due to necessary job actions, will be replaced upon the approval of the Division Commander.

#### **12.2 Cleaning Costs**

The City will provide for the cleaning of uniforms and on-duty civilian clothes for all employees in the bargaining unit at no cost to the employees.

## ARTICLE 13

### USE OF PERSONAL CARS

**13.1** Employees, excluding new employees that have yet to receive an assigned vehicle, in the bargaining unit will be paid a mileage rate to conform with Internal Revenue Service Regulations for the use of their personal cars if such use is required and approved at least twenty-four (24) hours in advance by their division commander or his designee, and for travel associated with required training at the Pat Thomas Law Enforcement Academy when a City vehicle is not available at Police Department headquarters. The mileage reimbursement for required training will apply only to the distance traveled between the Pat Thomas Law Enforcement Academy and the Tallahassee Police Department. Use of a personal car for the purpose of required court attendance or other overtime assignments shall not entitle employees to a mileage payment.

## ARTICLE 14

### PHYSICAL FITNESS

**14.1** It is understood that the City retains the right to require employees to be in good physical condition so that they are able to perform the essential duties described in the City of Tallahassee job specification for Police Officer or Police Investigator.

#### **14.2 Medical Examination**

All employees may request a medical examination on a periodic basis, but no more frequently than annually. The type of examination will be at the discretion of the City.

If the medical examination is given by a health service or a physician selected and paid by the City, the results of such examination will be sent to the employee's personal physician and retained by the physician designated by the City. The Department physician will notify the Police Chief only if the employee is experiencing a medical condition that would impair his ability to perform his duties. Such examination shall be considered as working time and the employees shall be paid two hours of call back pay.

#### **14.3 Officer Fitness Program**

Within thirty (30) days following the ratification of the collective bargaining agreement, a joint committee shall be convened to create a voluntary Officer Fitness Program.

(1) The joint committee shall be comprised of two (2) representatives from the City, two (2) representatives from the Association, and one (1) alternate from each party.

(2) Attendance at committee meetings by appointed representatives or alternates shall be on working time and scheduled at mutually convenient times so as to avoid incurring overtime.

(3) The committee shall submit recommendations to the City Manager or their designee within an established deadline. The deadline and any extensions thereto, shall be determined by mutual agreement of the City and the Association.

(4) The goal of this committee is to establish a fitness program that will provide an avenue for the members to improve their fitness level and could ultimately lead to a fitness for duty physical standard.

(5) Any Officer Fitness Program approved by the City Manager shall be incorporated into the current Agreement via Memorandum Of Understanding.

### **ARTICLE 15**

### **OTHER BENEFITS**

#### **15.1 Property Assignments**

##### **(1) Uniforms and Equipment**

Each employee shall be provided with a shotgun and sidearm. Each employee will be issued uniforms, standard issue duty gear, radio, protective gear, and accessories in accordance with the present checklist of clothing and equipment issue, plus replacements as required by normal wear and tear or due to theft.

##### **(2) Property Damage and Loss**

Employees shall maintain securely and in good condition all City property and equipment issued and/or assigned to them. Employees shall reimburse the City for the cost of repair or replacement of property or equipment lost, stolen, or

damaged, while on or off duty, as a result of the employee's careless or negligent handling, use, or operation of such property or equipment, or as a result of the employee's intentional violation of law, or City or departmental policy.

In the case of major property or equipment items, such as City vehicles, employees shall be liable for reimbursement only if found to have been reckless or grossly negligent in the handling, use, or operation of such property or equipment, or as a result of intentional violation of law, or City or departmental policy. Reimbursement costs for the repair or replacement of City property and equipment shall be the actual cost of repair or replacement up to a maximum of one thousand, five hundred dollars (\$1,500.00). Reimbursement payments may be made as payroll deductions over a period of time not to exceed twenty-four (24) months.

#### **15.2 Gymnasium and Recreational Equipment**

The City shall maintain present gymnasium equipment, replacing items rendered inoperable or dangerous as a result of normal wear and tear as needed, for the use of bargaining unit members on their off-duty time.

The Police Department shall continue to provide sports uniforms for members of City recreational league basketball, softball, football and track teams. Uniforms will be replaced once every three (3) years.

#### **15.3 Educational Assistance**

An employee who has achieved permanent status will be eligible to take courses which are approved in advance by the Chief as being job-related. Upon successful completion of the course (C or better is required for college-accredited or any other grade course), the employee will be reimbursed for tuition and books required by the course in an amount of not more than one hundred dollars (\$100.00) per quarter course or one hundred-fifty dollars (\$150.00) per semester course.

#### **15.4 Group Insurance**

The City agrees to offer the same group health insurance coverage to members of the bargaining unit as it offers to non-unionized, non-managerial City employees. The City will make a contribution toward the cost of such insurance for individual employees and for optional dependent coverage on the same basis as it contributes to insurance coverage for non-unionized, non-managerial City employees. In the event the Big Bend Chapter of the Florida Police Benevolent Association contracts with an alternative health maintenance organization to provide health insurance coverage solely to members of the bargaining unit, the City will make a contribution toward the cost of such insurance for individual employees and for optional dependent coverage on the same basis as it contributes to insurance coverage for non-unionized, non-managerial employees. Such contribution shall be remitted monthly by the City to the PBA following receipt of documentation of coverage.

An employee who retires shall have the right to continue his term life insurance coverage, if enrolled at date of retirement per the group contract. The cost of coverage shall be deducted from the retiree's pension check.

#### **15.5 Death Benefit**

The City agrees to cover employees for a death benefit in compliance with Section 112.19, Florida Statutes.

#### **15.6 Personal Property**

The City agrees to replace eligible personal property or provide reimbursement to a department member for loss or damage to such property, if the loss or damage occurred while the member was conducting official business in an on-duty status and the loss or damage did not result from the member's negligence, carelessness, or wrongdoing. The decision to repair or replace will be made at the City's option. The terms "loss" or "damage" do not include ordinary wear and tear. Members are advised against use of expensive personal property while on duty in recognition of the limits of reimbursement as set forth in this Article.

The following are personal property items which members may seek replacement or reimbursement and the limits of reimbursement or replacement cost:

- (1) Prescription glasses/contact lenses will be repaired or replaced based on actual cost not to exceed two hundred dollars (\$200.00). Reimbursement cost would not include the cost of any eye exam or added features such as tinting or designer frames.
- (2) Sunglasses may be repaired or replaced at actual cost not to exceed twenty-five dollars (\$25.00).
- (3) Watches may be repaired or replaced at actual cost not to exceed seventy five dollars (\$75.00). Cell phones not to exceed one hundred dollars (\$100.00.)

Members authorized to wear civilian clothing while on duty may be compensated for damaged clothing at actual cost not to exceed the following rates:

Trousers, skirts – forty dollars (\$40.00)  
Shirts, blouses – thirty dollars (\$30.00)  
Jackets, sweaters – seventy-five dollars (\$75.00)  
Shoes – fifty dollars (\$50.00)

The following articles are not eligible for replacement or reimbursement:

Jewelry (other than watches)  
Currency  
Authorized equipment used in lieu of, or in addition to, departmental issue.

### **15.7 Orientation Day Briefing**

The Association will be granted one hour of time during new officer orientation to explain jointly with the Management Division Head the provisions of the Agreement and the functions of the Association. The Association agrees to comply with Section 447.509, Florida Statutes.

The President of the Association or his designee will be notified by the Employee Resources Section Head as to the scheduling of new officer orientation sessions.

### **15.8 Rules and Regulations**

A personal copy of the Written Directives Manual will be provided on compact disk to new hires and to any member who requests a compact disk. Any amendments to the Written Directives Manual will be communicated to employees as soon as practicable, and copies of the amendments shall be distributed within thirty (30) days of their effective date. Employees will sign for their copy of the Written Directives Manual and all amendments.

An official copy of the City Personnel Policy and Procedures Manual will be kept in the Police Department Employee Resources Section and will be available during regular operating hours for reference. Employees, who have the prior approval of their supervisors if the employees are on duty, will be permitted to review the Personnel Policy and Procedures Manual during the above-mentioned hours.

### **15.9 Voting**

Any employee who resides in and is a registered voter in the City of Tallahassee who does not have time outside normal working hours to vote in a City election because of assigned police duties may be given, at the discretion of his supervisor, up to one (1) hour of paid administrative leave in order to vote.

## **ARTICLE 16**

### **PERSONNEL FILES**

- 16.1** There shall be only two (2) official personnel files for each employee, one (1) of which shall be maintained in the Human Resources Division of the Department of Management and Administration and one (1) in the Employee Resources Section of the Police Department. The Human Resources Division file may not contain any items which are not filed in the Police Department file, except for personnel-to-payroll paperwork. Neither file may contain a supervisor's personal notes or memoranda concerning an employee's informal counseling. If any derogatory material is placed in an employee's official personnel file, a copy will be given to the employee. The employee will have the right to answer any such material filed, and his answer will be attached to the file copy.
- 16.2** An employee will have the right to review his own official personnel files at reasonable times under the supervision of the designated records custodian.

- 16.3 Whenever a request is made by a person not employed by the City to review an employee's official personnel file, notice of the request shall be provided to the employee whose file has been requested. Such notice shall be sent via interdepartmental mail and, if provided, shall state the reason for the request, and the name and affiliation of the person making the request.
- 16.4 Not sustained, unfounded, or exonerated complaints will not be maintained in an employee's official personnel file.

## ARTICLE 17

### PROBATIONARY PERIODS

#### **17.1 Duration**

The probationary period for each newly-hired employee in the bargaining unit shall be one (1) year of continuous service as a police officer in the Tallahassee Police Department following the date of certification as a Florida law enforcement officer. The probationary period for each rehired certified police officer in the bargaining unit shall be one (1) year of continuous service in the Tallahassee Police Department. With the Police Chief's approval, there shall be no probationary period for a rehired police officer who has been separated for two (2) years or less provided the police officer had already attained permanent status.

An employee terminated during his initial or reemployed probationary period does not have the right to grieve the termination.

#### **17.2 Extension**

When the employee, during the probationary period, is absent from his regular duties for a period of one hundred sixty (160) consecutive working hours or more, the probationary period shall be extended by an equal number of working hours. Upon recommendation by the division commander, the Police Chief may extend an employee's probationary period for up to six (6) months.

## ARTICLE 18

### PERFORMANCE EVALUATIONS AND CONDITIONAL STATUS

#### **18.1 Performance Evaluations**

- (1) Each employee will be evaluated a minimum of once per year after having passed his probationary period.
- (2) The evaluation will be made by the supervisor for whom the employee works during a major part of the year unless the supervisor has terminated or is on a leave of absence.
- (3) The performance evaluation shall be prepared and signed by the immediate supervisor (rater) and reviewed and signed by supervisors through the rank of division commander. The evaluation will then proceed up the chain of

command for review and any changes made in an evaluation by higher-ranking supervisors shall be initiated by the person making the change. The evaluation shall then be returned to the immediate supervisor and discussed with the employee.

(4) Performance evaluations shall not be subject to the grievance procedure in this Agreement but shall be subject to the performance evaluation appeal procedure as outlined in a. through e. below. For purposes of this Article, the term "days" shall mean Monday through Friday, excluding any day observed as a holiday pursuant to Article 7 of this Agreement.

- (a) After the rater discusses the performance evaluation with the employee, should the employee feel the evaluation is not an accurate assessment of his performance, the evaluation may be appealed to the rater's rater.
- (b) The appeal must be submitted in writing and set forth the specific factors on which the employee does not agree with the rating, together with whatever reasons or explanations may be appropriate. Such appeal must be submitted within five (5) days of the date on which the performance evaluation was discussed by the employee and the rater.
- (c) The rater's rater shall have a meeting with the employee within ten (10) days following receipt of the appeal and shall issue a written decision on the appeal within five (5) days following such meeting.
- (d) If the appeal is not resolved at this level, the employee may appeal in writing to each successive step in the chain of command, up to the Police Chief. At each step, the time frames listed in paragraphs (4) (a), (b), and (c) above will apply with respect to submission of the written appeal, meeting with the employee, and written decision from the supervisor hearing the appeal. Once an appeal reaches the level of the Police Chief, the decision made at that level shall be final.

## 18.2 Conditional Status

(1) If a permanent employee's performance becomes less than satisfactory, the Police Chief may put the employee on conditional status for up to six (6) months. The Chief shall identify in writing for the employee the specific improvements necessary for the employee to achieve satisfactory performance. The employee's performance shall be evaluated at least each sixty (60) days thereafter until:

- (a) the employee's performance has improved and is evaluated as at least satisfactory, and he is put back on permanent status, or
- (b) the employee's performance has not improved and is evaluated as below satisfactory, and he is dismissed.

- (2) Any period of service during a conditional status shall not be counted in determining eligibility for any step progression.
- (3) While the placing of an employee on conditional status is not intended to be disciplinary action, it may nevertheless be used concurrently with disciplinary action.
- (4) Conditional status may be appealed under the provisions of the performance evaluations appeal procedure.
- (5) Conditional status shall not be based on a single, isolated incident.

## ARTICLE 19

### PROMOTIONAL EXAMINATIONS

- 19.1** For the purposes of this Article, promotions will be defined as moving an employee from a position in one class in the bargaining unit to a different position in another class in the bargaining unit which has a greater degree of responsibility and a higher maximum salary.
- 19.2** The promotional exam process is as follows:
  - (1) Promotion Process Announcement will be posted at least ninety (90) days prior to the examination date.
  - (2) Application for the process shall consist solely of a transfer request and resume submission.
  - (3) Identified on the Promotion Process Announcement are specific study reference materials, all of which were used to create the test questions provided on the exam being given (inc. General Orders, statutes, and collective bargaining agreement articles).
  - (4) Written Exam – between fifty (50) and one hundred (100) questions will be administered by the Tallahassee Police Department (TPD) or a third party vendor.
  - (5) Limit test make up dates.
  - (6) Test Questions comprised of fifty percent (50%) General Orders, twenty-five percent (25%) Collective Bargaining Agreement, and twenty-five percent (25%) Florida Statutes. Legal guidelines from issued Florida Statute Books will not be used for testing materials.
  - (7) The exam questions shall be created to represent the necessary knowledge, skills, and abilities of a Police Sergeant. Test questions shall be written by the TPD Sergeants or a third party vendor.
  - (8) Recognized sworn experts shall preview the questions prior to the test being given.

