

COLLECTIVE BARGAINING AGREEMENT

Non-Supervisory Unit

Town of Palm Beach

&

Professional Firefighters/Paramedics
Palm Beach County, Local 2928

Fiscal Year 2010 - 2011

ARTICLE 1

PREAMBLE

1.1 This Agreement is entered into by and between the TOWN OF PALM BEACH, hereinafter referred to as the Town, and the PROFESSIONAL FIRE FIGHTERS/PARAMEDICS OF PALM BEACH COUNTY, LOCAL 2928, IAFF, INC., hereinafter referred to as the Union.

1.2 It is the purpose of this Agreement to achieve and maintain harmonious relations between the Town and the Union, to document agreed-upon wages and other terms and conditions of employment, and to provide a procedure for resolution of grievances.

1.3 The provisions of this Article shall not be used as the basis for a grievance or as support for a grievance under any other Article of this Agreement.

ARTICLE 2

RECOGNITION

The Town recognizes the Union as the exclusive bargaining representative for all employees in the supervisory bargaining unit certified by the Town of Palm Beach Public Employees Relations Commission, as follows:

INCLUDED: All regular full-time employees of the Town of Palm Beach in the classification of Firefighters/EMT, Firefighter/Paramedic, Firefighter/EMT/Driver Operator, and Firefighter/Paramedic/Driver-Operator.

EXCLUDED: Fire Chief, Assistant Chief of Administration, Assistant Chief of Operations, Emergency Medical Services Coordinator (Division Chief), Fire Marshal (Division Chief), Training & Safety Officer (Division Chief), Battalion Chief, Assistant Fire Marshal, Administrative Lieutenant, Fire-Rescue Lieutenant/EMT, Fire-Rescue Lieutenant/Paramedic, Fire-Rescue Mechanic, EMS Billing Specialist, Office Assistant II, Administrative Coordinator, Office Manager, and all other employees of the Town of Palm Beach.

ARTICLE 3

DUES DEDUCTION

3.1 Any member of the Union, who has submitted a properly executed dues deduction authorization to the Town, in accordance with a format prescribed by the Town, shall have his/her membership dues and uniform assessments in the Union deducted from his/her wages on a monthly basis. Additionally, upon properly executed authorization, legal services plan payments shall be deducted from the employee's wages on a monthly basis; provided that the legal services plan pursuant to which such payments are being made is not utilized to render legal advice or take legal action against the Town or its elected or appointed officials. Dues, uniform assessments, and legal services plan payments so deducted from each employee's wages shall be forwarded by the Town to the Union. However, the Town shall have no responsibility or liability for any monies once sent to the Union. The Union shall indemnify the Town and hold it harmless against any and all suits, claims, demands, and liabilities which arise out of or by reason of any action taken or not taken by the Town to comply or attempt to comply with the provisions of this Article.

3.2 It shall be the responsibility of the Union to notify the Town of any change in the percentage amount of dues to be deducted at least thirty (30) days in advance of said change. Under no circumstances shall the Town be required to deduct Union fines, penalties, political action payments, or special assessments of any kind.

3.3 Any member of the Union may, on thirty (30) days written notice to the Town and the Union, request that the Town cease making deductions from his/her wages.

3.4 The Union agrees that a reasonable charge for having its dues and uniform assessments deducted by the Town is fifty cents (\$.50) per employee for each new enrollment for

normal bookkeeping services. Such charges shall be deducted from the amounts forwarded by the Town to the Union.

ARTICLE 4

UNION BUSINESS AND REPRESENTATION

4.1 The District Vice President of the Union shall designate three (3) shift representatives (employees) and three (3) alternate shift representatives (employees) to represent the Union. (An alternate shift representative may represent the Union if the regular shift representative is not available.) It shall be the responsibility of the District Vice President to notify the Town in writing of the name of the three (3) shift representatives and three (3) alternate shift representatives so designated and any change thereto. (A shift representative or alternate shift representative will not be recognized by the Town unless the Fire Chief and the Human Resources Director receive such written notification.) The same three (3) shift representatives shall represent the Union in connection with both the supervisory and non-supervisory bargaining units.

4.2 The on-duty shift representative shall be permitted to process a formal grievance with the appropriate Town or Departmental official at the Steps of the grievance resolution procedure herein, while on duty; provided that this activity does not interfere with emergency activities or scheduled activities which cannot reasonably be rescheduled. Under no circumstances shall the shift representative leave his/her assigned duties to process a formal grievance under the Steps of the grievance resolution procedure without first obtaining authorization from the Fire Chief, the Assistant Chief of Operations, or their designee. (The on-duty shift representative shall be permitted to represent an employee under investigation during an interrogation under the conditions set forth in this paragraph.) The use of Town equipment and resources, including the Town's e-mail system, for Union business without the approval of the Fire Chief or his designee is prohibited.

4.3 Except for the processing of a formal grievance and the representation of an employee under investigation during an interrogation under the conditions set forth in paragraph 4.2 above, a shift representative shall be paid by the Town only when he/she performs assigned fire and rescue duties and/or work directed by the Town. Union business, including, but not limited to, attendance at negotiations, PERC proceedings, arbitrations, and grievance investigations, shall not be compensated by the Town, unless attendance is required by the Town.

MEETING ROOM

4.4 The Town agrees to grant the Union permission to use Station 3 meeting rooms for its monthly Union meetings and special Union meetings as space and scheduling permit and under the same conditions as other external organizations. The Union will supply the Town with a schedule of monthly meetings and will provide forty-eight (48) hours of special Union meetings.

4.5 On-duty personnel assigned to Station 3 on the day of the Union meeting shall be allowed to attend; provided that the Union meeting takes place after 1700 hours and that such attendance does not interfere with responding to emergency situations.

4.6 The Union agrees to leave any meeting room in its original condition at the end of the meeting.

ARTICLE 5

BULLETIN BOARDS

5.1 The Town shall provide the Union with a twenty-four (24) inches by thirty-six (36) inches space in each fire station in the kitchen/dining room area for the Union's bulletin board. (The Union shall provide the bulletin board.) The Union shall utilize the same bulletin board for both the supervisory and non-supervisory bargaining units.

5.2 The Union's bulletin board may be utilized for the posting of notices of Union meetings, notices of Union elections and results, minutes of Union meetings, copies of the Union's constitution and by-laws and amendments thereto, notices of Union recreational, business, and social functions, names of Union officials and changes thereto, and notices of dues increases.

5.3 The Union shall post no material on its bulletin boards which may be characterized as political (other than internal Union elections), which may encourage insubordinate behavior, or which is derogatory or demeaning of Town or Departmental officials or operations. All materials placed upon the Union bulletin boards will be signed and dated by the Union President or another officer of the Union. A copy of all materials to be posted shall be provided to the Fire Chief or the Assistant Chief of Operations prior to posting. Materials which violate the provisions of this Article shall not be posted and may be removed.

ARTICLE 6

MANAGEMENT RIGHTS

6.1 Except as specifically restricted by the provisions of this Agreement, the Town reserves and retains all rights, powers, prerogatives and authority customarily exercised by Management.

