

CONTRACT

Between

CITY OF MIAMI BEACH, FLORIDA

and the

AMERICAN FEDERATION OF STATE, COUNTY AND

MUNICIPAL EMPLOYEES, AFSCME LOCAL NO. 1554

May 1, 2010 – April 30, 2013

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CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____ 2010, by and between the CITY OF MIAMI BEACH, FLORIDA, (herein called the "City"), and the AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES UNION, LOCAL 1554, (herein called the "Union").

WITNESSETH:

WHEREAS, this Contract has as its purpose the promotion of harmonious relations between the City and the Union and the negotiation of wages, hours, and working conditions to be in effect during the term(s) of this Contract; and

WHEREAS, the rights, obligations, and authority of the parties to this Contract are governed by and subject to the laws of the State of Florida;

NOW, THEREFORE, the parties agree with each other as follows:

ARTICLE I
RECOGNITION

Section 1.1. Representation. Pursuant to and in accordance with all applicable provisions of Chapter 447, Part II of the Florida Statutes, the City recognizes the Union as the exclusive bargaining representative for all employees included in the bargaining unit of Local 1554, for the purpose of collective bargaining concerning wages, hours of work and other terms and conditions of employment.

Section 1.2. Bargaining Unit. The bargaining unit of this local union has been determined by the Public Employees Relations Commission to be appropriate for the purposes of collective bargaining. Certificate No. 379 was issued to Local 1554 on January 9, 1978. The bargaining unit of this local union includes all classifications listed below:

Assistant Pumping Mechanic	Pumping Mechanic
Building Supervisor	Recreation Leader I
Building Services Technician	Recreation Leader II
Central Services Technician	Recreation Program Supervisor
Control Room Operator	School Guard
Concession Attendant	Sewer Pipefitter
Customer Service Representative	Sewer Supervisor
Diesel Generator Mechanic	Sign Maker
Fire Equipment Mechanic	Storekeeper I, II, and III
Fleet Service Writer	Storekeeper/Mechanic
Fleet Service Representative	Street Lighting Technician I and II
Heavy Equipment Operator I and II	Street Supervisor
Ice Rink Technician	Tree Maintenance Supervisor
Irrigation System Supervisor	Tree Trimmer
Mechanic I, II, and III	Waste Collector
Municipal Service Worker I, II, and III	Waste Driver Supervisor
Municipal Service Worker Trainee	Water Meter Technician I and II
Museum Guard	Water Pipefitter
Park Supervisor	Water Supervisor
Pest Control Supervisor	

The parties agree that they will periodically review the job classifications and, if appropriate, file a joint petition to Public Employees Relation Commission (PERC) to determine which positions should be in or out of the bargaining unit.

Section 1.3. Communications

- a) All official union communications from the City shall be sent to the Union's designated address, telephone or email. An official AFSCME letter will be provided by AFSCME to notify the City of these designations.

- b) All official City communications from the Union shall be sent to the City Manager's designee for Labor Relations.

Section 1.4. Rights of Individuals

- a) A union member shall be entitled to Union representation in accordance with the provisions of this Contract at each and every step of the grievance procedure set forth in this Contract.

- b) All references to "employees" in this Contract shall mean both sexes, and where the male gender is used, it shall be construed to include male and female employees. The City agrees not to interfere with the rights of employees to become members of the Union and the Union agrees not to interfere with the rights of employees to refrain from becoming Union members. There shall be no discrimination, interference, restraint, or coercion by the City against any employee because of Union membership or Union activity. There shall be no discrimination, interference, restraint, coercion by the Union against any employee because of non-union membership.

- c) No mechanical recording devices of any kind shall be used in discussions between department heads, division heads, or supervisors and employees unless the parties mutually agree otherwise. It is specifically understood that this subsection shall not in any way apply to any City board.

- d) During an entrance interview, no prospective new employee who would be covered by this Agreement shall be questioned concerning his/her feelings, pro or con, toward the Union.

- e) Upon reasonable request, an employee or his/her Union representative designated in writing shall have the right to review his/her personnel file maintained by the Human Resources Department (or by the Division) in the presence of an appropriate representative of the Human Resources

Department or Division Management. Employees shall be provided with a copy of any documents placed in his/her personnel file which adversely reflect on an employee's work performance. If requested by the employees, his/her supervisor will discuss the documents with him/her. The employee shall be allowed to place in his/her personnel file a response of reasonable length to anything contained therein which the employee deems to be adverse. It is specifically understood, that this provision shall not in any way alter or modify the Personnel Rules concerning tests or examinations and the period of time which an employee has to review tests or examinations which he/she has taken.

- f) Nothing contained in this Contract shall abridge the rights of individual employees or the employer under Florida law.
- g) Upon request, Human Resources will provide to the Union President a monthly list of new hires in bargaining unit positions.

ARTICLE 2
DEDUCTION OF UNION DUES

Section 2.1. Check off. Upon receipt of a lawfully executed written authorization from an employee, which is presented to the City by an official designated by the Union in writing, the City agrees during the term of this Contract to deduct the uniform biweekly Union dues of such employees from their pay and remit such deductions to Council 79 Business Manager (provided address agreed) together with a list of the employees from whom deductions were made; provided, however, that such authorization is revocable at the employee's will upon thirty (30) days written notice to the City and the Union. The Union will notify the City thirty (30) days prior to any change in its dues structure.

The Union shall pay, during the term of this Agreement the amount of one hundred dollars (\$100.00) annually as a service charge for implementing and processing the above stated dues deductions. The Union shall make the payment on or before April 1 of each year of the Agreement.