- (9) Passing standard requires a score of eighty percent (80%).
- (10) Publish the eligibility list in alpha order with score.
- (11) Reliability and validity post-test data analysis shall be conducted and questions in dispute based on analysis shall be eliminated and the test shall be re-scored. The re-scoring of the test shall not eliminate a candidate from the eligibility list who had already received a passing score.
- (12) Veterans Preference Points apply to personnel on the eligibility list in compliance with Chapter 295, Florida Statutes and Personnel Policy 702.06.
- (13) Individuals may request a review of their Promotional exam results by submitting a completed Examination Review Request Form within thirty (30) working days (for the purpose of this agreement working days are defined as Monday through Friday excluding holidays) of posting the eligibility list. Individuals will have the first thirty (30) days after posting the eligibility list to review and challenge any question on the test. If the review/challenge is not initiated within thirty (30) days, the examination can only be reviewed and not challenged. If a validated challenge requires the test to be re-scored, the re-scoring of the test shall not eliminate a candidate from the eligibility list who had already received a passing score.
- (14) There will be no further review later than sixty (60) days from the published eligibility list. (See Review and Challenge Process.)

Select individuals from the eligibility list will be reviewed using the “whole person concept”, which is a records review process that includes: a review of the employee’s resume, Time in Service (TIS), assignment history, performance evaluations, Internal Affairs history and discipline history.

A select group will participate in a final interview.

## ARTICLE 20

### SECONDARY EMPLOYMENT

- 20.1** Secondary employment shall be limited to a maximum of twenty-five (25) hours per calendar week. Exceptions to the twenty-five (25) hour maximum may be approved by the Police Chief.
- 20.2** No employee who is on suspension will be allowed to work any secondary employment for the length of the suspension.
- 20.3** No employee’s secondary employment will be suspended unless the secondary employment was related to the incident which caused the employee to be disciplined. However, secondary employment not directly related to the incident giving rise to the discipline may be suspended if, in the opinion of the Police Chief, the incident giving rise to the discipline was of such a nature that continuation of the secondary employment would adversely affect the employee, the community, or the department.

- 20.4** Secondary employment shall not present a conflict of interest as defined by City policy and State law between the employee's duties as a City of Tallahassee police officer and his duties for the secondary employer.
- 20.5** An employee who engages in secondary employment is subject to callout in case of emergency and shall be expected to leave his secondary employment in such situations.
- 20.6** Secondary employment may not be performed in a manner which interferes with the employee's performance of his duty, nor interrupts the employee's regular work shift in the Tallahassee Police Department. Unless otherwise authorized by the Police Chief in specific instances, secondary employment is not permitted when an employee is serving a probationary period, is on conditional status, or is on sick or administrative leave.
- 20.7** No request for secondary employment will be unreasonably denied. Any employee complaint concerning the application of Article 20.7 may be grieved under the provisions of Article 5 – Grievance Procedure, but may not be grieved under the City's grievance procedure.

#### **20.8 Procedure for Customer Requests for Secondary Employment Officers**

- (1) All secondary employment assignments will be advertised, coordinated, and scheduled by the Tallahassee Police Department Secondary Employment designee.
- (2) Tallahassee Police Department members who receive requests for secondary employment shall refer the requesting person, owner, or business representative to the department's designee.
- (3) The City of Tallahassee shall charge an administrative fee of five dollars (\$5.00) per hour per officer to each vendor for each secondary employment worked up to a maximum of twenty dollars (\$20.00) per officer per assignment.

#### **20.09 Customer Application Process for Secondary Employment Requests and Rates**

- (1) The department's designee will coordinate the request.
- (2) The customer will provide the department's designee with a completed secondary employment job description form outlining the duties that are expected from the officer(s). The customer and officer(s) will acknowledge via signature an understanding/agreement of the officers' responsibilities.
- (3) A current copy of the secondary employment job description form will be retained by the agency.
- (4) Secondary employment pay ranges are listed below by type of secondary employment:
  - (a) Pro Bono – Officer provides police services at no cost to the event organizer. (i.e., charities, churches, or any 501(3)(c) organization). Administrative fee shall be paid to the City of Tallahassee.

- (b) Standard Compensation – Includes the vast majority of secondary employment details. Standard rates shall be:
  - Officer Pay: forty-one dollars (\$41.00)
  - Supervisor Pay: fifty-one dollars (\$51.00) only if they are designated as a supervisor per section 20.10 section 2.
- (c) For officers working on a City designated holiday the rate shall be sixty-two dollars (\$62.00) for officers and seventy-six dollars and fifty cents (\$76.50) for supervisors.
- (d) Apartment Complex/Courtesy Officer – No Pay/Compensatory Benefit Only. Annual administrative fee at flat rate of one hundred dollars (\$100.00) made payable to the City of Tallahassee, paid by the customer. The member shall be responsible for any obligation to report/pay any tax.
- (e) There is a three (3) hour minimum for any secondary employment detail unless cancelled by the customer more than 48 hours prior to the start of the employment. In the event of an emergency declared by the City, no minimum shall be charged for the assignment if the City cancels the secondary employment.
- (f) All secondary employment events must be pre-captured in the agency's scheduling/payroll system, by the officer.

## **20.10 Management and Payment for Secondary Employment**

- (1) Scheduling/Payroll software shall be utilized to schedule and/or manage secondary employment of officers desiring to volunteer for such employment, including the tracking of actual hours worked by each officer to ensure compliance with this article and City policy.
- (2) The ratio of supervisors to officers required to work an event shall be as follows: one (1) sworn supervisor for every seven (7) Officers.
- (3) Payment for secondary employment shall be made to the City of Tallahassee officers on a bi-weekly basis for all secondary employment work during that time. Officers who volunteer for secondary employment shall be paid through the City's payroll system with appropriate deductions.

## **20.11 Secondary Employment Implementation Standards.**

- (1) New scheduling/payroll software shall not be implemented until members are properly trained in its use and adequately tested for errors.
- (2) Prior to implementation of the policy the current secondary employment practice shall continue in effect.
- (3) Current coordinators and customers shall be periodically advised of the development of the procedure. No later than sixty (60) days prior to the implementation of Section 20.8-20.10 bargaining unit personnel shall be given notice of the implementation date.

(4) General Order 48, Section II, shall remain unchanged except as modified by the terms of this agreement.

(5) The parties shall have the option to reopen the implemented practice for negotiations twelve months subsequent to the implementation date.

## ARTICLE 21

### CORRECTIVE ACTION

- 21.1** Corrective action will be taken against an employee only for proper cause.
- 21.2** Oral and written reprimands will not be subject to review board appeal.
- 21.3** An employee who receives an oral reprimand has the right to grieve whether or not the reprimand was justified. Such grievance may be processed at Step 1 of the Grievance Procedure, and the decision at that step shall be final.
- 21.4** An employee who receives a written reprimand has the right to grieve whether or not the reprimand was justified. Such grievance may be processed up to Step 2 of the Grievance Procedure, and the decision at that step shall be final.
- 21.5** An employee whose salary is reduced or who is transferred for cause, demoted, suspended or dismissed shall have the right to appeal such corrective action under Review Board procedures or to grieve such corrective action under the Grievance Procedure in Article 5.
- 21.6** Corrective action shall be taken within thirty (30) working days following the conclusion of the investigation. When, due to extenuating circumstances, a corrective action cannot be taken within the thirty (30) day period, the time period may be extended by the Police Chief. Such extension shall be documented and the employee will be given a reason for the delay and a new date will be given. The term "days" as used in this Article shall mean Monday through Friday, excluding any day observed as a holiday pursuant to Article 7 of this Agreement. Notice of corrective action shall be in writing and shall contain the reason and shall inform the employee of his right to appeal or grieve such action. The employee shall be furnished a copy of the notice of corrective action and shall be permitted to respond thereto. The employee's response, if any, shall be attached to the copy of the corrective action form which is filed in the employee's personnel file.
- 21.7** A corrective action report covering an oral reprimand shall be removed from the employee's personnel and internal affairs file after one (1) year if no further infractions of a similar type occur.
- 21.8** A corrective action report covering a written reprimand shall be removed from the employee's personnel and internal affairs file after two (2) years if no further infractions of a similar type occur.
- 21.9** A corrective action report covering a suspension of thirty (30) hours or less shall be removed from the employee's personnel file after four (4) years provided there were no prior corrective action reports covering either oral or written reprimands

of a similar type and provided there were no suspensions of any type in the employee's personnel file at the time the suspension was imposed and provided no oral or written reprimands of a similar type and no additional suspensions of any type are incurred in the four (4) year period following the suspension.

- 21.10** It shall be the responsibility of the affected officer to request the removal of a suspension from his personnel file, and the City shall determine in its discretion whether the officer meets the criteria as stated herein. In the event that a request for removal of a suspension is denied, the affected officer may request a review of the denial by the Police Chief or his designee. The decision of the Police Chief or his designee shall be final. The denial of a request to remove a suspension shall not be subject to the grievance process.
- 21.11** Such removed records shall be placed in a corrective action file in the Employee Resources Section and will not be used by the City in determining future discipline.
- 21.12** An employee who is suspended from duty shall receive at least twenty-four (24) hours notification of such suspension unless conditions as deemed by the Police Chief exist which would require an immediate suspension.

## ARTICLE 22

### INTERNAL INVESTIGATIONS

- 22.1** The parties recognize that law enforcement personnel occupy a special place in American society. Therefore, it is understood that the City has the right to expect a high level of professional and personal conduct, both on-duty and off-duty, from all law enforcement personnel regardless of rank or assignment. Since internal investigations may be undertaken to inquire into complaints of law enforcement misconduct, the City reserves the right to conduct such investigations to uncover the facts in each case, but agrees to carefully guard and protect the rights and dignity of accused personnel. It is expected that all law enforcement personnel will give truthful and complete statements, to the best of their ability, in all internal investigations.
- 22.2** When an allegation is made against an employee, the City will attempt to ensure that the allegation and any statements regarding the allegation are in writing and signed by the complainant. When an employee is the subject of an internal investigation, he will be informed of the complaint or allegation against him in writing. Upon the conclusion of the investigation, the employee shall, upon his request, receive a copy of the written or recorded statement, at no cost to the employee.
- 22.3** The internal investigation process shall be conducted as is prescribed in Chapter 112, Part VI Florida Statutes as may from time to time be amended.
- 22.4** Unless required by statute, no employee shall be required to submit to a polygraph test or any device designed to measure the truthfulness of his responses during an investigation of a complaint or allegation.

- 22.5** Under normal circumstances, all internal investigations shall be completed within ninety (90) working days (defined as Monday through Friday, excluding holidays), unless an extension is granted by the Police Chief. If an extension is required, the Police Chief, or his designee, shall provide the reason in writing for the extension.
- 22.6** Exonerated or unfounded complaints shall be removed from the official internal affairs file after a period of one year.

## **ARTICLE 23**

### **PERSONNEL REDUCTION**

- 23.1** In the event that the City determines that a reduction in workforce is necessary, the City will ameliorate the impact of such action in the following manner.
- 23.2** The City will first layoff all sworn employees in time-limited positions and will then layoff sworn employees in regular positions based upon seniority. Seniority is defined as the length of an employee's total service in the Police Department as shown in the Human Resources Division records excluding any leaves of absence without pay of ninety (90) consecutive calendar days or more. Total service time with the department less all leave without pay over ninety (90) consecutive calendar days results in an employee's adjusted seniority date. Seniority shall be computed at a rate of one (1) point for each full calendar month of employment using the adjusted seniority date as the basis of the computation.
- 23.3** An employee may be entitled to Veterans' Preference as set forth in FS 295, and shall have ten (10) points added to his total seniority if he qualifies under the City's Veterans' Preference Policy 702.06-F4 a. and b. An employee who qualifies under the City's Veterans' Preference Policy 702.06 F4 c. and d., shall have five (5) points added to his total seniority score.
- 23.4** The least senior employee in the Police Officer classification shall be on layoff. Should there be ties in length of service in the department after considering veterans' preference points, then the ties will be broken after considering all official performance evaluations of each affected employee as contained in Human Resources Division records. The performance evaluations will be scored and the employee(s) with the lowest score(s) will be subject to layoff. The City will provide a thirty (30) calendar day notice to employees on layoff.
- 23.5** A laid-off employee shall have recall rights to the Police Officer classification he held before the onset of the layoff procedure for a period of twenty-four (24) months following layoff. Such recall rights shall consist of the right to return from layoff to a vacant position in the Police Officer classification over new applicants. Recall will be made by certified mail to the address maintained in the Police Department records and specified at the time of layoff. This address may be updated by the employee by certified mail, return receipt requested. The recall notice must be answered within fourteen (14) calendar days of its receipt. Failure to respond to recall within the time stipulated shall result in termination from the Police Department.