6.2 Except as specifically restricted by the provisions of this Agreement, the Town has the sole and exclusive right to manage and direct any and all of its operations. Accordingly, the Town specifically, but not by way of limitation, reserves the sole and exclusive right to:

- A. Exercise complete and unhampered control to manage, direct, and totally supervise all employees of the Town;
- B. Decide the scope of service to be performed and the method of service;
- C. Determine the size and composition of the workforce;
- D. Determine the services to be provided to the public, and the maintenance procedures, materials, facilities, and equipment to be used, and introduce new or improved services, maintenance procedures, materials, facilities, and equipment;
- E. Hire and/or otherwise determine the criteria and standards of selection for employment;
- F. Determine the number, classification, grade, and types of positions;
- G. Fire, demote, suspend, or otherwise discipline bargaining unit employees; set minimum performance standards for service to be offered to the public, and set procedures and standards to evaluate the employees' job performance;
- H. Change, modify or alter the composition and size of the workforce, including the right to relieve employees from duty due to lack of work or lack of funding or any other business and/or operational reason, and recall employees;
- I. Determine the allocation and content of job classifications and determine all training parameters for all bargaining unit positions, including persons to be trained and extent and frequency of training;

- J. Determine whether and to what extent the work required in its operation shall be performed by employees covered hereunder;
- K. Modify operations, duties, tasks, and/or responsibilities, temporarily or permanently, in whole or in part, due to operational requirements; determine the number, location, and operation of all divisions and all other organizational units;
- L. Establish, amend, revise and implement any program, policy and/or procedure, provided that such action is not unreasonable;
- M. Merge, consolidate, expand, curtail, transfer, or discontinue operations, temporarily or permanently, in whole or in part, whenever in the Town's discretion business and/or operational reasons make such curtailment or discontinuance advisable;
- N. Contract and/or subcontract any existing or future work;
- O. Create, expand, reduce, alter, combine, assign, or cease any job;
- P. Control the use of equipment and property of the Town and determine the number and classification of employees assigned to any shift, station, or piece of equipment;
- Q. Exercise such other management rights as set forth in Chapter 447, Florida Statutes, and/or as determined by the state or local Public Employees Relations Commission or the courts.

6.3 The above rights of the Town are not all-inclusive but indicate the type of matters or rights which belong to and are inherent in the Town in its general capacity as management. Any of the rights, powers, and authority that the Town had prior to entering into this Collective Bargaining Agreement are retained by the Town unless otherwise restricted by a specific provision of this Agreement. If the Town fails to exercise any one or more of the above functions from time to time, this will not be deemed a waiver of the Town's right to exercise any or all of such functions.

6.4 Nothing herein shall be deemed a waiver of the Union's right to impact bargain if, and to the extent, such right exists under applicable law.

FY 10-11 Final

ARTICLE 7

SAFETY COMMITTEE

7.1 There shall be a Town of Palm Beach Fire-Rescue Department Safety Committee. The Safety Committee shall be comprised of four (4) members, i.e., two (2) bargaining unit employees appointed by the Union (one from the supervisory unit and one from the nonsupervisory unit) and two (2) non-bargaining unit employees appointed by the Fire Chief. The Fire Chief shall appoint one of the aforesaid bargaining unit or non-bargaining unit employees to chair the Safety Committee and preside at all of its meetings. The Town Risk Manager shall serve on the Safety Committee in an ex-officio capacity.

7.2 The Safety Committee shall meet quarterly, and such meeting shall be scheduled at the time established by the Fire Chief. (The Fire Chief may, in his/her discretion, schedule a special meeting as he/she deems appropriate.)

7.3 The purpose of the Safety Committee meetings is to discuss problems and issues relating to the safety and well-being of all Fire-Rescue Department personnel and the public.

7.4 The meeting shall be conducted on an informal basis. Any member of the Safety Committee may submit items for consideration at the Safety Committee meeting by providing same to the Fire Chief at least five (5) calendar days prior to the Safety Committee meeting. The Fire Chief shall coordinate the distribution of the Safety Committee agenda and shall also arrange for minutes to be taken and distributed to the Safety Committee members and posted at each Fire-Rescue Station.

ARTICLE 8

WORK STOPPAGES

8.1 There shall be no strikes, work stoppages, slowdowns, interference with work or operations, or picketing in furtherance of any strike or work stoppage, or any form of concerted refusal to perform work by the Union or any employee covered under this Agreement. Picketing, as used herein, shall mean any action which has the effect of preventing any employee from reporting to or continuing to work, or preventing the public from entering any facility.

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

ARTICLE 9

PERSONNEL REDUCTION

9.1 In the event it is necessary to reduce the number of bargaining unit employees, the Town shall first identify the classification(s) to be impacted. Probationary employees in such classification(s) shall be laid off first. Thereafter, the employee in the classification to be reduced with the least seniority shall be laid off first.

9.2 Employees who are laid off from their classifications may bump into the next lower classification in which they previously served or for which they are qualified. The employee(s) to be bumped shall be determined by seniority, i.e., an employee may bump the most junior employee in the classification if that junior employee has less seniority.

9.3 Employees who are laid off shall be recalled to the classifications from which they were laid off in the reverse order of their layoff (last laid off, first recalled); provided that they meet all of the requirements of the classification at the time of the recall. Laid off employees eligible for recall shall be offered recall before new employees are hired into their classification or shall be offered a position in a lower classification for which they are qualified before new employees are hired into such lower classification. An employee's recall rights hereunder shall expire in twelve (12) months from the date of his/her layoff.

ARTICLE 10

SENIORITY

10.1 Departmental seniority shall be determined by reference to the date of last hire with the Department. If two (2) or more employees have the same date of hire, seniority shall be determined by date of application with the Town. If the date of application is not dispositive of the issue, the Town shall utilize the flip of a coin in the presence of a Union representative and the employees involved.

10.2 A current seniority list shall be posted on the Town bulletin board at each fire station on or about the commencement of the fiscal year (October 1).

ARTICLE 11

PROBATIONARY EMPLOYEES

11.1 New employees in the classifications covered by the bargaining unit shall be on probation for a period of one (1) year from the date of hire. With the concurrence of the Human Resources Director, the Fire Chief may extend the one (1)-year probationary period to a maximum of an additional three (3) months, if the Fire Chief determines that such extension is necessary. During the one (1)-year probationary period and any extension thereof, a new employee may be terminated or otherwise disciplined without recourse to the grievance resolution procedure hereunder or any other Town or Departmental grievance/appeals procedure. However, prior to finalizing his decision to terminate such probationary employee, the Fire Chief shall notify the employee of his intention and shall provide the employee (and his/her union representative) with an opportunity to meet with the Fire Chief and the Assistant Chief of Operations to informally discuss the matter.

11.2 Employees who are promoted will be on probation in the classification to which they are promoted for a period of nine (9) months, which may be extended by three (3) additional months at the discretion of the Fire Chief and upon written notice to the employee. If the Fire Chief determines that such employee has not successfully completed his/her probationary period, the employee may be returned to his/her former classification without recourse to the grievance resolution procedure hereunder or any other Town or Departmental grievance/appeals procedure. However, prior to finalizing his decision to return such employee to his/her former classification, the Fire Chief shall notify the employee of his intention and shall provide the employee (and his/her Union representative) with an opportunity to meet with the Fire Chief and the Assistant Chief of Operations to informally discuss the matter.

11.3 Newly hired employees shall not be entitled to utilize vacation leave during their probationary period

11.4 Newly hired probationary employees shall not be entitled to utilize sick leave until they complete six (6) months of service. (Other conditions relating to sick leave shall be governed by current Town and Department rules, regulations, and policies.)

11.5 Newly hired probationary employees shall not be entitled to utilize floating holiday and personal leave until they complete six (6) months of service. (Other conditions relating to floating holidays and personal leave shall be governed by current Town and Department rules, regulations, and policies.)

ARTICLE 12

DISCHARGE AND DISCIPLINARY ACTION

12.1 The Disciplinary Action guidelines set forth in Article VII of the Department's Rules and Regulations shall apply to the bargaining unit employees hereunder; provided, however, that the sole and exclusive procedure for appealing any disciplinary action shall be the Grievance Resolution Procedure in Article 13 of this Agreement. (Sections 7-8.1 and 7-8.2 of the Disciplinary Action guidelines in Article VII of the Department's Rules and Regulations shall not apply to the bargaining unit employees hereunder.)

ARTICLE 13

GRIEVANCE RESOLUTION PROCEDURE

13.1 A “grievance” is defined as a dispute regarding the interpretation or application of this Agreement. Grievances are limited to claims which are dependent for resolution exclusively upon interpretation or application of one or more specific provisions of this Agreement. A grievance may be filed by a bargaining unit employee or the Union. In either case, the procedure to be followed is set forth below.