23.6 An employee who is laid off shall be considered to be terminated and shall be paid for all earned but unused vacation leave. The laid off employee shall be eligible for continuation of group health insurance coverage subject to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA). A laid off employee who has earned a vested pension benefit may elect to leave his contributions, and the interest earned thereon, in the pension plan in order to receive a benefit payable at normal or early retirement, or he may elect to receive a refund of his contributions and the interest earned thereon. A laid-off employee who has earned a vested Matched Annuity Pension (MAP) Plan benefit may elect to leave all or a portion of his account balance in MAP in order to receive a benefit payable at normal or early retirement, or he may elect to receive a refund of his account balance. A laid-off employee who has not earned a vested pension benefit shall receive a refund of his contributions to the pension plan and the interest earned thereon. A laid-off employee who has not earned a vested MAP benefit shall receive a refund of his MAP account balance.

23.7 An employee shall be recalled in reverse order of layoff with the last person laid off being returned to work first. If the employee is unable to return to work when recalled because of physical or mental disability, the employee shall be temporarily bypassed. An employee who has been recalled after having been on layoff for more than twelve (12) months will be subject to a drug screen prior to this effective date of reinstatement. An employee recalled within twenty-four (24) months following layoff shall be deemed to be reinstated. The Department may require that the recalled employee attend an orientation program.

## **ARTICLE 24**

### **RESIDENCY REQUIREMENTS**

24.1 As of the effective date of this Agreement, all bargaining unit members hired after October 2, 1978, must reside within a thirty-five (35) mile radius of the intersection of North Monroe and East Tennessee Streets, as long as within the State of Florida.

## **ARTICLE 25**

### **SAFETY AND HEALTH**

#### **25.1 Seat Belts**

(1) All employees are required to wear seat belts when driving or riding as a passenger in City vehicles or in a personal vehicle on City business, except in cases of operational necessity.

(2) Violations of this provision will result in disciplinary action as follows:

- (a) first offense: oral reprimand
- (b) second offense: written reprimand
- (c) third offense: one (1) day suspension without pay

(d) fourth offense: five (5) day suspension without pay

## **25.2 Application and Procedures**

Unless otherwise specified in this Article, the terms, conditions, and procedures contained in Chapter 705 of the City Administrative Policy and Procedures Manual, as it appears upon ratification of this Agreement (as set forth in Appendix B which is attached to and made part of this Agreement), shall apply.

## **25.3 Alcohol and Drug Testing**

In an effort to identify and eliminate on- or off-duty controlled substance/alcohol abuse, urinalysis/blood tests and breathalyzer tests shall be administered as provided herein:

(1) Where a supervisory officer has a reasonable suspicion based upon objective factors resulting in a reasonable and articulated belief that the employee is using, under the influence of, or impaired by alcohol or a controlled substance on the basis of specific physical, behavioral, or performance indicators suggesting such use. Conditions which may constitute reasonable suspicion include, but are not limited to:

- (a) slurred speech
- (b) odor of alcohol
- (c) inability to walk a straight line/staggered gait
- (d) exaggerated, excited state of emotions
- (e) bizarre or erratic behavior
- (f) rapid, dramatic mood swings
- (g) information obtained from a reliable person with specific personal knowledge
- (h) observation of the ingestion or possession of alcohol or an illegal controlled substance as defined in Chapter 877 and 893, Florida Statutes, during working hours or while on City property, or while operating a City vehicle off-duty
- (i) possession of paraphernalia normally associated with improper, unauthorized, or illegal use of controlled substances
- (j) physical or verbal altercation
- (k) a traffic crash or occupational accident which does not meet the conditions specified in Section 25.3 (4), but where one or more of the above factors is present

(2) Where a supervisory officer has a reasonable suspicion based upon objective, and articulated factors that the employee has possession or is using, dispensing, or selling any illegal drug or controlled substance not prescribed by a licensed physician on- or off-duty.

(3) Where a supervisory officer has a reasonable suspicion that the employee is under the influence of alcohol on-duty, or on an off-duty detail, or traveling to and from same, or while covered for portal to portal pay for workers' compensation.

(4) Following an occupational accident or traffic crash involving a City employee on City business, or an off-duty employee operating a City vehicle or utilizing City equipment, a post-accident alcohol and drug test shall be performed under the following conditions:

- (a) When it has been determined by the law enforcement officer investigating the traffic crash, or the supervisor investigating an occupational accident, that an employee's actions either contributed to the cause of the accident or crash or cannot be completely discounted as a contributing factor to the accident, AND
- (b) The occupational accident or traffic crash results in serious injury, or a fatality to any person, or there was serious property damage to either public or private property.

Serious injury is defined as a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ and the person is transported to a medical treatment facility.

Serious property damage is defined as one or more of the motor vehicles involved in a traffic crash is "totaled", one or more of the motor vehicles sustains significant disabling damage and must be towed from the scene, or the estimated amount of damage to public and/or private property equals or exceeds five thousand dollars (\$5,000).

- (c) In the instance of traffic crashes, damage estimates shall be made by the law enforcement officer who conducts the investigation at the scene of the traffic crash. Damage estimates at the scene of an occupational accident shall be determined by the employee's supervisor, utilizing whatever resources necessary to make a reasonable and prudent determination of the damage estimate.

(5) At various times, the City shall randomly select bargaining unit members for unannounced alcohol and drug testing. The selection shall be made by the use of a scientifically valid method, such as a computer-based random number generator that is matched with the employee's social security, payroll, driver's license, or other comparable identifying number. Each employee shall have an equal chance of being tested under the selection process used, and may be tested more than once, depending on the frequency that he is randomly selected.

The number of employees randomly selected for testing during a twelve (12) month period shall equal an annual rate of not less than fifty percent (50%) of the total number of bargaining unit members subject to testing. If the

percentage rate for random drug and/or alcohol testing provided for in Chapter 705 of the City Administrative Policies and Procedures Manual is reduced during the term of this collective bargaining agreement, the percentage rate for random drug and/or alcohol testing provided for in this Article 25.3 (5) shall be amended in like manner.

This random testing shall only occur while the employee is on-duty, just prior to duty, or immediately upon completing a work period.

The bargaining unit may designate a representative to view any part of the random selection process, and the City will provide upon request any additional information relating to the computer-generated selection programs. At no time during this review process will access be allowed to the actual names of employees being selected for a prospective testing period.

The employee shall have the right to have present during the testing a representative of his choice but the Department will not be required to wait more than thirty (30) minutes for such representative to arrive. In the event that the employee's initial representative is unable to serve, he may choose another representative, but in no event shall the Department be required to wait more than thirty (30) minutes.

(6) Any employee who refuses to comply with a legitimate order for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, substitutions, or any other means shall immediately be removed from duty, placed on leave without pay status, and terminated from City employment.

(7) Upon confirmation of a positive test result for an illegal controlled substance, the employee shall immediately be removed from duty, placed on leave without pay status, and terminated from City employment.

(8) Upon confirmation of a positive test result for the illegal use or abuse of a controlled substance, the employee shall immediately be removed from duty, placed on leave without pay status, and subject to disciplinary action up to and including termination from City employment.

(9) Upon confirmation of a positive test result for the presence of alcohol at a blood alcohol level of .04 or higher, the employee shall immediately be removed from duty, placed on leave without pay status, and terminated from City employment.

(10) Employees have the option of reporting substance abuse problems directly to the Employee Assistance Program, absent involvement or knowledge by City staff. Under these conditions, it is the employee's responsibility through consultations with the Substance Abuse Professional, to take the appropriate measures (i.e., abstinence from usage, approved leave, request for leave without pay, etc.) to ensure he will not be detected "positive" on an alcohol test pursuant to a legitimate order for testing under this policy.

Under the qualifying criteria stated herein, an employee testing positive for alcohol pursuant to voluntarily submitting himself for rehabilitation shall not be

disciplined for the initial positive result. However, the employee shall be subject to disciplinary action for any subsequent test results, or other violations of rules, policies and procedures unrelated to the positive test resulting from the voluntary rehabilitation.

(11) Upon confirmation of a positive alcohol test, an officer will immediately be offered a one-time opportunity to provide a blood sample to be drawn for the purpose of supplementing the results of the original BAC as determined by a breath testing device. The blood sample will be analyzed and the results held by the testing facility. The results will be retrieved from the testing facility and made available to the City, with a copy provided to the employee, only upon receipt of a written request from the employee within seven (7) calendar days of the original test.

The request for the test results by the employee will be submitted through the City Drug/Alcohol Program Coordinator within seven (7) calendar days from the original test on a designated form releasing the results to the City and acknowledging that the results of the blood test may be used in any disciplinary action emanating from the positive test result. The processing of the blood sample analysis will not impede the disciplinary process initiated by the initial positive test result.

The cost of the blood test will be borne by the City.

(12) Employees who test positive for a controlled substance have a right to have their original samples retested at their own expense if a retest is desired. The employee must submit a written request for a retest to the City's Medical Review Officer (MRO) within seventy-two (72) hours of the time the employee is notified by the MRO of the positive results.

The employee may request any laboratory to perform a retest as long as the testing laboratory is certified by the Department of Health and Human Services under the Department of Transportation (DOT) procedures which will be verified by the MRO. The employee will be reimbursed and disciplinary action reconsidered if the second test is negative.

Samples that yield positive results on confirmation must be retained by the testing laboratory in properly secure, long-term frozen storage for at least three hundred sixty-five (365) days.

(13) The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, employees should use extreme caution when using any non-prescription medication which carries a warning label that indicates that mental functioning, motor skills, or judgment could reasonably be impaired. When taking such medications employees should seek medical advice, as appropriate, before performing work-related duties, and shall first notify their supervisor or a designated supervisor within the departmental chain of command, of any impairment which they may be experiencing.

When taking prescription medications, employees must seek specific advice from their physician that the substances in a prescription will not impair

their mental functioning, motor skills, judgment, or their ability to perform their essential job functions. Before performing work-related duties, employees shall first notify their supervisor, or a designated supervisor within the departmental chain of command, of any actual or potential adverse effects which are occurring or which they have been advised may occur.

Upon being notified of actual or potential adverse effects from the substances in a prescription, the supervisor notified by the employee shall be responsible for either reassigning the employee to non-hazardous work tasks where possible, or requiring the employee to take leave consistent with City policy.

(14) In the interest of public and employee safety, and the professional image of City government, a police officer will be terminated from employment if found to be using any illegal controlled substances while on or off duty or if found to be illegally possessing, dispensing, or selling any controlled substances while on or off duty.

#### **25.4 Alcohol and Controlled Substance Testing Procedure**

Alcohol and drug testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS), utilizing procedures implemented for workplace drug and alcohol testing programs by the U.S. Department of Transportation. Such rules and procedures shall be implemented with the consideration for the protection, dignity, privacy, and confidentiality of the individual employee throughout the testing process.

#### **25.5 Drug Test Panels and Positive Drug Tests**

(1) For drug testing, the drugs that will be tested for include, but may not be limited to, marijuana, cocaine, opiates, amphetamines, and phencyclidine. Other controlled substances may be tested for if there is reasonable suspicion that an employee may be illegally using or abusing a controlled substance not currently part of the specified test panel. An initial drug screen will be conducted on each specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the following minimum thresholds as established by the DHHS:

Initial test cutoff levels:

<i>Substance</i>	<i>Nanograms per Milliliter</i>
Marijuana metabolite	50
Cocaine metabolite	300
Opiates:	
<i>Morphine</i>	2000
<i>Codeine</i>	2000

Phencyclidine	25
Amphetamine	1000
Methamphetamine	1000
Barbiturates	300
Benzodiazepines	300

These cutoff levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of those substances at other concentrations. Such changes shall be communicated to the bargaining unit as soon as notice is received by the City.

All positive drug test results obtained from drug testing pursuant to this policy shall be reviewed and interpreted by a Medical Review Officer (MRO) prior to transmittal to the City. This review consists of a confidential interview with the employee to determine if there is an alternative medical explanation for the drugs found in the employee's specimen. If the employee provides appropriate documentation to the MRO that it is a legal and prescribed medical use of the prohibited drug, the drug test result is reported as negative to the City and no further action is required.

## **25.6 No Smoking**

Any member of the bargaining unit hired on or after September 3, 1985, but prior to October 1, 1990, is prohibited from smoking tobacco both on and off duty.

Any member of the bargaining unit hired on or after October 1, 1990, is prohibited from smoking tobacco or using tobacco products both on and off duty.

Smoking or the use of tobacco products in any form is prohibited in any City of Tallahassee building or vehicle.

Violations of the no smoking/no tobacco use provisions of this Agreement shall result in further disciplinary action up to and including termination.

In conjunction with future wellness initiatives and health cost control measures, if the City imposes a requirement for nicotine screening to all employees participating in the City's Health Plan, the members of the bargaining unit participating in the City's Health Plan would be subject to nicotine testing.

## **25.7 Infectious Disease Prevention**

Each employee will be provided with and utilize all personal protective equipment as required for infectious disease exposure which meets or exceeds the minimum standards established by the State Department of Labor for the prevention of infectious diseases. Likewise, the City and the employee, whenever practical, will follow the required prophylactic procedures established with regard to any employee who is exposed to blood or other body fluids. The City will provide training as required in infectious disease prevention, mitigation and exposure control.

**25.8** Unless otherwise specified, employees violating the provisions of this Article shall be subject to progressive disciplinary action up to and including termination from City employment.

**25.9 Modified Duty for Non-work Related Injuries/Illnesses**

A temporary medical condition results from a condition which involves a reasonable expectation of recovery, is limited in duration, and is subject to periodic review of medical information. Individuals with temporary medical conditions are not regarded as individuals with disabilities pursuant to the Americans with Disabilities Act (ADA).

If a member's medical condition requires modification of assignment during the treatment period, the member must submit an official request for employer assistance. Under the ADA law and City Policy 1203, Reasonable Accommodation, the need for assistance on a temporary basis is considered impairment, and not a disability. The member's temporary assignment (s) will be based on the needs of the department and the work restrictions identified by the treating physician. The member must have TA/1 and TA/2 forms completed prior to their request being processed. These forms are available with the Equity and Workforce Development Division. The Division Commander will identify placement as soon as possible. The member will be required to use sick or personal leave until the request process is complete. The member will not be returned to limited or full duty without proper authorization from the treating physician.

**ARTICLE 26**  
**INDEMNIFICATION**

**26.1** The City will provide a defense for, and indemnify, any employee who is made a party to any suit or proceeding, other than by an action of the City of Tallahassee, or against whom a claim is asserted by reason of his action(s) taken within the scope of duty or service as an employee of the City. Such indemnity shall extend to judgments, fines, and amounts paid in settlement, or any claim, suit, or proceeding, including any appeal. This shall protect the employee, who acted in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the City.

The City's obligation under this Article is contingent upon prompt notification and cooperation with the City Attorney's office. Under normal circumstances an employee served with a complaint or otherwise formally advised that he is a party to a suit or proceeding shall notify the City Attorney's office within three (3) calendar days.

## ARTICLE 27

### DUES CHECKOFF

#### **27.1 Deductions**

During the term of this Agreement, the City agrees to deduct on a biweekly basis Association membership dues and uniform assessments, if any, in an amount established by the Association and certified in writing to the City Human Resources Department, from the pay of those employees in the bargaining unit who individually make such request on a written checkoff authorization form provided by the City. Such deduction will be made by the City beginning with the pay for the first full pay period following receipt of the authorization by the City. The Association shall advise the City of any uniform assessment or increase in dues in writing at least thirty (30) days prior to its effective date.

This agreement applies only to the deduction of membership dues and uniform assessments, if any, and shall not apply to the collection of any fines, penalties, or special assessments.

#### **27.2 Remittance**

Deductions of dues and uniform assessments, if any, shall be remitted by the City to a duly authorized representative as designated in writing by the Association.

#### **27.3 Insufficient Pay for Deduction**

In the event an employee's earnings within any pay period, after deductions for withholding, Social Security, retirement, health insurance, and other priority deductions, are not sufficient to cover dues and any uniform assessments, it will be the responsibility of the Association to collect its dues and uniform assessments for that pay period directly from the employee.

#### **27.4 Termination of Deduction**

Deductions for Association dues and/or uniform assessments shall continue until either:

- (1) revoked by the employee by providing the City Human Resources Department and Association with thirty (30) days written notice that he is terminating the prior checkoff authorization,
- (2) the termination of the authorizing employee, or the transfer, promotion, demotion of the authorizing employee out of this bargaining unit unless it is to another position where the Association is the certified bargaining agent.

#### **27.5 Indemnification**

The Association shall indemnify, defend and hold the City, its officers, officials, agents and employees, harmless against any claim, demand, suit or liability (monetary or otherwise), and for all legal costs arising from any action

taken or not taken by the City, its officials, agents and employees in complying with this agreement. The Association shall promptly refund to the City any funds received in accordance with this agreement which are in excess of the amount of dues and/or uniform assessments which the City has agreed to deduct.

#### **27.6 Exceptions**

The City will not deduct any Association fines, penalties, or special assessments from the pay of any employee.

#### **27.7 Dues Checkoff Authorization Form**

The following form shall be used by employees who wish to initiate dues deduction:

INTENTIONALLY LEFT BLANK

## DUES CHECKOFF AUTHORIZATION

To: \_\_\_\_\_

(Department)  
CITY OF TALLAHASSEE

I, \_\_\_\_\_, Employee No. \_\_\_\_\_,  
(Name)  
Department and Division: \_\_\_\_\_,

direct the City of Tallahassee to deduct from my pay, beginning with the pay for the first full pay period from the date this authorization is received by the City, employee organization membership dues and uniform assessments, if any, of

---

(Employee Organization and Unit)

in the amount as may be established from time to time in accordance with the Constitution and Bylaws of the employee organization and certified in writing to the City by an accredited officer of the employee organization, and I direct the City to pay over the sum or sums so deducted to a duly authorized representative of the employee organization.

This authorization is made pursuant to Section 447.303, Florida Statutes, and shall continue until:

- (a) revoked by me at any time upon 30 days written notice to my employer and the employee organization,
- (b) the termination of my employment, or
- (c) my transfer, promotion, or demotion out of this bargaining unit, unless it is to another position where the Association is the certified bargaining agent.

Date: \_\_\_\_\_ Employee's Signature: \_\_\_\_\_

## ARTICLE 28

### ASSOCIATION COMMUNICATIONS

#### **28.1 Bulletin Boards**

The City agrees to furnish wall space not to exceed 36" x 48" for PBA-purchased, glass-enclosed bulletin boards to be located in the hallway outside the employee break room and the check-off room, the Criminal Investigations Division, and the Special Operations Division with permission from the Division Commander.

The Association bulletin board, the TPD PBA president e-mail and the In-car Mobile Data Computer (MDC) shall be used only for the following notices:

- (a) recreational and social affairs of the Association
- (b) Association meetings
- (c) Association elections
- (d) reports of Association committees
- (e) Association benefit programs
- (f) correspondence between the PBA Board and TPD Command Staff

Notices shall not contain anything political or controversial, or anything reflecting adversely on the City, or any of its employees, and no material, notices or announcements which violate the provisions of this Article shall be posted.

Notices submitted for posting on the association bulletin board must be dated and bear the signature of the Association President or his authorized representative.

#### **28.2 Use of Videotape**

The Police Department will make available to the Association the use of its videotape equipment for the purpose of communicating with bargaining unit employees. Notices provided by the Association shall be subject to the same restrictions as set forth in Section 29.1 above.

Association material shall be limited to an amount of time which will not result in extended shifts and overtime payments. If there is any time conflict with management-scheduled tapings, the management material shall have priority.

#### **28.3 Communications**

No less than three (3) times per year, the Police Department will provide up to fifteen (15) minutes per check-on to the Association for notices and communications with employees, provided that the notices and communications comply with Section 29.1 above and do not result in extended shifts and overtime payments.

## ARTICLE 29

### ASSOCIATION ACTIVITIES

#### **29.1 Restriction of Association Activities**

Except as provided otherwise in this Agreement, no employee shall engage in Association activities of any kind during the time he is assigned to duty. No City equipment or vehicles shall be used for Association activities.

#### **29.2 Leave of Absence to Assume Association Office**

The Police Chief may approve a written request for an unpaid leave of absence for a period not to exceed one (1) year to become a full-time employee of the Association, provided such request shall not be unreasonably denied. Not more than one (1) employee shall be granted such leave at any one time.

## ARTICLE 30

### ASSOCIATION BUSINESS

#### **30.1 Leave for Association Business**

Members of the bargaining unit who are officials of the Association shall be granted time off for Association business when the absence does not interfere with the operation of the Police Department. Requests for such time off shall be submitted for approval to the Chief or his designee. Such request must include authorization from the Association President if the absence is to be covered by payments from the Association Time Pool.

#### **30.2 Association Time Pool**

At the beginning of each fiscal year, the PBA President will determine if the City shall deduct two (2) hours of available personal leave or compensatory time from each bargaining unit member and transfer the value of the hours to the Association Time Pool. The contribution of two (2) hours personal leave will correspond to the contributor's current base salary. The amount of money so contributed shall constitute the Association Time Pool.

#### **30.3 Charges Against Association Time Pool**

Association officials who are members of the bargaining unit and who have been authorized in writing by the Association President may charge their absences for Association business to the Association Time Pool without loss of straight-time pay or benefits. The time used by such official shall be charged against the reserves in the Association Time Pool at the user's current base salary. Absences of thirty (30) minutes or less shall not be charged against the Association Time Pool and will be granted Association officials without loss of straight-time pay or benefits.

#### **30.4 PBA Business**

PBA representatives shall have the right to request time off from the Association Time Pool for the purpose of conducting PBA business with the City

of Tallahassee including grievance hearings, contract negotiations, legislative body meetings regarding the resolution of collective bargaining impasse procedures and arbitrations, provided, however, that not more than three (3) such representatives shall have the right to receive such permission at any one time and provided, further, that the PBA gives the City at least twenty-four (24) hours advance notice, if possible, of the time desired off. Such requests shall be submitted to the Chief of Police and shall not be unreasonably denied. It is understood, however, that an employee may not request a PBA representative who is within that employee's direct chain of command, and that an employee will not be removed from duty to serve as a PBA representative when other equally qualified representatives who are not on duty are available.

### **30.5 Indemnification**

The Association shall indemnify, defend and hold the City, its officers, officials, agents and employees, harmless against any claim, demand, suit or liability (monetary or otherwise), and for all reasonable legal costs arising from any action taken or not taken by the City, its officials, agents and employees in complying with this agreement. The Association shall promptly refund to the City any funds disbursed by the City under the provisions of this Article which are not covered by reserves in the Association Time Pool.

## **ARTICLE 31**

### **TAKE HOME VEHICLES**

#### **31.1 The City will maintain the Take Home Vehicle program for the duration of the contract period.**

#### **31.2 Vehicle Assignment**

Vehicle Assignment shall be under the terms and conditions specified in General Order 66, Vehicle Assignment and Operations.

#### **31.3 Grand-fathered Members**

The City agrees to update General Order 66, Section II C, which currently reads; "Members who reside outside of Leon County may be assigned a Department vehicle, but shall not have take home vehicle privileges", to account for members who are grand-fathered in under the terms of this Article.

#### **31.4 Work Status**

Members are not eligible to partake in the Take Home Vehicle Program due to administrative leave or suspension without pay. The assigned marked vehicle will be parked at the Tallahassee Police Department for the duration of the aforementioned leave. Members on light duty may receive an assignment of an unmarked vehicle, if available.

#### **31.5 Vehicle Maintenance and Safety**

The City of Tallahassee shall maintain each vehicle to a professional standard of care, established by the Fleet Management Department and in

accordance with best practices for emergency response vehicles for repairs, installations, replacement and maintenance. This is to include safety and mechanical function and maintenance of specialty and after-market equipment authorized and installed by the City.

It is the City's intent to maintain the professional appearance of the assigned vehicle to the standard established by the Chief of Police. Members are required to maintain the assigned vehicle in accordance with General Order 66, Section IV G. Vehicle Maintenance – General.

Marked Police vehicles used for Patrol or as a Primary Emergency Response Vehicle will be replaced or removed from regular use if it fails to meet the safety and mechanical standard established by the Fleet Management Department.

### **31.6 Grievance**

Members having a grievance arising from the standard of care shall be presented and adjusted in accordance with Article 5, Grievance Procedure. Step 2 will be the final step in grievance process for issues arising under this agreement.

## **ARTICLE 32**

### **MANAGEMENT RIGHTS**

**32.1** The Association agrees that the City has and will continue to retain, whether exercised or not, the sole and unquestioned right to operate and manage its affairs in all respects; and the powers and authority which the City has not officially abridged, delegated or modified by the express provisions of this Agreement are retained by the City. The rights of the City, through its management officials, shall include, but shall not be limited to, the right to determine the organization of City government; to determine the purpose of each of its constituent agencies; to exercise control and discretion over the organization and efficiency of operations of the City; to set standards for services to be offered to the public; to direct the employees of the City, including the right to assign work and overtime; to hire, examine, classify, promote, train, transfer, assign, and schedule employees in positions with the City; to suspend, demote, discharge, or take other disciplinary action against employees for proper cause; to increase, reduce, change, modify or alter the composition and size of the work force, including the right to relieve employees from duties because of lack of work, funds, or other reasons; to determine the location, methods, means, and personnel by which operations are to be conducted, including the right to determine whether goods or services are to be made or purchased; to establish, modify, combine or abolish job classifications; to change or eliminate existing methods, equipment or facilities; and to establish, implement and maintain an effective internal security program.

- 32.2 The City has the sole authority to determine the purpose and mission of the City, to prepare and submit budgets to be adopted by the City Commission and to expend monies appropriated by the Commission as it shall deem advisable.
- 32.3 Those inherent managerial functions, prerogatives and policy-making rights which the City has not expressly modified or restricted by a specific provision of this Agreement are not in any way, directly or indirectly, subject to the grievance procedure contained herein.

## **ARTICLE 33**

### **ENTIRE AGREEMENT**

- 33.1 This Agreement supersedes and cancels all prior practices and agreements, whether written or oral, unless expressly stated to the contrary herein, and constitutes the complete and entire agreement between the parties, and concludes collective bargaining for its term, except as otherwise provided herein.
- 33.2 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the City and the Association, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter not specifically referred to, or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement. This provision shall be interpreted in light of the Florida Supreme Court decisions construing the parties' obligation to bargain, including *Palm Beach Junior College Board of Trustees v. United Faculty of Palm Beach Junior College*, 475 So. 1221 (Fla.) 1985.

## **ARTICLE 34**

### **SAVINGS CLAUSE**

- 34.1 If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid, unlawful, or not enforceable, by any court action or by reason of any existing or subsequently enacted legislation; or if the appropriate governmental body, having amendatory power to change a law, rule or regulation which is in conflict with a provision of this Agreement, fails to enact or adopt an enabling amendment to make the provision effective, in accordance with F.S. 447.309 (3); then such provision shall not be applicable, performed or enforced. In such event, the parties shall meet within thirty (30) days in an attempt to modify the invalid provision of good faith negotiations. The remaining parts or portions of this Agreement shall remain in full force and effect for the term of this Agreement.

## **ARTICLE 35**

### **NEGOTIATIONS**

**35.1** The Association agrees that all collective bargaining is to be conducted at the City Manager's level in the City of Tallahassee with City representatives designated for that purpose by the City Manager, as Chief Executive Officer. There shall be no negotiation by the Association at any other level of City government

## **ARTICLE 36**

### **DURATION**

#### **36.1 Term**

This Agreement shall be effective as of the 1<sup>st</sup> day of October, 2014, and shall remain in full force and effect through the 30<sup>th</sup> day of September, 2017. If no agreement is reached on a successor agreement by September 30, 2017, then an impasse shall be declared and statutory impasse procedures shall be invoked.