13.2 A grievance for **SUSPENSION, DEMOTION or DISCHARGE** must be in writing and introduced at Step 3 within 14 calendar days.

13.3 **OTHER GRIEVANCES** will be presented orally to the Battalion Chief within 14 calendar days of the incident which is the subject of the grievance.

STEP 1

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| A. Employee and Battalion Chief (BC) discuss grievance. |
| B. If NOT settled orally, grievance will be presented in writing to the BC within 2 working days. |
| C. Battalion Chief provides decision in writing within 7 calendar days. |

STEP 2

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| A. Grievance NOT settled in Step 1 – Employee may, within 7 calendar days, submit grievance in writing to Fire Chief. |
| B. Fire Chief or designee conducts investigation and provides written decision within 7 calendar days. |

STEP 3

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| A. Grievance NOT settled in Step 2 – Employee may request Town Manager to investigate grievance (this may involve all relevant individuals). |
| B. Investigative meeting will be held within 14 calendar days. Town Manager provides decision in writing within 14 calendar days of holding investigative meeting. If additional time is needed, it may be allowed by agreement of Town Manager and employee filing grievance. For disciplinary matters not involving suspension, demotion, or discharge, and performance evaluation appeals (15.3), the Town Manager’s determination shall be final. |

STEP 4

SUSPENSION, DEMOTION OR DISCHARGE GRIEVANCES

- A. For disciplinary matters involving suspension, demotion, or discharge, the Town Manager's determination may be appealed by the Union to the Town Council. The deadline for filing an appeal to the Town Council shall be 14 calendar days after the Town Manager's written decision.
- B. The Town Council shall then hold an informal evidentiary hearing and make a final determination as to whether the disciplinary action was initiated for just cause (as determined by the Town Council) and whether the severity of the disciplinary action was appropriate to the situation. The Town Council may completely uphold, completely reject, or modify the disciplinary action to ensure a fair outcome of the matter.

NON-DISCIPLINARY ACTION GRIEVANCES
(Except for Performance Evaluation Appeals)

- C. For non-disciplinary action grievances (except for performance evaluation appeals), the Town Manager's determination may be appealed by the Union to arbitration pursuant to the ARBITRATION section (13.4, et seq.) below.

ARBITRATION

(Non-Disciplinary Action Grievances Except for Performance Evaluation Appeals)

13.4 If a non-disciplinary action grievance (except for a performance evaluation appeal) is not resolved in STEP 3 above, the Union may request arbitration by hand delivery or by certified or registered mail of a written notice to the Town Manager within twenty-one (21) calendar days of his/her decision in STEP 3 above. Said written notice of arbitration shall include a written statement of the position of the Union with respect to the issues upon which arbitration is being sought. Under no circumstances shall the issues to be arbitrated be expanded from the issues raised at STEP 2 of the grievance procedure.

13.5 Within ten (10) calendar days from receipt of such notice of arbitration, the parties (or either party) shall request a list of nine (9) qualified arbitrators from the Federal Mediation and Conciliation Service. The party requesting arbitration will strike an initial name from the list of arbitrators, with the parties thereafter alternately eliminating, one at a time, from

said list of names, persons not acceptable, until only one (1) remains, and this person will be the arbitrator.

13.6 As promptly as possible after the arbitrator has been selected, he/she shall conduct a hearing, consider the grievance, and render his/her decision. It shall be the obligation of the arbitrator to make his/her best effort to rule within thirty (30) calendar days after briefs are filed. The expenses of the arbitration, including the fee and expenses of the arbitrator, shall be shared equally between the parties. Each party shall bear the expense of its own witnesses and of its own representatives, including attorneys, for purposes of the arbitration hearing.

13.7 The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this Agreement, or any part thereof, or amendment thereto. The arbitrator shall have no authority to consider or rule upon any matter which is stated in this Agreement not to be subject to arbitration or is not a grievance as defined in this Agreement; nor shall this Collective Bargaining Agreement be construed by the arbitrator to supersede applicable state and federal laws.

13.8 The arbitrator may not issue declaratory opinions and shall confine himself/herself exclusively to the grievance which is presented to him/her. The standard by which the action at issue is to be judged is whether there is a violation of this Agreement. The arbitrator's decision shall be final and binding.

GENERAL PROVISIONS

13.9 No decision of any arbitrator or of the Town Council or the Town Manager in any one case shall create a basis for retroactive adjustment in any other cases. All claims for back wages shall be limited to the amount of wages involved less any unemployment compensation and/or interim earnings that he/she may or might have received during the period involved.

13.10 The resolution of any grievance by the arbitrator or Town Council or the Town Manager resulting in retroactive adjustment, including back wages, shall be limited to a thirty (30)-day period prior to the date of the filing of a grievance at STEP 1.

13.11 It is agreed with respect to this grievance resolution procedure that:

- A. It is the intent of the parties that a grievance must be raised at the earliest possible time. Any grievance, in order to be entertained and processed, must be submitted in a timely manner by the grievant (whether the grievant be the Union or an individual employee).
- B. Grievances not submitted by the grievant in a timely manner shall be conclusively barred on the merits following the expiration of the prescribed time limit. The arbitrator, the Town Council, or the Town Manager (whichever is applicable) may conduct one hearing to address both the procedural and substantive issues; however, the procedural issues will be ruled upon before addressing the merits of the dispute. A grievance which is, for any reason, not the subject of a timely response by the Town or the Department shall require the grievant to proceed to the next step, and failure to proceed on a timely basis to the next step shall bar the grievance.
- C. The employees covered hereunder may avail themselves of the procedures under Steps 1, 2, and 3 of this Article without regard to Union representation or membership except as provided by Chapter 447, Florida Statutes. (Only the Union may proceed to arbitration or the Town Council, whichever is applicable.) Should an employee elect not to have

Union representation, the Town shall provide the Union with copies of all documents filed by the employee or issued by the Town in connection with the grievance.

13.12 The parties agree that the above grievance resolution procedure shall be the exclusive procedure for resolving grievances as defined in paragraph 13.1 above; provided, however, that except for a performance evaluation determination made by the Town Manager, either party shall be entitled to seek review of the final determination of the arbitrator, the Town Manager or the own Council (whichever is applicable) in the circuit court.

ARTICLE 14

DRUG AND ALCOHOL TESTING

14.1 The Town, the Union, and the employees covered hereunder mutually agree that employee substance and alcohol abuse may constitute a danger to the employee, fellow employees, and the general public. It is further agreed that the safety of public property and equipment and the image of the Town and its employees are placed in jeopardy if an employee is involved in substance or alcohol abuse. Accordingly, the Union and the employees covered hereunder agree that the Town shall have the right and authority to require employees to submit to appropriate drug and alcohol testing to detect the presence of any controlled substance, narcotic, drug, or alcohol in accordance with the provisions of the Town's Personnel Manual, and the Department's Rules and Regulations, and Departmental Procedure #231, governing substance abuse, including drug and alcohol use.

14.2 Notwithstanding any other provision of this Article, the Town's Personnel Manual Regulations, and the Department's Rules and Regulations, and Departmental Procedure #231, a positive result on any drug or alcohol test may result in appropriate disciplinary action up to and including termination. An employee's refusal to submit to drug or alcohol testing in accordance with the provisions of this Article may result in disciplinary action up to and including termination. Should the Town deem appropriate, it may order an employee, who has tested positive, to undergo rehabilitation in lieu of, or in combination with, disciplinary action. The terms and conditions of such rehabilitation and any follow-up testing shall be prescribed by the Town in consultation with a physician, psychologist, or other substance abuse treatment professional.

14.3 Any testing administered under this Article shall be administered by an appropriate laboratory or testing facility in accordance with the testing procedures set forth in Departmental Procedure #231.

14.4 The Town has the absolute right to randomly test any bargaining unit member for the existence of alcohol, illegal drugs, or other controlled substances. The selection of an employee for random testing shall be made by a valid method, such as a random number table, a computer based random number generator that is matched with employees' payroll identification numbers or other comparable identification number, or other method which is required and administered by established testing entities.

ARTICLE 15

PERFORMANCE REVIEW

15.1 Employees shall be evaluated periodically by their immediate supervisors. Such evaluations shall be reviewed and approved by non-bargaining unit Department management. Performance evaluations shall be conducted in accordance with such standards and procedures as are established (and from time-to-time revised) by the Town. In the event the Town exercises its right to revise or amend the performance evaluation standards or procedures, it shall provide a courtesy copy of such revisions or amendments to the Union at least seven (7) calendar days prior to implementation.

15.2 Performance evaluations will be considered by the Town and the Department in such personnel matters as promotions, transfers, demotions, terminations, disciplinary actions, and pay-for-performance.

15.3 A nonprobationary employee shall have the right to appeal his/her performance evaluation (rating) through Steps 1, 2 and 3 of the Grievance Resolution Procedure (Article 13).

15.4 The appeal (grievance resolution) procedures set forth in paragraph 15.3 shall be the sole and exclusive procedure for appealing a performance evaluation. (Step 4 in Article 13 of this Agreement cannot be utilized to appeal a performance evaluation.) Throughout the process of appealing his/her performance evaluation, the employee shall, at all times, have the burden of proving that his/her performance evaluation was arbitrary and capricious. With respect to an appeal of a performance evaluation, the decision of the Town Manager (or his designee) in Step 3 of Article 13 of the Grievance Resolution Procedure shall be final and binding on the parties. Probationary employees shall not be entitled to appeal their performance

evaluations pursuant to the appeals (Grievance Resolution) procedure in paragraph 15.3 or any other appeals procedure.

ARTICLE 16

PROMOTIONS

16.1 Vacancies in the Driver-Operator classification shall be filled in accordance with the applicable selection processes set forth in Article II, Sections 2-3.2 of the Department's Rules and Regulations. Such vacancies will, insofar as possible, be filled within thirty (30) calendar days after the vacancy occurs.

16.2 Notices of promotional examinations shall be posted on the Department bulletin board at each work location at least ninety (90) days in advance of a target promotional examination date. The written examination will be held no sooner than ninety (90) days after the notice, nor later than one hundred twenty (120) days after the notice. Source materials from which the examination is drawn will be identified in the examination announcement or concurrent with the issuance of such announcement. Such source materials shall be in print or otherwise obtainable.

16.3 No employee shall be permitted to apply for a promotional examination after the closing date set forth in the examination announcement. Such closing date will be between thirty (30) and thirty-five (35) days prior to the date of the examination.

16.4 In order to be eligible to take a promotional examination, an employee must meet the applicable minimum employment standards set forth in Article II, Sections 2-3.1 of the Department's Rules and Regulations and the applicable educational requirements set forth in Department Procedure #228 as of the closing date for the written examination.

16.5 No employee shall be eligible to take a promotional examination if he/she has received a suspension or higher-level disciplinary action during the twelve (12) months

preceding the closing date for the written examination or at any time until the date the examination process is completed.

16.6 A promotional eligibility list shall remain in effect for two (2) years from the date the eligibility list is established or until there are no names remaining on the eligibility list, whichever occurs first. In an effort to maintain a continuous eligibility list, the Town shall make a reasonable effort to produce a new eligibility list in advance of the two (2)-year expiration date of the current eligibility list.

16.7 Upon his/her written request, any applicant on a promotional eligibility list shall be permanently removed from such promotional eligibility list. Any applicant on a promotional eligibility list shall automatically be permanently removed from such list if he/she receives a suspension or higher-level disciplinary action. In the Fire Chief's discretion, an applicant on a promotional eligibility list may be temporarily removed from such promotional eligibility list if the applicant is on light duty, on disability leave or any other leave of absence, or if the applicant otherwise is not working or is unavailable for work, at any time after the promotional eligibility list is established. Prior to temporarily removing an applicant from a promotional list, the Fire Chief shall advise in writing the applicant of his intention and shall provide him/her with an opportunity to respond thereto.

16.8 Selections for promotions from the promotional eligibility list for Driver-Operator shall be made by the Fire Chief utilizing the Rule of Three (3). Pursuant to the Rule of Three (3), the top three (3) candidates on the promotional eligibility list will be considered for the promotional vacancy. (The Fire Chief may choose any one of the top three candidates on the promotional eligibility list.) If there is a second promotional vacancy after the first selection is made, the number four (4) candidate on the list will be added to the remaining two (2) in order to

make three (3) candidates eligible for the next selection. This method will continue until the list is exhausted or expires. Should the Fire Chief pass over a higher ranked candidate in applying the Rule of Three (3), the Fire Chief shall informally counsel the passed over candidate prior to announcing the candidate(s) selected. Any employee who is selected for but refuses a promotion shall automatically be removed from the promotional eligibility list. The Fire Chief, in his sole and exclusive discretion, may reinstate such employee to the promotional eligibility list if he/she determines that the employee had good and sufficient reason for refusing the promotion and the employee's reinstatement to the promotional eligibility list would be in the best interest of the Department.

16.9 The promotional process set forth in paragraph 16.1 above and as specified in Departmental Rules and Regulations, Article II, Sections 2-3.2 shall be conducted by an agency or organization specializing in and with experience conducting Fire-Rescue promotional assessments separate from the Town of Palm Beach, the Fire-Rescue Department or any other department or agency within the Town.

ARTICLE 17

WAGES

17.1 Effective October 1, 2010, or the date of ratification/imposition of this Article, whichever is later, the Salary Step Plan reflected in Exhibit A, to this Agreement will go into effect and shall replace the Fiscal Year 2009-10 Salary Step Plan. Bargaining unit employees shall be placed into the step in the Salary Step Plan reflected in Exhibit A that corresponds to their annual pay in the Fiscal Year 2009-10 Salary Step Plan (e.g., a Firefighter/EMT receiving \$53,330 under the expired Salary Step Plan will be placed at step 8 of the Salary Step Plan for Firefighter/EMT reflected in Exhibit A). No step or other wage increases will be provided to bargaining unit employees for Fiscal Year 2010-2011 as part of the implementation of the Salary Step Plan reflected in Exhibit A.

17.2 Step or other wage increases, if any, after Fiscal Year 2010-2011, shall be established through the collective bargaining process.

17.3 Effective October 1, 2010, or the date of ratification/imposition of this Article, whichever is later, the existing longevity and bonus programs will cease to exist for any bargaining unit employees. In their place, on that same date, the following performance bonus program will be implemented; provided, however, that the first payment to bargaining unit employees under this new bonus program shall be made in December 2011, and shall cover Fiscal Year 2010-2011 only:

- a. Performance bonuses shall be payable on the first work day following December 1 based on the bargaining unit employees' performance evaluation scores for the prior fiscal year.

- b. Only bargaining unit employees who have completed at least five years of service as of December 1 of that year shall be eligible for a performance bonus. Additionally, only bargaining unit employees who receive a performance evaluation score of 3.0 or greater will be eligible to receive a performance bonus. Moreover, bargaining unit employees must be on payroll on December 1 of that year to be eligible to receive the performance bonus (except for bargaining unit employees who are not on payroll due to unpaid family medical leave related absence).
- c. Performance bonuses shall be awarded using the seven tier system in Table A below to determine the amount of bonus a bargaining unit employee may receive. The seven tier system is based upon the performance evaluation scores of all performance bonus eligible bargaining unit employees within the Fire-Rescue Department (both the non-supervisory and supervisory bargaining units combined) for the prior fiscal year. The range of scores falling within each tier will be determined at the end of each fiscal year after all performance evaluations for that fiscal year have been submitted to the Human Resources Department.
- d. Table A. Performance Bonus:

Tier	Percentage Range	Performance Bonus Payment
1	Top 10%	\$6,000
2	Next 10%	\$3,000
3	Next 10%	\$2,000
4	Next 10%	\$1,500
5	Next 20%	\$1,000
6	Next 20%	\$750
7	Lowest 20% (Performance Rating of at least 3.0)	\$500

ARTICLE 18

WORKWEEK

18.1 The average workweek for twenty-four (24)-hour shift employees shall be fifty-six (56), with twenty-four (24) hours on duty and forty-eight (48) off duty. (The Administrative Lieutenant works a 40-hour workweek schedule.)