**36.2** This Agreement shall remain in full force and be effective during the period of negotiation and may be extended in the manner set forth in the following paragraph.

**36.3** In the event that the City and the Association fail to secure a successor agreement prior to the expiration date of this Agreement, the parties may mutually agree in writing to extend this Agreement for any period of time, provided that any such successor agreement will be effective as of the date agreed upon and will not necessarily be retroactive to the expiration date of this Agreement.

#### **36.4 Termination**

If either party desires to terminate this Agreement on its expiration date or during an agreed upon extension as provided in Section 37.3 above, written notice must be given to the other party not less than ten days prior to the desired termination date.

The Association and all bargaining unit employees recognize their continuing obligation, both with or without the existence of a collective bargaining agreement, to comply with the strike prohibition in F.S. 447.505.

#### **36.5 Notices**

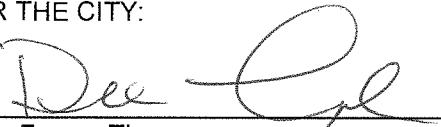
Notices hereunder shall be given by registered or certified mail, and if by the City, shall be addressed to the Association at 300 East Brevard Street, Tallahassee, Florida 32301, and if by the Association, shall be addressed to the Manager-Human Resources, City Hall, Tallahassee, Florida 32301. Either party may by a like written notice change the address to which such notice shall be given. Notices shall be considered to have been given as of the date shown on the postmark.

### **36.6 Emergencies**

If 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.

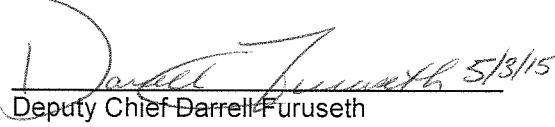
IN WITNESS WHEREOF, the parties here set their signatures to this agreement which was approved by the City Commission on April 29, 2015.

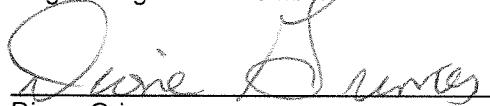
FOR THE CITY:

  
Anita Favors Thompson  
City Manager

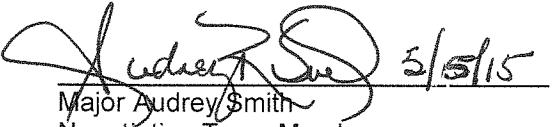
  
Michael Mattimore  
Chief Negotiator

  
Ellen Blair  
Negotiating Team Member

  
Deputy Chief Darrell Furuseth  
Negotiating Team Member

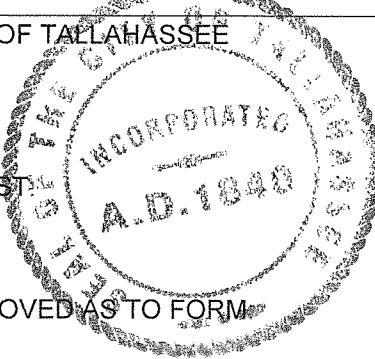
  
Dione Grimes  
Negotiating Team Member

  
Tammy McKenzie  
Negotiating Team Member

  
Major Audrey Smith  
Negotiating Team Member

  
Captain Lawrence Revell  
Negotiating Team Member

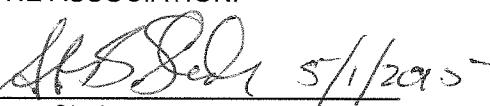
CITY OF TALLAHASSEE  
BY:



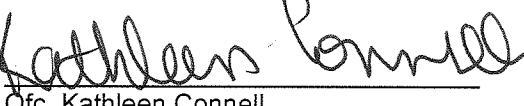
ATTEST

APPROVED AS TO FORM

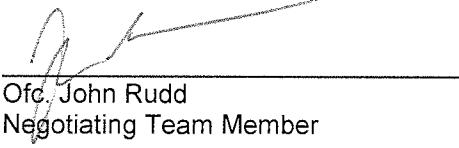
FOR THE ASSOCIATION:

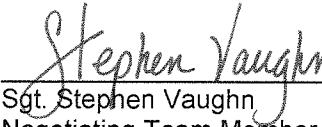
  
Lt. Steven Slade,  
President, Big Bend Chapter  
Florida PBA, Inc.  
Chief Negotiator

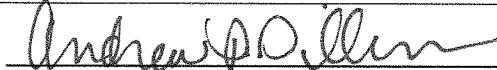
  
Sgt. Tracy Clark  
Negotiating Team Member

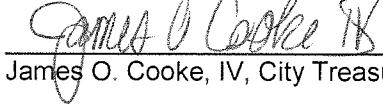
  
Ofc. Kathleen Connell  
Negotiating Team Member

  
Inv. Zachary Lyne  
Negotiating Team Member

  
Ofc. John Rudd  
Negotiating Team Member

  
Sgt. Stephen Vaughn  
Negotiating Team Member

  
Andrew D. Gillum  
Date

  
James O. Cooke, IV, City Treasurer-Clerk  
Date

  
Lewis E. Shelley, City Attorney  
Date

**APPENDIX A - POLICE OFFICERS AND INVESTIGATORS FY15 - FY17 PAY PLAN (64)**

<u>FY15</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Annual Rate:	\$44,305.93	\$46,299.70	\$48,383.19	\$50,560.43	\$52,835.65	\$55,213.25	\$57,697.85
Biweekly Rate:	\$1,704.07	\$1,780.76	\$1,860.89	\$1,944.63	\$2,032.14	\$2,123.59	\$2,219.15
Hourly Rate:	\$21.30	\$22.26	\$23.26	\$24.31	\$25.40	\$26.54	\$27.74
<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>	<u>Step 11</u>			<u>PCPS1</u>	<u>PCPS2</u>
Annual Rate:	\$60,294.25	\$63,007.49	\$65,842.83	\$68,805.76		\$71,902.02	\$75,137.61
Biweekly Rate:	\$2,319.01	\$2,423.37	\$2,532.42	\$2,646.38		\$2,765.46	\$2,889.91
Hourly Rate:	\$28.99	\$30.29	\$31.66	\$33.08		\$34.57	\$36.12
<u>FY16</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Annual Rate:	\$45,192.05	\$47,225.69	\$49,350.85	\$51,571.64	\$53,892.36	\$56,317.52	\$58,851.81
Biweekly Rate:	\$1,738.16	\$1,816.37	\$1,898.11	\$1,983.52	\$2,072.78	\$2,166.06	\$2,263.53
Hourly Rate:	\$21.73	\$22.70	\$23.73	\$24.79	\$25.91	\$27.08	\$28.29
<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>	<u>Step 11</u>			<u>PCPS1</u>	<u>PCPS2</u>
Annual Rate:	\$61,500.14	\$64,267.65	\$67,159.69	\$70,181.88		\$73,340.06	\$76,640.36
Biweekly Rate:	\$2,365.39	\$2,471.83	\$2,583.07	\$2,699.30		\$2,820.77	\$2,947.71
Hourly Rate:	\$29.57	\$30.90	\$32.29	\$33.74		\$35.26	\$36.85
<u>FY17</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Annual Rate:	\$46,095.89	\$48,170.21	\$50,337.87	\$52,603.07	\$54,970.21	\$57,443.87	\$60,028.84
Biweekly Rate:	\$1,772.92	\$1,852.70	\$1,936.07	\$2,023.20	\$2,114.24	\$2,209.38	\$2,308.80
Hourly Rate:	\$22.16	\$23.16	\$24.20	\$25.29	\$26.43	\$27.62	\$28.86
<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>	<u>Step 11</u>			<u>PCPS1</u>	<u>PCPS2</u>
Annual Rate:	\$62,730.14	\$65,553.00	\$68,502.89	\$71,585.52		\$74,806.87	\$78,173.18
Biweekly Rate:	\$2,412.70	\$2,521.27	\$2,634.73	\$2,753.29		\$2,877.19	\$3,006.66
Hourly Rate:	\$30.16	\$31.52	\$32.93	\$34.42		\$35.96	\$37.58

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Sponsoring Agency – Human Resources	Last Revised: September 2009 (Approved by Governing Authority)

## Chapter 705 – Alcohol and Drugs

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**705.01 STATEMENT OF POLICY**

It is the policy of the City of Tallahassee to provide a safe, dependable, efficient, and drug free workplace for the citizens of Tallahassee. The City recognizes that employees are our most valuable resources and it is the City's goal to provide a safe and healthy work environment. In meeting these goals it is the City's policy that the following behaviors are prohibited:

- A. City employees who are on-duty, on City property, or operating City vehicles or equipment shall not test positive for the illegal use or abuse of controlled substances or alcohol, or be impaired in their ability to perform their assigned duties in a safe, productive, and healthy manner by the use or abuse of alcohol or controlled substances.
- B. The unlawful manufacture, distribution, dispensing, possession, or illegal use/abuse of alcohol or controlled substances.
- C. Employees are encouraged to seek professional assistance anytime personal problems, including alcohol or substance use/abuse, adversely affects their ability to perform their assigned duties.
- D. The City of Tallahassee is committed to providing reasonable work accommodation to those employees who voluntarily participate in a rehabilitation program or whose drug and/or alcohol abuse classifies them as disabled under State or Federal law.
- E. Based on voluntary participation in a rehabilitation program, or the handicap designation, the employee will be retained if the City determines the employee's continued employment would not create a hazardous situation or threaten public confidence in the function of the department or the City.
- F. To achieve the City's goal of a workplace free from the illegal use and adverse effects of drug and alcohol abuse or misuse, the City will conduct analytical urine testing for controlled substances and breath testing for alcohol when circumstances warrant as required by Federal regulation, City policy, or collective bargaining agreement.
- G. When an employee is injured, disabled, or dies from an accident arising out of and in the course of his employment, and the injury, disability, or death is contributed to in any way by the impairment of the employee from alcohol or the illegal use or abuse of a controlled substance by the employee, the employee may not be eligible for workers' compensation benefits.

H. Confirmed positive tests for alcohol or controlled substances will result at a minimum in a suspension, an evaluation by, and mandated compliance with the recommendations made by a Substance Abuse Professional (SAP), and compliance with a Conditions of Employment Agreement for employees who are returned to work after compliance with Phase I of the rehabilitation program. Depending upon individual circumstances, further disciplinary action up to and including termination from employment may be imposed.

## **705.02 PURPOSE**

The purpose of this policy is to assure employee fitness for duty and to protect our employees, program participants, and the public from the risks posed from the abuse of alcohol or the illegal use or abuse of controlled substances.

This policy is also intended to comply with all alcohol and drug testing directives as promulgated by the City Commission, alcohol and drug testing as directed through collective bargaining agreements, and all applicable Federal regulations governing workplace anti-drug programs. These Federal regulations, as promulgated, regulate mandatory urine drug testing, breath alcohol testing, standards for the collection and testing of urine and breath specimens, and the establishment of drug-free workplace policies and the reporting of certain drug related offenses to the Federal Government.

## **705.03 APPLICABILITY**

This policy shall apply to all on-duty City of Tallahassee employees, off-duty City employees operating city vehicles or equipment, employees paid to be on-call or in call-back status, employed in either a temporary or regular position, except as excluded in the policy.

- A. Where there is an overlap or conflict in the application of this policy and Federal regulatory requirements, the requirements of the Federal regulatory requirements shall prevail and be followed. All Federal Transit Administration program requirements under FTA authority are found in 49 CFR Part 40, a copy of which is available for employee review upon request.
- B. Where there is an overlap or conflict in the application of this policy and the provisions of collective bargaining agreements, the collective bargaining agreement requirements shall prevail and be followed.
- C. Where there is an overlap or conflict in the application of the collective bargaining agreements and Federal regulatory requirements, the Federal regulatory requirements shall prevail and be followed.

## **705.04 DEFINITIONS AND TERMS**

**A. Alcohol Use**

1. No City employee shall report for duty or remain on-duty or operate City equipment when his/her ability to perform assigned functions is impaired by alcohol. The use of beverages containing alcohol or alcohol based substances including any medication such that, after its use, alcohol is present in the employee at a level equal to or exceeding .02% Blood Alcohol Content (BAC) will require a departmental action and duty restriction or removal from duty as outlined in section 705.06(B) of this policy.
2. For employees in FTA-regulated safety sensitive positions as defined in K 1 (b) below, (certain job classifications as listed in Appendix A), the use of alcohol within 4 hours prior to performing a safety-sensitive function is prohibited. No employer having actual knowledge that a covered employee has used alcohol within four hours of performing a safety-sensitive function shall permit the employee to perform or continue to perform safety-sensitive functions.

**B. Blood Alcohol Content (BAC)**

Expressed as a percent in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

**C. Fatality**

An industrial or motor vehicle accident involving a City employee on City business, or an off-duty City employee operating a City vehicle, and either the City employee or anyone else involved in the accident dies within 32 hours of the accident as a result of injuries sustained in the accident.

**D. Illegally Used Controlled Substances**

Any illegal use, abuse, or illegally obtaining or possessing any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act ([21 U.S.C. 812](#)). This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

**E. Impairment**

When an employee is under the influence of alcohol, controlled substances, or over the counter medications to the extent that there is demonstrated a diminution of attention, judgment, coordination, motor skills/or control resulting in the inability to perform his/her job functions effectively and safely.

**F. Occupational Accident**

An incident arising out of and in the course of employment wherein there is a sudden and unexpected occurrence in a sequence of events, which produces unintended injury, death, or property damage.

## G. Legal Drugs

A legal drug means that the employee has a prescription or other written approval from a physician or other authorized medical professional, i.e., nurse practitioner, for the use of a drug or controlled substance in the course of medical treatment. It must include the patient's/employee's name, the name of the substance, quantity amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing City business is prohibited.