18.2 The starting time for twenty-four (24)-hour shift employees is 0800.

ARTICLE 19

OVERTIME

19.1 All work performed by twenty-four (24)-hour shift bargaining unit employees, up to and including two hundred twelve (212) hours in a twenty-eight (28) day work cycle, shall be paid at the employee's straight time rate of pay. (All work performed by the Administrative Lieutenant up to and including forty (40) hours in a seven (7) day work period shall be paid at the employee's straight time rate.) Work performed in excess of two hundred twelve (212) hours in the twenty-eight (28) day work cycle shall be paid at time and one-half (1.5) the employee's straight time rate of pay. (Work performed by the Administrative Lieutenant in excess of forty (40) hours in a seven (7) day work period shall be paid at time and one-half (1.5) the employee's straight time rate of pay.) Only time actually worked, annual (vacation), and personal days shall be counted for the purpose of calculating overtime. When an employee utilizes sick, injury, compensatory, worker's compensation, LTD, bereavement, military, jury duty, or any other paid or unpaid leave during the twenty-eight (28) day work cycle (or the seven (7) day work period in the case of the Administrative Lieutenant), such leave time shall not be considered time worked and shall be excluded from the calculation of overtime.

19.2 Overtime shall be calculated and paid in one-half (1/2)-hour increments.

19.3 An overtime eligibility list shall be maintained by the Assistant Chief of Operations to ensure that overtime is offered in a manner that is most efficient to the Department and equitable to the employees. The overtime eligibility list is accessible from AS400 Staff Scheduling File Maintenance (F15 key) or, upon implementation, the Telestaff program. On-duty officers shall use this list in the event that an employee must be called for overtime.

Minimum staffing on shift must be maintained. Vacant positions should be filled with the most qualified person for the position available, whether it be the overtime person or a more qualified person on duty. When overtime is used to fill a vacant officer's position, officers and acting officers shall be given primary consideration.

The following guidelines shall be used when overtime is needed to meet minimum staffing requirements:

- A. Personnel from the off-going shift shall be contacted first. The employee with the lowest amount of overtime hours shall be contacted first.
- B. Personnel from the off-duty shift shall be contacted second. The employee with the lowest amount of overtime hours shall be contacted first.
- C. When two or more employees in categories A or B have the lowest amount of overtime hours, the employee with the highest seniority shall be called first.
- D. If staffing requirements are not met with volunteers pursuant to A through C above, the same process using A and B above shall be followed to mandate overtime assignment(s), provided that the employee with the lowest seniority will be called (mandated) first.

19.4 In order to provide all employees with equal access to available overtime work, no employee shall be assigned overtime in excess of 212 hours in a year. To avoid invoking mandatory overtime assignment, an employee who has exceeded the aforesaid 212 hours shall be permitted to volunteer for overtime; provided, however, that no such employee shall work more than 24 hours of overtime over the 212 limit. Time accrued due to special details (PIP, CPR

classes, physicals, etc.), Public Assembly Inspections and Special Assignment Overtime will not be included for the purpose of this overtime limit. Absent unusual circumstances (e.g., natural disaster, major fire, etc.), employees shall not be permitted to work in excess of two (2) consecutive shifts.

19.5 Nothing in this Article shall be construed to require the payment of straight time or overtime for attendance at training seminars or classes unless such seminars or classes were specifically authorized by the Fire Chief prior to the attendance.

ARTICLE 20

SHIFT EXCHANGE

20.1 Shift employees will be allowed shift exchanges in accordance with the provisions of Section 9-3 of the Department's Rules and Regulations; provided that Section 9-3 of the Department's Rules and Regulations shall be modified or interpreted to:

A. Allow shift exchanges on an hour for hour basis, and

B. Require that requests for shift exchanges be submitted no less than twelve (12) hours prior to the beginning of the shift during which the exchange will occur.

The existing conditions for approval of a shift exchange will remain in effect.

ARTICLE 21

CALL-BACK

21.1 When an emergency call-back is ordered for a fire or medical emergency or mutual aid, employees called back will be paid for the actual time worked (i.e., logged-in to logged-out) at their straight time rate or time and one-half rate, whichever is applicable under paragraph 19.1. Employees called back hereunder shall receive a minimum of three (3) hours pay at their straight time rate or time and one-half rate, whichever is applicable under paragraph 19.1. Under no circumstances (and notwithstanding any provision of the Department's Rules and Regulations) shall travel time be paid in connection with a call-back.

ARTICLE 22

EDUCATIONAL ASSISTANCE

22.1 Employees covered hereunder are eligible to receive tuition reimbursement for (a) approved job-related courses of a non-degree program, and (b) approved non-job-related and job-related elective and core courses required for an accredited, job-related degree program. An employee who wishes to receive such tuition reimbursement must have his/her application for educational assistance approved by the Fire Chief and the Human Resources Director prior to enrolling in the course. The amount and other conditions relating to tuition reimbursement shall be governed by the provisions of the Town's Personnel Manual and Article XII, Section 12-3.3 of the Department's Rules and Regulations.

22.2 Employees in their initial probationary period will not be eligible to apply for or receive tuition reimbursement. Any employee leaving the employment of the Town less than one full year after the latest date of reimbursement for education assistance shall be required to repay the full amount of any payments made to him/her in the previous 12 months in the form of reimbursements for education expenses or bonuses for educational or vocational accomplishments, certifications or licensing.

ARTICLE 23

CERTIFICATION

23.1 All employees shall be responsible for making certain that the required state licenses and certifications for their positions are maintained and updated. The loss of such required licenses or certifications may be grounds for reduction in rank or salary, suspension, or termination.

23.2 The Town will make available in-house Paramedic and EMT Recertification courses to enable the employees covered hereunder to take such courses while on duty. It shall be the responsibility of the employee to make himself/herself available to take such required Recertification courses while on duty. If an employee does not take such required Recertification courses while on duty, off-duty attendance at such courses shall not be considered as time worked, and the Town shall not be required to reimburse the employee for tuition or other fees.

23.3 If the Town requires the employee to take a Recertification course which is not required by the State of Florida and is not available to the employee while on duty, the off-duty time spent by an employee classified as a Lieutenant to take such course shall be considered as time worked.

23.4 Any employee who accepts a position in the Paramedic program under the Town's sponsorship arrangement shall sign an agreement indicating that the employee will remain certified and function as a Department protocolled Paramedic as a condition of employment for a period of ten (10) years unless the employee is unable to do so due to illness or injury. Additionally, any such employee shall remain employed for at least three (3) years or repay the cost of the sponsorship, as follows: (a) if the employee voluntarily leaves employment

less than one (1) year after completion, the employee will repay the entire cost of the sponsorship; (b) if the employee voluntarily leaves employment less than two (2) years after completion, the employee will repay sixty-seven percent (67%) of the cost of the sponsorship; and (c) if the employee voluntarily leaves employment less than three (3) years after completion, the employee will repay thirty-three percent (33%) of the cost of the sponsorship.

ARTICLE 24

UNIFORMS

24.1 Uniform issuance, use, and replacement will be in accordance with the Department's Rules and Regulations, Article X.