## H. Medical Review Officer

The Medical Review Officer (MRO) shall be a licensed physician with knowledge of substance abuse disorders, and shall be responsible for reviewing and interpreting confirmed positive drug test results obtained through drug testing required by Federal regulations.

## I. Motor Vehicle

Any mechanical or electrically powered device (except one moved by human power) upon which or by which any persons or property may be transported upon a highway, public or private property, or on the water. The load on a motor vehicle or trailer attached to it is considered part of the vehicle. Tractors and motorized machinery are included while self-propelled in transit or used for transportation. Also included are motor scooters, motorized bicycles, boats, and off the road vehicles.

## J. Traffic Crash

Any crash involving a motor vehicle in transport (in motion, in readiness for motion, or on a highway), including on public or private property that results in death, injury, or property damage.

## K. Safety Sensitive Positions (Revised 17 September 09)

In the interest of public and employee safety, safety sensitive job positions shall be defined as follows:

**1. DOT Safety Sensitive Positions** – This includes all functional job categories enumerated as “Safety Sensitive” in the Omnibus Transportation Testing Act of 1991. This includes:

- a. *FMCSA – regulated positions* - all job classifications wherein an employee is either required to have a Commercial Drivers License (CDL), or where the employee's job classification does not require a CDL, but the incumbent employee has one and utilizes it in the performance of City related work activities.
- b. *FTA-regulated positions*: Those under the auspices of the Federal Transit Administration (FTA) as enumerated **49 CFR 655**, which includes positions with responsibility for the maintenance, dispatch, control, or operation of a revenue service vehicle, (see Appendix A).

c. *RSPA-regulated positions* – positions with responsibility for the maintenance, operational, or emergency response functions on a gas pipeline or Liquid Natural Gas facility (LNG) as defined in Research and Special Programs Administration 49 CFR Part 199 (See Appendix C). (Revised 10 October 2008)

2. *City-designated Safety Sensitive Positions* – This includes the following positions:

- a. Those with responsibility for the supervision of children, or responsibility for the safety of children.
- b. All law enforcement personnel and certified fire personnel with the rank of Captain and above, Police Reserve Officers, Police Property and Evidence personnel, School Crossing Guards and Special Event Traffic Assistants, and those employees who are subject to alcohol and/or drug testing pursuant to a collective bargaining agreement. (Revised 11 May 2010)

#### **L. Serious Injury**

Any injury occurring as a result of an occupational accident or traffic crash involving a City employee on City business, or an off-duty City employee operating a City vehicle and such injury results in either the employee or anyone else involved in the accident being injured to the extent that there exists a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ and the person is transported to a medical treatment facility.

#### **M. Serious Property Damage** (revised 8 April 2008)

Any occupational accident or traffic crash involving a City employee on City business, or an off-duty City employee operating a City vehicle, and the damage caused in the accident results in one or more of the vehicles involved in a traffic crash being “totaled”, one or more vehicles sustains significant disabling damage and must be towed from the scene, or the total property damage to public and/or private property equals or exceeds \$5000.

In the instance of traffic crashes, such estimates of apparent damage shall be made by the law enforcement officer who conducts the investigation at the scene of the traffic crash. Should a law enforcement officer not be present, or if an immediate assessment of damage is not made, the supervisor will make a reasonable estimate, using whatever resources necessary to make a reasonable and prudent determination of the damage estimate.

Damage estimates at the scene of an occupational accident shall be reasonably estimated by the employee's supervisor who has responded to the scene of the accident, utilizing whatever resources necessary, to make a reasonable and prudent determination of the damage estimate.

**N. Substance Abuse Professional (SAP)**

An individual contracted by the City who is a licensed physician (medical doctors and doctors of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional; or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders and must pass certification requirements as outlined in Appendix E of 49CFR Part 40.

**O. Drug Testing Administrator**

This individual holds the position of HR Drug Testing Program Coordinator within the City's Human Resources Department, and is responsible for employee and supervisory training, and for the development, administration, and monitoring of the alcohol/drug-testing program for the City of Tallahassee and for ensuring regulatory compliance. This is the primary staff contact responsible for answering questions about the City's anti-drug and alcohol misuse prevention program and this policy. This individual, or their designee, serves as the Designated Employer Representative (DER) regarding alcohol/drug testing or policy issues.

**P. On Call**

For purposes of this policy, an employee is deemed to be "on-call" when, outside the normal working hours of the employee and/or the employee's department, the department requires the employee to remain within a reasonable call-back radius and to carry a pager or to provide a telephone number where the employee can be reached, with the expectation and understanding that the employee will be required to return to "on-duty" status as quickly as possible if called by their supervisor or other appropriate designee and the employee is being provided an on-call bonus of pay or leave in consideration of the on-call assignment.

**705.05 COMMUNICATION OF POLICY/SUBSTANCE ABUSE INFORMATION TO EMPLOYEES/APPLICANTS**

- A. Each City employee will receive a copy or have a means for direct accessibility to this policy.
  1. The Human Resources Department shall be responsible for providing a copy of the policy to each new permanent employee as part of the orientation process.
  2. The hiring department shall be responsible for communicating this policy and providing a copy of the policy to each newly hired temporary employee (including seasonal recreation program employees).

3. The Human Resources Department shall be responsible for making available to each applicant for a temporary or permanent City position, a form letter summarizing the applicable drug/alcohol testing requirements for the position, which they are applying; and for keeping the policy posted in the Applicant Services Office.
4. The Departments shall be responsible for:
  - a. Communicating to each employee in their department the applicability of this policy to their individual jobs, and the associated consequences for non-compliance.
  - b. Ensuring that employees attend the required training as outlined in section 705.05(B) of this policy

**B.** The Human Resources Department Drug Testing Program Administrator shall conduct an ongoing drug-free awareness program and provide program information in compliance with Federal regulations to inform employees about the City's alcohol and drug policy, the dangers of drug/alcohol abuse, penalties for the violation of the policy the availability of drug/alcohol counseling; and information about the Employee Assistance Program (E.A.P.).

#### **705.06 DRUG AND ALCOHOL TESTING, NOTIFICATION AND CONSEQUENCES OF POSITIVE RESULTS**

Drug testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which facilities, which have been approved by the U.S. Department of Health and Human Services (DHHS). All drug testing will be conducted consistent with the procedures put forth in 49 CFR Part 40., as amended with due consideration for the protection, dignity, privacy, and confidentiality of the individual employee throughout the testing process.

Analytical urine drug testing and breath testing for alcohol will be conducted when circumstances warrant as required by this policy, pursuant to a collective bargaining agreement or as required by Federal regulations.

Unless otherwise specified, the City will pay for all alcohol/drug testing as required by Federal mandate, collective bargaining agreement, and this policy.

**A. Compliance with Testing Requirements (Revised 15 November 2009)**

1. All City employees and applicants for specifically designated positions are conditionally subject to urine drug testing and breath alcohol testing either as required by this policy or federal mandate. Upon notification that an alcohol/drug test is required, an employee or applicant for employment will report immediately, or as soon as possible after notification, to the designated facility for an alcohol breath test, or to the drug testing collection site and provide a specimen of his/her urine.
2. REFUSAL TO TEST
  - a. The following shall be considered a “refusal to test”:
    - i. Failure to appear for a required test, or failure to proceed immediately to the testing facility when directed;
    - ii. Failure to remain at the testing facility until the testing process is complete;
    - iii. Failure to provide a urine or breath specimen for alcohol and drug testing;
    - iv. Failure to provide a sufficient urine specimen for drug testing (45 ml. for DOT testing, 30 ml. for Non-DOT testing); or a sufficient breath sample, without a legitimate medical explanation;
    - v. Failure to undergo a medical evaluation as required by the Medical Review Officer (MRO) or Designated Employer Representative (DER) for drug or alcohol testing;
    - vi. Failure to cooperate with any part of the testing process, including but not limited to a verbal declaration of refusal, or any obstructive or confrontational behavior that disrupts the collection process, or any other action or inaction that prevents the drug and/or alcohol test from being administered;
    - vii. Failure to permit monitoring or observation of drug testing when so required;
    - viii. Failure to take a second test as directed by the collector or employer;
    - ix. A MRO’s verification of a test as adulterated or substituted,
    - x. Failure to sign the certification at step 2 of the Alcohol Test Form for required alcohol testing,
    - xi. Failure to follow the collector’s instructions for an observed collection per 49 CFR Part 40, as amended.
    - xii. Possession or wearing of a prosthetic or other device designed to interfere with the process for collecting a valid sample.
    - xiii. Admission to the collector or MRO that you adulterated or substituted the specimen.
  - b. A refusal to take a DOT test is considered a DOT refusal, and consequences will be in accordance with DOT agency regulations.

There are no consequences under DOT regulations for refusal to take a non-DOT test or to sign a non-DOT form. However, City policy, as contained herein, prescribes that the same consequences will apply for those in City-designated safety sensitive positions who refuse to take a non-DOT test.

- c. Any City employee who refuses to comply with a legitimate order for testing; who provides false information in connection with a test; or who attempts to falsify test results through tampering, contamination, adulteration, substitutions, or any other means, or who otherwise refuses to test as defined in subsection (a) above, shall immediately be removed from duty, placed on leave without pay status, and terminated from City employment. They will not be eligible to apply for re-employment with the City for one year.
- d. Non-City applicants for employment who refuse to comply with the testing requirement, falsify or adulterate a urine specimen or who otherwise refuses to test as defined in subsection (a) above, will be denied employment with the City for one year.
3. Departments are responsible for ensuring that employees/applicants are instructed to proceed to the testing facility immediately upon notification, or as operational conditions permit. This communication should be noted for later reference as needed.
4. Pursuant to a legitimate request by a supervisor for an employee to submit to an alcohol/drug test, if the employee is exhibiting violent or threatening behavior, the supervisor should not attempt to transport the employee for testing, but should notify the Tallahassee Police Department or appropriate agency of law enforcement jurisdiction of the disturbance.

This disturbance may constitute a refusal to be tested, and an insubordinate action, and may be grounds for disciplinary action of not less than a suspension without pay, up to and including termination.

## **B. Alcohol Tests** (Revised 08 April 2008)

Alcohol breath testing will be conducted in a manner to assure a high degree of accuracy and reliability utilizing a trained Breath Alcohol Technician (BAT). The test, expressed as a percentage, will measure the blood alcohol content (BAC) as defined in terms of grams of alcohol per 210 liters of breath. A second test will be conducted in all cases where the initial test measured a BAC above .000%, and action will be taken based on the BAC level of the second test as listed below.

1. The following are thresholds for alcohol testing along with the minimum mandatory employment action to be taken by departments:

- a. BAC Level .002% - .019%
- b. Employees testing at this level shall be prohibited from driving motor vehicles on City business, or operating hazardous equipment or machinery, until such time as their BAC is .000%. Subsequent alcohol tests shall be taken to confirm that a reading of .000% has been obtained prior to the employee returning to duty.
2. BAC Level .020% - .039%
  - a. This is considered a LOW LEVEL TEST RESULT.-
  - b. Employees testing at this level shall be removed from duty and referred for an EAP assessment. Prior to returning to duty, the employee must agree to and sign a Conditions of Employment agreement, and must complete a return-to-duty breath alcohol, if recommended by EAP based on their clinical assessment.
  - c. In consideration of the totality of the circumstances involved, disciplinary action in accordance with Chapter 709, Disciplinary Action/Personnel Policy and Procedures, may be necessary at the discretion of the Department.
3. BAC Level .040% and higher
  - a. This is considered a POSITIVE TEST RESULT -
  - b. An employee testing at this level shall immediately be suspended and placed on leave without pay status for a minimum of two weeks and subject to the conditions of Section 705.06 (H) of this chapter.

### **C. Pre-Employment Testing**

1. The City will conduct pre-employment drug testing as required by Federal mandate, City Commission directive, or collective bargaining agreement.
2. Upon identifying the top applicant for employment for a position requiring alcohol/drug testing, the employing department shall make a conditional offer of employment to the candidate. The applicant shall be notified that he/she is the top candidate for the vacancy, and that only upon determination of a negative test drug result will the employment offer be confirmed.
3. Under no circumstances may a candidate begin work in a position requiring a pre-employment drug test until the negative results of the drug test have been communicated to the department via the Human Resources Drug Test Coordinator, and the employing department is notified that it may confirm the offer of employment.
4. Non-City employee applicants for regular or part-time positions identified as safety sensitive positions, requiring drug testing will be subject to a pre-employment drug test as required for the position after a conditional job offer has been made.

5. If an applicant tests positive or has previously tested positive with the City for alcohol or for the illegal use of controlled substances, they will be disqualified from employment with the City for one year, and must demonstrate successful completion of a recognized rehabilitation program prior to being considered for employment. (Revised 8 April 2008)
6. City employees who are transferred to, promoted to, demoted to, or are applicants for regular or part-time positions identified as critical positions, safety sensitive positions, or positions governed by collective bargaining agreements requiring drug testing will be subject to a pre-employment drug test as required for the position, except in the following situation.
  - a. If the affected City employee is already in a critical position, safety sensitive position, or position governed by collective bargaining agreement prior to the promotion, transfer, or demotion, then a pre-employment drug test is not required.
  - b. If the City employee produced a confirmed positive drug test, he/she will be disqualified for employment in the applied for position and handled consistent with section 705.06 (H) of this policy.
7. Any City employee who is under the requirements of a Conditions of Employment Testing Agreement shall not be eligible for promotion, transfer, or assignment from a non-safety-sensitive to a safety sensitive position, or from a safety sensitive position to an alternate safety sensitive position until such time as the conditions of employment requirements are successfully completed. (Revised 14 Dec 2009)
  - a. If promoted or transferred from a safety-sensitive to a non-safety sensitive position, the employee must satisfy any existing Conditions of Employment Agreement while working in the new position.
  - b. If a former employee voluntarily resigned from City employment prior to successful completion of a Conditions of Employment Agreement, the former employee must provide an updated assessment from an Employee Assistance Professional or Substance Abuse Professional (as appropriate for the position) regarding successful rehabilitation prior to being rehired. If rehired, new Conditions of Employment may be imposed pursuant to the recommendations of the EAP/SAP provider.  
(NOTE: Voluntary resignation is not intended to include resignation in lieu of termination for a Conditions violation.)
8. Upon being notified of a positive pre-employment test result, the Drug Testing Administrator or designee shall notify the applicant of a positive drug test, which could not be cleared through documentation verifying that the positive test resulted from a controlled substance, which was legally prescribed or authorized by a physician.

9. All pre-employment drug tests must be conducted within 30 days prior to the date of hire. Tests conducted outside of the 30-day window shall be invalid for pre-employment purposes, and the applicant shall be re-tested.
10. Any employee in a safety sensitive position (excluding part-time workers in Parks and Recreation, Police Reserves, or Fire Reserves) who is out of work for an extended period of time, shall remain in the appropriate random testing pool and, should he or she be selected for testing, be sent for testing if they return to work during the testing period. If they will not be returning to work in the testing period, an alternate shall be taken.

#### **D. Random Testing** (revised 1/1/08)

1. For all employees in safety sensitive positions as defined in s. 705.04 K:
  - a. The City will conduct random unannounced alcohol/drug testing. A covered employee may be randomly tested anytime while on duty. Employees are subject to be randomly selected more than once or not at all during the annual period.
  - b. Random selection will be done through a computer generated selection process, with selection being on a numerically ordered basis. The number of tests conducted annually will be based on a number comprising up to 50% of the positions subject to testing, and will be spread throughout a twelve month period. Employees can be tested for alcohol just before, during and immediately after performing a safety-sensitive function.
2. Safety sensitive employees in temporary seasonal positions in the Parks and Recreation Department will be tested at a rate of 50% of the active, working employees subject to testing on a quarterly basis consistent with section D(1b) above. A review of all active, working, safety sensitive employees will be made on a quarterly basis and a composite list developed that can be run consistent with section D(1b) above. All temporary seasonal employees selected must be tested within that quarter and consistent with 705.06A, "Compliance with Testing Requirements" and 1a above. An employee that works more than one season could potentially be selected more than once a year dependent upon whether their name is selected for more than one active, working quarter.

#### **E. Reasonable Suspicion Testing**

1. When there is reasonable suspicion based upon objective factors resulting in a reasonable and articulated belief that the employee is using, under the influence of, or impaired by alcohol, or a controlled substance on the basis of specific, physical, behavioral, or performance indicators suggesting such use, the employee will be required to take an alcohol and/or drug test,

depending on the specific knowledge or behaviors identified and articulated in the determination of reasonable suspicion.

((For example, if it were reported that a supervisor smelled the odor of alcohol on an employee's breath, the supervisor would request a test for alcohol only. Conversely, if the behavior reported specifically related to the use of drugs, i.e. observed smoking marijuana, then the reasonable suspicion test would be for drugs only. However, if there is a combination of short and/or long term behavioral indicators present, and there is no specific substance usage that can be articulated, then the employee would be tested for alcohol and drugs.)

2. Conditions which may constitute reasonable suspicion include, but are not limited to any of the following:
  - a. Slurred speech.
  - b. Odor of alcohol.
  - c. Inability to walk a straight line/staggering gait.
  - d. A traffic crash or occupational accident which does not meet the conditions specified in section 705.04, but where one or more of the above factors is present
  - e. Physical or verbal altercation.
  - f. Bizarre or erratic behavior.
  - g. Extreme lethargy or excitation.
  - h. Dramatic mood swings.
  - i. Information obtained from a reliable person with personal knowledge.
  - j. Observation of the ingestion or possession of alcohol or an illegal controlled substance as defined in Chapter 877 and 893, Florida Statutes, during working hours or while on City property, or while operating a City vehicle off-duty.
  - k. Possession of paraphernalia normally associated with improper, unauthorized, or illegal use of alcohol or controlled substances.
3. In accordance with federal regulations, a referral for a DOT reasonable suspicion test must be made by a trained supervisor.

**F. Post-Accident Procedures and Testing** (revise 08April 2008)

1. a. The supervisor of a city employee involved in an occupational or traffic crash accident involving a City employee on City business, or an off-duty City employee operating a City vehicle or equipment, shall collect the facts regarding the incidents as soon as possible after being notified of the accident.  
b. Based on these facts, the supervisor shall ensure that an appropriate post-accident alcohol and drug test is performed on any City employee involved in an accident while on City business or while operating a City vehicle, or equipment off-duty under the following conditions:
  2. **DOT POST-ACCIDENT TEST** shall be conducted for accidents meeting either:
    - a. The FTA Post accident-testing thresholds, where either:
      - i. the accident is associated with the operation of a revenue vehicle and an individual dies as a result; or
      - ii. the employee's performance could have contributed and as a result of the accident, an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
      - iii. the employee's performance could have contributed and the accident involves a bus and one or more vehicles involved in the accident incurs disabling damage and is transported away from the scene by tow truck or other vehicle

OR

- b. *The FMCSA Post accident-testing thresholds*, where:
  - i. The accident is associated with the operation of a vehicle which requires a Commercial Driver License (CDL) for lawful operation and an individual dies as a result; or
  - ii. A Non-revenue vehicle operated by CDL holder with injury requiring medical treatment away from the scene AND employee receives a traffic citation; or
  - iii. A Non-revenue vehicle operated by CDL holder WITH any vehicle towed AND employee receives a traffic citation.

OR

- c. *The RSPA Post accident-testing threshold*, where:

- i. A gas pipeline accident results in a fatality (death); or
  - ii. A gas pipeline accident results in property damage and/or gas lost equaling \$50,000 or more AND employee's actions could have contributed to accident.
3. **A NON-DOT POST-ACCIDENT TEST** shall be conducted for accidents meeting any of the following criteria:
  - a. A vehicle accident which does not require a CDL or a non-vehicular occupational accident which results in a fatality (death); or
  - b. Non-revenue vehicle accident, or a non-vehicular occupational accident, WITH serious injury AND employee's actions could have contributed to accident; or
  - c. Any accident (including non-vehicle) not meeting any criteria defined above that results in property damage equaling or exceeding \$5,000 AND employee's actions could have contributed to accident.
4. The employee(s) to be tested will be tested as soon as possible following the accident, but not to exceed eight hours for alcohol testing and 32 hours for drug testing.  
If for any reason an alcohol test is not administered within two hours following the accident, the Department shall maintain on record on the post-accident worksheet a record stating why the alcohol test was not administered within two hours. If the alcohol test is not administered within eight hours following the accident, the Department shall cease attempts to administer an alcohol test and maintain record on the post-accident worksheet.
5. A City employee involved in a traffic crash whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident must refrain from alcohol use for eight hours following the accident, and may be tested during that period, whether on or off-duty, if the accident meets the criteria for post-accident testing defined above.
6. A City employee involved in a traffic crash while on-duty or operating a City vehicle off-duty must remain readily available for post accident testing AND may not leave the accident scene until the law enforcement officer and/or the responding departmental supervisor have either initiated the alcohol/drug testing process as required, or released him indicating that alcohol/drug testing is not required.

- 7 An employee who leaves the accident scene in violation of subsection 705.06 (F)(6) without justifiable explanation and/or is not readily available for testing (including notifying the employer or employer representative of his or her location if he or she leaves the scene of the accident prior to submission of such test or prior to determining the need of the employee to submit to alcohol/drug testing), will be considered to have refused to submit to testing, and will be deemed to have tested positive and handled consistent with subsection 705.06 (H) of this policy.
- 8 Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. If an employee is unavailable for testing immediately following a qualifying accident because of his arrest, hospitalization, or other need for medical treatment, the employee shall be required to provide a urine sample as follows:
  - a. If it is apparent that the employee will be hospitalized for less than 32 hours following a qualifying accident, the employee's supervisor upon notification of the employee's release from the medical facility shall direct him to go to the testing facility to provide a urine sample.
  - b. If it is apparent that the employee will be hospitalized for more than 32 hours following a qualifying accident, the employee's supervisor should contact the Drug Test Coordinator who shall arrange for personnel from the drug testing facility to go to the hospital to obtain the employee's urine sample within 32 hours following the accident.
  - c. If the employee is arrested and is released from jail within 32 hours following a qualifying accident, his supervisor shall instruct him to immediately go to the drug testing facility to provide a urine sample for testing.
9. If the employee does not meet the criteria for post-accident testing as specified in (F) (2) or (F) (3) above, the employee shall be treated for any possible injury, returned to duty, or sent home. The employee may be subject to disciplinary action for policy or legal infractions associated with the accident.
10. In the absence of conditions that meet those specified in (F)(2) or (F) (3) above, prior to allowing the employee to leave the accident scene, if the supervisor has reasonable suspicion to believe that the employee may be impaired by alcohol or a controlled substance, the supervisor shall send the employee for a reasonable suspicion test for alcohol and/or controlled substances, as per section 705.06 (E) of this policy.

11. Following the administration of a post-accident alcohol or drug test, the employee may be returned to duty so long as there is not a positive alcohol test result and there is no other reason to believe that the employee either has been using a controlled substance, or is otherwise impaired to drive or engage in potentially hazardous work operations.
12. Departments are responsible for ensuring that employees/applicants are instructed to proceed to the testing facility immediately upon notification, or as operational conditions permit. This communication should be noted for later reference as needed.

#### **G. Drug Test Panels/Positive Drug Tests**

1. For drug testing, the drugs that will be tested for include, but may not be limited to: marijuana, cocaine, opiates, amphetamines, and phencyclidine. Other controlled substances may be tested for if there is reasonable suspicion that an employee may be illegally using a controlled substance not currently part of the specified test panel. An initial drug screen will be conducted on each specimen.

1. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.

All positive drug test results obtained from drug testing pursuant to Federal regulation shall be reviewed and interpreted by a Medical Review Officer (MRO) prior to transmittal to the City. This review consists of a confidential interview with the employee to determine if there is an alternative medical explanation for the drugs found in the employee's specimen. If the employee provides appropriate documentation that it is a legitimate medical use of the prohibited drug, the drug test result is reported as negative to the City and no further action is required.

#### **H. Consequences of Positive Alcohol/Drug Test Results and Negative Dilute Results**

1. If the employee is a temporary employee or employee who has not successfully completed an initial probationary period, upon confirmation of a positive test result for the illegal use of a controlled substance, or for the presence of alcohol at a blood alcohol level of .04 or higher, shall immediately be removed from duty, placed on leave without pay status, and terminated from City employment.

2. If the employee is employed in a safety sensitive position, upon confirmation of a positive test result for the illegal use of a controlled substance, or for the presence of alcohol at a blood alcohol level of .04 or higher, an employee in a safety sensitive position shall immediately be removed from duty, placed on leave without pay status, and terminated from City employment.
3. If the employee is employed in a non-safety sensitive position, upon confirmation of a positive test result for the illegal use of a controlled substance, or for the presence of alcohol at a blood alcohol level of .04 or higher, the employee shall immediately be removed from duty, placed on leave without pay status, and be subject to disciplinary action up to and including termination from City employment. At a minimum, the employee shall immediately be suspended and placed on leave without pay status for two weeks.

During this time, as a condition of continued employment, the employee will be referred for evaluation by a Substance Abuse Professional (SAP) to determine what assistance, if any, to assist the employee in resolving problems associated with substance abuse.

4. If the result is a negative dilute, an immediate retest under non-observed conditions will be required. The results of the second test will stand as the results of record.

## **I. Second Positive Test**

For employees in non safety sensitive positions who have previously tested positive for alcohol or the illegal use or abuse of controlled substances, any subsequent on-duty positive test for alcohol or the illegal use or abuse of controlled substances shall result in the employee being immediately removed from duty, placed on leave without pay status, and terminated from City employment.

Any employee who is terminated as a result of this policy shall be advised of the community treatment resources available to assist in the resolution of their alcohol/drug problems.

## **J. Cost of Treatment**

The cost of any treatment or rehabilitation services, beyond the scope of services provided by the employee's benefit plan will be paid directly by the employee to the provider. Employees may use accumulated leave for which they are eligible, in any prescribed rehabilitation program, pursuant to the City's leave policy. This does not include or allow the use of accumulated leave during the term of suspension or leave without pay period.

## K. Return to Duty

### 1. *Alcohol/Drug Tests*

- a. Prior to returning to duty, any City employee who previously tested positive for alcohol or illegal controlled substances on either:
  - i. A fitness for duty test required subsequent to an off-duty alcohol- or drug- related criminal charge or an employee's Voluntary Rehabilitation request (as defined in s. 705.07(C)), *or*,
  - ii. A reasonable suspicion test as defined in s. 705.06 (E) for a non-safety-sensitive employee, must comply with any conditions of employment agreement and/or rehabilitation program requirements recommended by a City-designated treatment counselor.
- b. The employee will have a maximum period of eight weeks (56 calendar days) to produce a negative test for alcohol and controlled substances, and to be released for return to duty by the treatment counselor. If an employee does not produce a negative return to duty test and secure release by the treatment counselor within this period, the employee will be terminated from City employment.