ARTICLE 25

VACATIONS

25.1 In accordance with the Town Personnel Manual, shift employees covered hereunder (i.e., employees on duty an average of 56 hours per week) are provided an adjusted annual leave policy in lieu of a separate holiday program. Annual leave shall be earned, accrued, used, and scheduled in accordance with Article 10, Section 10-1 of the Department's Rules and Regulations, the Town's Personnel Manual, and the following additional provisions:

A. Each employee will be guaranteed one primary vacation period per year of one to five (1-5) consecutive leave days. In addition, each employee will be allowed a secondary vacation selection not to exceed three (3) consecutive leave days. This secondary vacation selection, however, is not guaranteed. Vacation periods shall not exceed thirty (30) calendar days unless approved in writing by the Fire-Rescue Chief or his designee. Vacation periods shall run from February 1st to February 1st.

B. Vacation selection will commence on October 1st and end December 31st of the year preceding the vacation period. Vacation selection will be conducted on a seniority basis.

C. For purposes of vacation scheduling, a total of two employees (officers and non-officers) will be permitted to schedule annual leave per shift, per tour of duty. (Note: In accordance with existing procedure, other leave such as personal days and floating holidays are also subject to these annual leave "slots.") Where staffing permits, the Battalion Chief may authorize a third annual leave "slot." Such third annual leave slot (A/L #3) must be requested in the same manner as other annual leave in accordance with Article 10, Section 10-1 of the Department's Rules and Regulations and Section 25.2 below. Additionally, if A/L #3 is to be

taken the day of the shift, such leave will be granted by seniority, and the employee taking such leave shall be required to remain on duty until all positions are covered. Employees wishing to “guarantee” an A/L #3 shall do so by securing a standby. Such standby shall be handled in the same manner as a shift exchange and shall be subject to the applicable provisions of Article 20 (Shift Exchange). When authorized (budgeted) Departmental staffing reaches 27 employees per shift, including the Battalion Chief, the above annual leave slots, which include personal days and floating holidays, shall be increased from 2 to 3 per shift, per tour of duty, and the Battalion Chief may authorize a fourth annual leave slot (A/L #4), if staffing permits. Such additional annual leave slot (A/L #4) shall be subject to the above provisions governing A/L #3.

D. After primary and secondary vacation selections are completed, the Battalion Chief, in his discretion, may close any unused annual leave slots for the purpose of utilizing such slots to send employees to out-of-town classes or otherwise ensure proper staffing without incurring additional overtime expenses.

25.2 Annual leave must be requested at least twelve (12) hours prior to the beginning of the shift for which annual leave is requested. “Turning back” (cancellation of) previously approved annual leave must be requested at least forty-eight (48) hours in advance of the shift for which annual leave was previously approved.

25.3 Annual leave may be used in twelve (12) hour increments, so long as such twelve (12) hour increments are either the first twelve (12) hours of a twenty-four (24) hour shift OR the last twelve (12) hours of a twenty-four (24) hour shift (i.e., 0800 to 2000 hours or 2000 to 0800 hours).

25.4 Nothing in this Article shall restrict the authority of the Fire-Rescue Chief to implement a vacation policy that ensures employees will not lose vacation time and the Town will not be forced to staff through overtime involuntarily.

ARTICLE 26

PERSONAL DAYS AND FLOATING HOLIDAYS

26.1 Personal Days — After completing six months of service with the Town, all regular, full-time employees are eligible to receive personal days. Employees working a 56-hour schedule are eligible to receive 1-1/2 duty days (36 hours) which must be taken in minimum 12-hour increments. Employees working a 40-hour schedule are eligible for 3 days (24 hours) to be taken in minimum increments of 4 hours.

Personal days must be taken within the calendar year earned or they will be forfeited. Personal days will not be paid upon termination of employment, nor used during the required notice of termination.

26.2 Floating Holidays — After completing six months of service with the Town, all regular, full-time employees are eligible to receive a Floating Holiday. Employees working a ~~48~~ 56-hour schedule are eligible to receive one-half duty day (12 hours). Employees working a 40-hour schedule are eligible for one day (8 hours).

The Floating Holiday must be taken within the calendar year earned or it will be forfeited. The Floating Holiday will not be paid upon termination of employment, nor used during the required notice of termination.

26.3 In accordance with existing procedure, personal days and floating days must be requested at least seven (7) calendar days in advance. “Turning back” (cancellation of) a previously approved personal day or floating holiday must also be requested at least seven (7) calendar days in advance.

ARTICLE 27

BEREAVEMENT LEAVE

27.1 In case of death in the immediate family, a regular, full-time employee may be granted leave of absence with pay for the workdays falling within the period between the time of death and the day of the funeral, not to exceed three (3) days (one duty day for 56-hour employees) for a funeral within the State of Florida. "Immediate family" is defined as wife, husband, child, brother, sister, parent, grandparent, grandchildren, and any relative permanently residing in the employee's household. For a funeral outside the State of Florida, such leave shall not exceed five (5) days (two duty days for a 56-hour employee).

27.2 Upon approval by the Fire Chief, sick leave may be used by eligible employees (those who have completed a minimum of six (6) months of employment) to attend the funeral of a parent-in-law, brother-in-law, sister-in-law, step-parent. For 40-hour employees, such time shall not exceed three (3) days for a funeral within the State of Florida, or five (5) days for a funeral held outside the State of Florida. For 56-hour employees, such time shall not exceed one (1) duty day for a funeral held within the State of Florida or two (2) duty days for a funeral held outside the State of Florida.

In the event that sick time is approved for bereavement time off, the Fire Chief will be responsible to notify the Director of Human Resources by memorandum with the name of the employee, number of sick days taken, actual dates, and the relationship of the deceased to the employee. The memorandum should be received by Human Resources prior to the affected payroll sheets.

ARTICLE 28

COURT TIME

28.1 Any employee in a bargaining unit classification who is required to make an off-duty appearance as a subpoenaed witness in any court, administrative proceeding, or deposition arising out of the employee's duties, will be compensated for the appearance at the rate of straight time or time and one-half the employee's regular hourly rate for the time actually spent in such off-duty court, administrative, or deposition appearance. The employee will receive a minimum of two (2) hours at his/her straight-time or time and one-half rate, whichever is applicable. As a condition precedent to the Town paying any compensation hereunder, the employee will endorse over to the Town any subpoena fee, including mileage and witness fees, received. Transportation to and from such off-duty appearance shall be the sole responsibility of the employee.

ARTICLE 29

JURY DUTY

An employee who is summoned and reports for jury duty, as prescribed by applicable law, shall be paid in an amount equal to the difference between the amount of wages the employee otherwise would have earned by working a regular shift during straight time hours that day and the daily jury duty fee paid by the courts (not including traveling allowances, or reimbursement of expenses) for each day in which he/she reports for, or performs jury duty, and on which he/she otherwise would have been scheduled to work. If jury duty falls outside the employee's regular shift, no reimbursement shall be made.

ARTICLE 30

INSURANCE AND MISCELLANEOUS BENEFITS

The employees covered hereunder shall be provided health, dental, flex plan, long-term disability (LTD), Life Insurance, EAP, ICMA-RC, and workers' compensation benefits and programs under the same terms and conditions as are applicable to the other Town employees. The employees covered hereunder shall be eligible for the Town's Health Savings Account Program and the Town's Retirement Health Savings Plan under the same terms and conditions as are applicable to the other Town employees. Should the Town change the terms and conditions of the aforesaid benefit programs, including, but not limited to, employee premiums and benefits, the employees covered hereunder shall be subject to such changes on the same basis as the other Town employees.

ARTICLE 31

DOCUMENTS

31.1 The Town shall provide copies of public documents to the Union on the same basis as such documents are provided to other members of the public. Where the cost to the Union of such documents is likely to include labor charges (i.e., charges beyond the price of photocopies), the Town will provide the Union with an itemized estimate of the proposed charges in order that the Union can determine whether it wishes to proceed with its request for documents.