### 2. *Conditions of Employment Agreement*

Pursuant to a non-safety-sensitive employee testing positive on an alcohol or drug test, and prior to returning to duty, the employee must agree to and sign a Conditions of Employment Agreement. This agreement should include, but is not limited to:

- a. A release to return to duty statement from the City's SAP.
- b. An agreement that a failure to produce a negative alcohol and drug test within 56 days following the initial positive test will result in the employee's termination.
- c. An agreement to unannounced random follow-up testing, as directed by the SAP. The number and frequency of such follow-up testing shall consist of at least six tests in the first 12 months following the employee's return to duty. Follow-up testing shall be evaluated annually, for a period not to exceed 60 months from the date of the employee's return-to-duty.
- d. An agreement to pay for all alcohol/drug tests conducted pursuant to the Conditions of Employment Agreement.

- e. An agreement to comply with all specified rehabilitation requirements.
- f. An agreement that a violation of the Conditions of Employment Agreement is grounds for further disciplinary action up to and including termination from City employment.
- g. An agreement that any subsequent on-duty positive alcohol or drug test will result in the employee's termination from City employment.

## **L. Notification of Arrest/Conviction** (revised 12/8/03)

A City employee is required to notify his supervisor within one business day if the employee has been arrested for or convicted of an alcohol or drug offense occurring at the workplace; or of any arrest, on or off-duty, for a felony or first degree misdemeanor in accordance with Section 706.09 E 1 of the Criminal History Policy, or if the employee's drivers license has been suspended or revoked for a drug or alcohol related offense and a valid drivers license is required for the job.

## **M. Legal Drug Use/Potential Impairment**

### **1. Non-prescription medications**

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, employees should use extreme caution when using any non-prescription medication which carries a warning label that indicates that mental functioning, motor skills, or judgment could reasonably be impaired. When taking such medications employees should seek medical advice, as appropriate, before performing work related duties, and shall notify their supervisor of any impairment which they may be experiencing.

### **2. Prescription Medications**

When taking prescription medications, employees must seek specific advice from their physician or a pharmacist that the substances in a prescription, or potential prescription interactions, will not adversely affect their ability to safely operate a motor vehicle, impair their mental functioning, motor skills, judgment, or their ability to perform their essential job functions.

Before performing work related duties, employees shall notify their supervisor of any actual or potential adverse affects which are occurring or which they have been advised may occur.

Upon being notified of actual or potential adverse affects from the substances in a prescription, the employee's supervisor shall be responsible for either re-assigning employees to non-safety sensitive or non-hazardous work tasks where possible, or requiring the employee to take leave consistent with City policy.

## **N. Retention of Samples and Re-testing of Positive Results**

The following procedures are to be utilized in the retention and re-testing of all samples collected under the testing requirements of Federal regulation, City policy, or collective bargaining agreement.

1. Applicants or employees who test positive for a controlled substance have the right to have their original samples retested at their own expense. The applicant or employee must submit a written request for a retest to the City's Medical Review Officer (MRO) within 72 hours of the time the employee is notified by the MRO of the verified positive result.
2. They may request any laboratory to perform a retest as long as the testing laboratory is certified by the Department of Health and Human Services under the Department Of Transportation (DOT) procedures which will be verified by the MRO. The employee or applicant will be reimbursed and reconsidered for employment if the second test is negative.
3. Samples that yield positive results on confirmation must be retained by the testing laboratory in properly secured, long term frozen storage for at least 365 days as required by Federal procedure.

## **705.07 EMPLOYEE ASSISTANCE PROGRAM (EAP)**

### **A. Reasonable Accommodation**

The City of Tallahassee is committed to providing reasonable work accommodation to an employee who voluntarily participates in a rehabilitation program or whose drug and/or alcohol problem classifies him as disabled under federal law.

### **B. EAP Assistance**

The City's Employee Assistance Program (EAP) is available to assist employees with alcohol and drug problems. An employee seeking assistance may contact his supervisor, the EAP Coordinator or the EAP provider directly. An employee may also seek assistance through his health benefit plan.

**C. Voluntary Rehabilitation** (revised 27 Sep 2010)

An employee in a safety sensitive position who is not under administrative or criminal investigation or arrest for an alcohol or drug related matter, who has not been notified by his department to comply with a legitimate order for testing pursuant to this policy, who has not tested positive for alcohol or a controlled substance, and who voluntarily acknowledges a problem with drug or alcohol use or abuse to their department will be immediately removed from safety sensitive functions, subjected to a fitness for duty test for alcohol and/or controlled substances, and referred to the EAP for the purpose of determining the need to impose duty restrictions and a rehabilitation plan.

Under the qualifying criteria stated above, an employee testing positive for alcohol or drugs pursuant to the fitness for duty test after voluntarily submitting himself for rehabilitation and testing shall not be disciplined. If an employee tested positive on a fitness for duty test, prior to returning to safety sensitive functions, the employee shall be required to produce a negative test result on a return to duty alcohol/drug test

However, the employee shall be subject to disciplinary action up to and including termination from City employment for any subsequent positive test results, (including the return to duty test) or other violations of rules, policies and procedures unrelated to the positive test resulting from the voluntary rehabilitation.

All Employees also have the option of reporting substance abuse problems directly to the Employee Assistance Program, absent involvement or knowledge by City staff. Under these conditions it is the employee's responsibility through consultations with the Employee Assistance Program, to take the appropriate measures, i.e., abstinence from usage, approved leave, request for leave without pay, etc. to ensure that he/she will not be detected "positive" on an alcohol or drug test pursuant to a legitimate order for testing under this policy.

**705.08 CONFIDENTIALITY/RECORDS RETENTION****A. Confidential Handling of Test Results**

City personnel knowledgeable of, or involved in handling information related to alcohol/drug tests, investigations, or infractions, shall ensure that any such information is discreetly handled with information not being communicated beyond those who have a need to know. Failure to properly handle alcohol and drug information may result in disciplinary action up to and including dismissal. More specifically, those personnel directly responsible for handling alcohol/drug related issues shall ensure that:

1. Information regarding an individual's drug test results or rehabilitation may be released only upon the written consent of the individual, except that such information must be released regardless of consent to the U.S. DOT or the representative of a state agency upon request as part of an accident investigation, or in certain legal proceedings, including lawsuits, grievances, or unemployment compensation hearings, brought by or on behalf of an employee resulting from a positive test or refusal to test. (Revised 08 April 2008)
2. Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the Administrator or the representative of an authorized state agency upon request.
3. The hard copy of a pre-employment alcohol/drug test shall not be included in an applicant's file, but shall be retained by the Human Resources Testing Administrator in a separate medical file.
4. The hard copy of a during-employment alcohol/drug test and any ancillary medical materials shall not be included in an employee's personnel file, but shall be retained in a separate medical file. (Reference to "Section 705 Policy Violation" may be made if disciplinary action is taken against the employee). Any conditions of employment, which may be established as a result of the drug test, will become part of the employee's medical file. (Revised 8 April 2008)
5. The City will maintain and retain records related to the alcohol/drug-testing program **for five years**. The records retention includes data related to drug/alcohol test results, the collection process, education and training of employees/supervisors, breath alcohol and collection technicians, covered employees' referrals to the SAP, documents generated in connection with decisions to administer reasonable suspicion alcohol/drug tests resulting in positive tests, documents generated in connection with decisions on post accident alcohol/drug testing resulting in positive tests, and copies of annual MIS reports submitted to the Federal Department of Transportation. (Revised 10 October 2008)

## **B. Disclosure of Information**

Test results and ancillary material may be disclosed to City management personnel on a need-to-know basis, or to any person upon the written request and consent of the employee or applicant.

Disclosures, without applicant or employee consent, may occur when:

1. The information is compelled by law, or by judicial or administrative process.
2. The information has been placed at issue in a formal dispute between the City and an employee or applicant.
3. The information is needed by medical personnel for the diagnosis or treatment of a patient who is unable to authorize disclosure.

## 705.09 REQUIREMENTS OF EMPLOYEES

All employees are expected to report to work in a state of mind and physical condition so as to perform their assigned duties safely and competently. To this end, employees must:

- A. Report to work and be able throughout the work day or in call-back status to perform job duties in a manner that is not impaired or influenced by the use of alcohol and/or illegally used or abused controlled substances.
- B. Not possess, use, purchase, manufacture or dispense alcohol or illegal controlled substances at any time while on-duty, off-duty wearing a City of Tallahassee uniform, on City property or in City vehicles, other than for a work related reason (e.g., police officers)
- C. Not use alcohol or illegally use or abuse controlled substance when on call.
- D. Submit immediately to an alcohol/drug test under the circumstances described in this policy
- E. If using a legal drug or an over the counter substance, which is impairing the employee's ability to perform his job (i.e., causing drowsiness, slowing reaction times, distorting perception, or otherwise impairing the employee's performance), he must request temporary reassignment or leave as appropriate. Under no circumstances shall an employee work in a condition which increases risk to life, limb or property.
- F. Immediately report any observed violation of this policy to the employee's supervisor or any supervisor within the department, Human Resources, or The Drug Testing Administrator. This report can be made anonymously and should include the name of the employee who is allegedly violating this policy as well as the type of violation and any relevant information concerning the violation.
- G. As per City Safety Policy, Chapter 731.03(A), a City employee who is involved in an industrial or motor vehicle accident on-duty, on City business or while operating a City vehicle off-duty shall notify his supervisor of the accident as soon as possible following the accident.

**705.10 REQUIREMENTS OF MANAGERS/SUPERVISORS**

- A. The implementation of this policy is the responsibility of each appointed official, department director, division director, and supervisor. The City reserves the right to use whatever means the law allows to provide a workplace, which is free of alcohol and/or the illegal use or abuse of controlled substances.
- B. Require that an employee submit to an alcohol and/or drug test, after obtaining the approval of the section supervisor, division director, assistant department director, or department director, when there is reasonable suspicion, as defined in section 705.06 (E) of this policy, that the employee is under the influence of alcohol, and/or controlled substances, and otherwise exhibiting behaviors indicating impaired performance on the job. The Alcohol and Drug Reasonable Suspicion form shall be completed prior to the test(s) being administered. The employee will be given a copy of the completed ADRS form prior to the testing to ensure that an employee is aware of the reasonable suspicion criteria cited, and the consequences of a refusal to test.
- C. If there is not reasonable suspicion, but there is knowledge that an employee in a safety-sensitive position used alcohol within four hours prior to performing a safety-sensitive function, the employee shall be prohibited from working in a safety sensitive function until such time as a minimum of four hours has elapsed from the stated or documented time of such alcohol use.
- D. The City of Tallahassee is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor or manager who knowingly disregards the requirements of this policy, or who is found to deliberately fail to act, or to misapply the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

**705.11 NOTIFICATION OF GRANTOR AND/OR CONTRACTING AGENCIES**

In compliance with the Federal Drug-Free Workplace Act of 1988, the employing department will inform the appropriate grantor and/or contracting agency of the conviction of any employee involved in a workplace drug crime within ten days of learning of the conviction and copy the HR Drug Testing Administrator with such notice.

**705.12 CONSEQUENCES OF VIOLATION OF THE  
ALCOHOL AND DRUG POLICY**

An employee found to be in violation of any provision of this policy shall be subject to disciplinary action up to and including dismissal. Conditions which may warrant the retention of said employee may include but not be limited to: nature of job, length of service, quality of job performance, and nature of offense.

**705.13 RIGHT TO APPEAL**

An applicant or employee who feels he has not been treated fairly in regards to this policy may file a complaint pursuant to the City of Tallahassee Applicant Complaint or Grievance Policy as provided in sections 702.02D and 710.

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## APPENDIX A

**(Star MetroONLY)**

Safety Sensitive Positions – Federal Transit Administration:

Administrative Specialist II  
Asst. Director – Taltran  
Coach Operator  
Coach Operator Special Transportation  
Coach Service Attendant  
Communications Operator  
Information Clerk  
Information Clerk/Cashier II  
Mechanic II  
Paint/Body Mechanic  
Security Guard  
Superintendent of Transit Operations  
Supervisor Equipment Service  
Supervisor Special Transportation  
Supervisor Transit Services

## APPENDIX B

# Deterioration of Job Performance Associated with Substance Abuse

### Absenteeism & Tardiness

- Unauthorized leave
- Excessive sick leave
- Monday & Friday absences
- Repeated absences of 2 –4 days
- Repeated absences of 5 – 10 days
- Excessive tardiness, especially returning from lunch or on Monday mornings
- Leaving work early
- Peculiar and improbable excuses for absences
- Higher absenteeism rate than other employees: colds, flu, gastritis, etc.
- Frequent unscheduled short-term absences

### Work Patterns

- Difficulty in concentrating
  - ◆ Work requires great effort
  - ◆ Jobs take more time
  - ◆ Hand tremors
- Confusion
  - ◆ Difficulty in recalling instructions
  - ◆ Difficulty with complex assignments
  - ◆ Difficulty recalling own mistakes
- High & low periods of productivity
- Lowered job efficiency
  - ◆ Missed deadlines
  - ◆ Mistakes due to inattention
  - ◆ Waste of material
  - ◆ Bad decisions
  - ◆ Subject of complaints from the public
  - ◆ Improbable excuses for poor performance

### **On-The-Job Absenteeism**

- Continued absences from post
- Frequent trips to water fountain or bathroom
- Long coffee breaks
- Physical illness on the job

### **Accidents**

- Accidents on the job
- Accidents off the job, affecting job performance
- Ignoring safety rules
- Using equipment recklessly
- Taking unreasonable risks

### **Employee Relationships on the Job**

- Over-reaction to real or imagined criticism
- Withdrawal or unusually talkative
- Mood swings
- Borrowing money from co-workers
- Subject of complaints from co-workers
- Unreasonable resentments
- Avoidance of associates

## **APPENDIX C**

**(GAS PIPELINE POOL ONLY) (Added 10/10/08)**

Safety Sensitive Positions-Gas Transmission & Distribution  
(Current list may be modified to address the need of organizational restructuring)

Superintendent Meter Service Technician  
Inspection Construction  
Corrosion Specialist  
Senior Gas Measurement Technician  
Meter Service Technician  
Utility Service Worker