31.2 Public documents requested by the Union shall be provided within a reasonable time; provided that the Union makes full payment to the Town in advance of delivery. Where a document request involves substantial photocopying costs and/or labor charges, the Town will not be required to commence copying, compilation, and/or other production activities until the Union enters into a written agreement confirming that it will pay the itemized costs involved.

31.3 Notwithstanding the foregoing, the Town will provide the Union, without cost, a copy of each of the following documents:

- A. The Annual Budget
- B. The Annual Audited Financial Statement
- C. Any Amendment to the Town's Personnel Manual, the Department's Rules and Regulations, or the Department's Procedures.

ARTICLE 32

STATION CONDITIONS

32.1 The Town shall continue to provide washing machines and dryers in each of the fire-rescue stations. Such washing machines and dryers are to be used to clean noncontaminated work uniforms, linens, towels, and other items used in the fire-rescue stations. Such washing machines and dryers are not to be used for personal laundry.

32.2 For the purpose of washing personal protective clothing and contaminated work uniforms, the Town has provided a heavy-duty washer/extractor at Station No. 3. Noncontaminated work uniforms and linens, including blankets, shall not be cleaned in the washer/extractor.

32.3 The Town agrees to comply with all health and safety laws and regulations governing its Fire Stations. The parties, including the bargaining unit employees, agree to jointly cooperate to maintain a safe and healthy work environment.

ARTICLE 33

LABOR RELATIONS COMMITTEE

33.1 There shall be a Labor Relations Committee comprised of three (3) employees (one from the nonsupervisory bargaining unit and at least one from the supervisory bargaining unit) designated by the Union, and three (3) non-bargaining unit employees designated by the Town.

33.2 The Labor Relations Committee shall meet quarterly at a time and date mutually agreed upon by the parties. The purpose of the Labor Relations Committee meetings shall be to improve communications and discuss problems and objectives of mutual concern. Such meetings shall be off-the-record in nature, and the discussions shall not be recorded or otherwise documented unless the parties mutually agree in writing to document a particular item. Labor Relations Committee meetings shall not be for the purpose of (or constitute) collective bargaining.

ARTICLE 34

PREVAILING RIGHTS, RULES, AND REGULATIONS

34.1 Except as otherwise provided in this Agreement, the wages, hours, and other conditions of employment of the bargaining unit employees shall be those specifically set forth or specifically incorporated by reference in this Agreement.

34.2 Except as restricted by a specific provision of this Agreement, the Union agrees that the employees covered hereunder shall comply with all programs, policies, and procedures of the Town and the Department, and any amendments thereto.

34.3 Should the Town and/or the Department exercise its right to formulate, amend, revise, and/or implement any program, policy, or procedure, the Town or the Department shall provide a courtesy copy of any new (or amended) program, policy, or procedure to the Union at least seventy-two (72) hours prior to the effective date of implementation. Simultaneous with providing a courtesy copy to the Union, the Town or the Department shall post at each fire station the new (or amended) program, policy, or procedure. "Posting" may be accomplished through electronic mail, telecommunication, bulletin board posting, or any other similar means.

34.4 In the event the Town or the Department exercises its right to issue a new (or amended) program, policy, or procedure, no bargaining unit employee shall be disciplined for violation of any such new or amended program, policy, or procedure until the Town and/or the Department has informed the Union of its posting of such new or amended program, policy, or procedure in accordance with the procedure set forth in paragraph 34.3 above. For the purpose of this Article, hand-delivery or mailing to the Union District Vice President or any other Union steward or representative shall be deemed service upon the Union. Mailing shall be effective upon deposit in the United States Mail by the Town or the Department.

34.5 Nothing contained in this Article shall constitute a waiver of the Union's right to engage in impact bargaining if, and to the extent, required by applicable law.

ARTICLE 35

VOTING

35.1 Employees who are unable to vote during their off-duty hours due to the location of their voting precincts and their work schedules may, in the discretion of the Battalion Chief, be permitted leave without pay (not to exceed two hours) to enable them to vote. To request such leave without pay, the employee shall file a written request with the Battalion Chief advising him/her of the reasons for requesting such leave and providing him/her with confirmation of precinct location and voter registration. Such requests must be made no later than the employee's second-to-last shift prior to the shift for which the leave without pay is being requested.

35.2 It is understood and recognized that employees covered hereunder are normally aware of their upcoming work schedule and, therefore, can vote by absentee ballot if their work schedule causes a conflict with their ability to vote. It, therefore, is further understood that there is no entitlement to leave without pay for voting and that the operating requirements of the Department may preclude such time off (even if previously authorized by the Battalion Chief). Should the Battalion Chief receive a timely request in accordance with paragraph 36.1 above and determine that there are proper grounds for such request, he/she shall schedule the employee's voting time in such a manner as to not interfere with operational requirements. Under no circumstances shall the granting of a request for leave without pay for voting purposes cause the Department additional payroll costs.

ARTICLE 36

SAVINGS CLAUSE

It is agreed by and between the parties that if any provision(s) of this Agreement is held to be unconstitutional, illegal, or otherwise void, such holding shall not affect the remaining portions of the Agreement.

ARTICLE 37

LIMITATIONS ON REOPENING NEGOTIATIONS

37.1 This Agreement contains the entire agreement between the parties in all matters relative to wages, hours, working conditions, and all other matters which have or could have been negotiated by and between the parties prior to the execution of this Agreement. Neither party shall be permitted to reopen or renegotiate this Agreement, or any part of this Agreement, for the period from its effective date through and including September 30, 2010; provided, however, that this provision shall not be deemed a waiver of the Union's right to impact bargaining if, and to the extent, required by applicable law.

37.2 Notwithstanding paragraph 37.1 above, the parties, by mutual agreement in writing, may reopen and renegotiate any article in this Agreement.

ARTICLE 38

SICK LEAVE AND INJURY TIME

38.1 In accordance with the Town of Palm Beach Personnel Manual, bargaining unit employees on duty an average of fifty-six (56) hours per week shall accumulate sick leave at the rate of four (4) shift days per year. Department employees shall have their accumulated sick leave reduced by one (1) shift day for each duty day of approved absence due to illness. Sick leave shall begin to accrue as of the date an employee enters the service of the Town but may not be taken until he/she has been in the service of the Town for at least six (6) months. Should an employee be absent because of illness during his/her first six (6) months of service, he/she must be placed on leave of absence without pay.

38.2 The applicable policies for accruing and utilizing sick leave and those pertaining to injury time are set forth in Article IX, Sections 9.2, 9-2.1, 9-2.2, 9-2.2.1, 9-2.3, 9-2.4, 9-2.5, 9-2.6, 9-2.7, and 9-3 of the Department's Rules and Regulations and the provisions of the Town Personnel Manual; provided, however, that notwithstanding any provision of the aforesaid Departmental Rules and Regulations or the Town's Personnel Manual, the following shall apply to the employees (other than those on workers compensation leave and FMLA) covered hereunder:

- A. The first day of any undocumented illness, shall be unpaid.
- B. There shall be no use of sick leave on a partial shift basis unless documented – i.e., sick leave for 24 hour shift employees shall be used in 24 hour increments and sick leave for 8 hour (40 hour week) employees shall be used in 8 hour increments.

C. If the employee claims sick leave while on vacation leave, vacation leave may not be converted to sick leave without a physician's certification of the exact nature and time of the illness which is the basis of the claim.

D. More than three occurrences of sick leave for 24 hour shift employees or four occurrences of sick leave for 8 hour (40 hour week) employees will result in ineligibility for wage increases, promotional opportunities, and/or other benefits AND disciplinary action in accordance with the following schedule:

24 Hour Employees

Occurrences:	Fourth	Fifth	Sixth	Seventh	Eighth
Ineligible for:	Shift Exchanges and Overtime	Longevity, and Bonuses	Wage Increases	Promotional Opportunities	
Discipline:	Oral Reprimand	Written Reprimand	Suspension 12 hours	Permanent Demotion/Loss of Assignment (if applicable) or 24 hour Suspension if above not applicable	Termination

8 Hour (40 Hours a Week) Employees

Occurrences:	Fifth	Sixth	Seventh	Eighth	Ninth
Ineligible for:	Loss of Flex Time and Overtime	Longevity, and Bonuses	Wage Increases	Promotional Opportunities	
Discipline:	Oral Reprimand	Written Reprimand	Suspension 4 hours	Permanent Demotion/Loss of Assignment (if applicable) or 8 hour Suspension if above not applicable	Termination

The above schedules of occurrences are based on the members’ performance evaluation period, and penalties (disincentives) will be applied on a “rolling forward” one year from the date of issuance of discipline.

38.3 The Town shall provide Workers’ Compensation benefits in accordance with Section 5-5 of the Town’s Employee Personnel Manual; provided, however, that notwithstanding any provision of Section 5-5 or any of its subsections, no employee shall be entitled to receive any extended compensation from the Town beyond the initial thirteen (13) week period of base pay compensation. The Town Manager, may, in his discretion, extend compensation beyond the initial thirteen (13) week base pay compensation if he determines there are unusual or extenuating circumstances. In no event shall such extended compensation exceed an additional thirteen (13) weeks of base pay.

38.4 The parties agree and understand that the nature of the duties and responsibilities of the employees covered hereunder requires that such employees remain physically and mentally capable of performing such duties and responsibilities. Should the Fire Chief (or designee) have a reasonable belief that an employee covered hereunder may not be physically or mentally capable of

performing his/her job duties and responsibilities, the Fire Chief (or designee) shall have the right to order such employee to undergo a fitness for duty examination/evaluation (at the Town's expense) by the Town physician or other appropriate medical, psychological, or vocational professional designated by the Town.

ARTICLE 39

PHYSICAL ABILITIES TEST

39.1 The parties agree to work together to establish a wellness program which will include physical abilities testing.

ARTICLE 40

LIGHT DUTY

40.1 Light duty assignments shall be limited to those employees who are unable to perform their regular job due to an on-the-job (workers' compensation) injury.

40.2 Light duty assignments may be made in the discretion of the Fire Chief. An employee who sustained a work-related injury/illness and has been released by a physician to return to work with restrictions shall present the Fire Chief with a physician's statement detailing his/her condition and work limitations. If the Fire Chief determines that productive work is available in the Fire-Rescue Department consistent with the employee's medically certified restrictions, the Fire Chief may assign the employee to such work. An employee assigned to such work shall be compensated at the rate of pay applicable to his regular job; provided, however, that a shift employee assigned to 40-hour a week "light duty" job will receive the pay applicable to his/her regular shift job.

40.3 In the sole and exclusive discretion of the Fire Chief, an employee injured off-the-job may be offered alternative (temporary) employment in a position other than his/her regular job; provided that productive work is available and such work is consistent with the employee's medically certified restrictions. The wages, hours, and other conditions of such alternative (temporary) employment shall be those mutually agreed upon by the Town and the employee.

ARTICLE 41

RETIREMENT BENEFITS

1. Effective October 1, 2010, or the date of ratification/imposition of this Article, whichever is later, and notwithstanding the provisions of the current firefighters pension program, the employees covered hereunder shall be subject to modifications to the current plan as defined within the Town of Palm Beach Code of Ordinances, Article II. Employee Benefits, Division 2. Retirement System as follows:

A. Freezing of the current defined benefit plan (hereafter, the “frozen pension plan”) for all covered members, who will receive the value of the benefit earned to date (calculated as if they were separating from Town employment immediately and then frozen until they are eligible to retire). Payment of this portion of each member’s pension would occur in accordance with all eligibility and post retirement rules as they exist prior to October 1, 2010, or the date of ratification/imposition of this Article, whichever is later.

B. Creation of a new defined benefit plan covering all eligible Town employees for all service after October 1, 2010, or the date of ratification/imposition of this Article, whichever is later, which will include the following:

1. Employee contribution of 4.82%.
2. Bonus pay, longevity pay, special assignment overtime pay, and any other compensation that is not base salary will be excluded from the calculation of average final compensation.
3. Average final compensation calculated during the final 60 consecutive months of credited service.

4. Ten year vesting period.
 5. Retirement age shall be a minimum of 65 years of age with no years of service requirement for vested employees. The “Rule of 65” shall be eliminated.
 6. Average final compensation multiplied by 1.25% per year of credited service.
 7. Standard form of payment as a straight life annuity. Option to purchase survivor benefit based on a calculation by the Town’s actuary of the actuarially equivalent cost to the retirement system, resulting in a reduction of the member’s monthly pension payments.
 8. No cost of living (COLA) increase.
 9. Elimination of supplemental distribution benefit.
 10. Elimination of Chapter 175 (F.S. ch. 175), Firefighters’ Pension Trust Fund; provided, however, that the Town may continue to participate in Chapter 175 if Chapter 175 is amended to allow the Town to legally do so.
- C. Effective upon ratification or imposition of this Article, and notwithstanding the provisions of the current firefighters pension program, the employees covered hereunder shall be subject to a new defined contribution (401(a)) plan in addition to the new defined benefit plan detailed above. The new defined contribution plan will include the following:
1. Mandatory participation by all bargaining unit employees. Bargaining unit employees shall contribute a minimum of 2% of their base pay, and may voluntarily contribute an additional amount up to the maximum contribution allowable under IRS Rules.

2. The Town will match the amount contributed by the bargaining unit employees up to 4%.

3. The Town will contract with a private vendor, through an RFP process, who will administer the defined contribution plan. The vendor will provide the bargaining unit employees with a range of investment options.

D. Irrespective of any other provision of this Agreement or any Town rule or regulation, employees who enter DROP under the new defined benefit plan shall become at-will employees. Employees who enter DROP under the frozen defined benefit plan shall have their benefits in the new defined benefit plan frozen as of the date that they enter DROP under the frozen defined benefit plan; however, such employees shall collect DROP benefits only under the frozen defined benefit plan. To collect benefits under the new defined benefit plan, employees have to enter DROP under the new defined benefit plan.

2. Effective October 1, 2010, or the date of ratification/imposition of this Article, whichever is later, the Town's existing retirement boards shall be dissolved and replaced with one retirement board for all of the Town's retirement plans consisting of the following voting members: one currently employed Town sworn law enforcement officer selected by a vote of the Town's sworn law enforcement officers, one currently employed Town certified firefighter selected by a vote of the Town's certified firefighters, one currently employed general employee elected by a vote of the general employees; five residents selected by the Town Council, and the Town Manager serving ex officio. The voting members of the new retirement board, other than the Town Manager, shall serve staggered three-year terms. To implement the staggered terms, the first elected currently employed Town sworn law enforcement officer shall serve a one-year

term; the first elected currently employed Town certified firefighter shall serve a two-year term, and the first elected currently employed general employee shall serve a three-year term. Thereafter, each employee shall be elected for three-year terms. The staggered terms for the five residents selected by the Town Council shall be implemented in the same manner – two initially selected for a one-year term, two initially selected for a two-year term, and one initially selected for a three-year term.

ARTICLE 42

DURATION

This Agreement shall take effect upon ratification by the Union and approval by the Town, or October 1, 2009 (whichever is later), and shall remain in full force and effect until and including September 30, 2010. In order to negotiate the provisions of a new agreement to succeed the provisions of this Agreement, the parties shall exchange initial proposals by March 1, 2010, and negotiations shall proceed in accordance with applicable law. If a new collective bargaining agreement is not reached within an appropriate period of time, either party shall be free to invoke the impasse resolution procedures available under Florida law.

SIGNATURE PAGE

For Local 2928:

President

(Date)

For the Town

City Manager

(Date)