Section 2.2. Indemnification. The Union agrees to indemnify and hold the City harmless against any and all claims, suits, orders or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provision of this Article.

ARTICLE 3
EQUAL EMPLOYMENT OPPORTUNITY

Section 3.1. No Discrimination. In accordance with applicable Federal and State law, the City and the Union agree not to discriminate against any employee as defined in federal, state, and municipal ordinances.

Nothing contained herein shall serve as a barrier for the implementation by the City of any such personnel actions as deemed necessary to comply with the Americans With Disabilities Act.

The development of job specifications that delineate those duties that are the required, essential tasks of each job for the purpose of the Americans With Disabilities Act (ADA), shall not be considered discriminatory or be grievable under the terms of this Contract.

This section does not preclude any bargaining unit employee from pursuing any appeal he/she may have under the Civil Rights Act.

Section 3.2. Affirmative Action. The parties acknowledge the existence of Federal Guidelines on voluntary affirmative action programs and the City is committed to the development of an Affirmative Action Plan in accordance with those guidelines and law. The Union will be provided with an opportunity to participate in the development of the Plan, and will thereafter assist the City in achieving any lawful goals set forth in the Plan.

Section 3.3. Examinations. The City is committed to the utilization of fair, job-related examinations and fairly administering such examinations, however, the subject matter and/or administration of these examinations shall be subject to the grievance procedure up to Step III of the grievance procedure of this Contract, however, questions or complaints concerning examinations may be brought directly to the City Manager's designee for Human Resources.

ARTICLE 4
GRIEVANCE PROCEDURE

Section 4.1. Definition of Grievance and Time Limit for Filing. A grievance is a dispute involving the interpretation and application of the express terms of this Contract, excluding matters not covered by this Contract. The Union acknowledges that the Personnel Board retains the right to make, enforce, amend, and apply the Personnel Rules and Regulations, and that neither the City, the Union, nor an arbitrator can control the Personnel Board's exercise of this right. No grievance shall be entertained or processed unless it is submitted within ten (10) working days after the occurrence of the event giving rise to the grievance or within ten (10) working days after the employee, through the use of reasonable diligence, should have obtained knowledge of the occurrence of the event giving rise to the grievance.

Section 4.2. Grievance Procedure. Grievances shall be processed, individually, as follows:

STEP 1: Any employee who has a grievance (or a steward on the employee's behalf) shall submit the grievance, on the Grievance Form as provided by the City, to the supervisor designated for this purpose by the City, and if the employee wishes, he/she shall be accompanied by his/her Union Steward.

If no settlement is reached, the supervisor shall give the City's written answer within five (5) working days after such presentation. The Election of Remedy Form as agreed herein shall be completed and submitted with the Step 1 grievance.

STEP 2: If the grievance is not settled in Step 1 and the employee wishes to appeal the grievance to Step 2 of the Grievance Procedure, it shall be referred in writing to the Department Head within three (3) working days after the Supervisor's answer in Step 1 and shall be signed by the employee and/or the Union Steward. The Department Head, or his/her Representative, shall discuss the grievance within three (3) working days with the Union Steward at a time mutually agreeable to the parties.

If no settlement is reached, the Department Head, or his/her Representative, shall give the City's written answer to the Union within three (3) working days following their meeting. Grievances processed without the completed, signed Election of Remedy Form attached will be considered as withdrawn, and will be returned to the Union President or the Grievant(s).

STEP 3: If the grievance is not settled in Step 2 and the Union and/or the employee desires to appeal, the Union President or his/her designated Representative and/or the employee shall appeal in writing to the City Manager's designee for Labor Relations, within three (3) working days after the designated Department Head's answer in Step 2. A meeting between the City Manager's designee for Labor Relations, and the Union Grievance Committee, not to exceed five (5) employees (and/or the employee) shall be held at a time mutually agreeable to the parties.

If no settlement or a settlement is reached, the City Manager's designee for Labor Relations shall give the City's written answer to the Union and the employee within five (5) working days following the meeting.

The Union President or the Chief Steward and the appropriate Department Head may mutually agree in writing that the first two steps of the grievance procedure set forth above may be bypassed if the circumstances warrant it.

The City and the Union hereby agree that this procedure and the arbitration procedure set forth in Section 4.3 shall be the sole and exclusive method for interpreting and enforcing this Agreement, except in matters over which the City's Personnel Board or Hearing Examiner has jurisdiction (See Sections 4.6).

Except as otherwise provided herein, the Union shall have the exclusive right to represent all employees and to control the submission of grievances to arbitration. In accordance with its obligation to fairly represent employees, the Union shall be authorized to withdraw, abandon or settle any grievance at any time.

Section 4.3. Binding Arbitration. If the grievance is not resolved in Step 3 of the grievance procedure, the Union, on behalf of the employee(s) who filed the grievance, may refer the grievance to binding arbitration within five (5) working days after receipt of the City's answer in Step 3. The parties shall attempt to agree upon an arbitrator within ten (10) working days after receipt of notice of referral and in the event the parties are unable to agree upon an arbitrator within said ten (10) workday period, either or both parties may request the Federal Mediation and Conciliation Service to submit a panel of five (5) arbitrators. Both the City and the Union shall have the right to strike two names from the panel. The parties shall alternately strike one name at a time. The remaining person shall be the arbitrator. The arbitrator shall be notified of his/her selection within five (5) working days by a joint letter from the parties requesting that he/she advise the parties of his/her availability for a hearing.

Section 4.4. Authority of Arbitrator. The arbitrator shall have no right to amend, modify, ignore, add to, or subtract from the provisions of this Contract. He/She shall consider and decide only the specific issue submitted to him/her in writing by the parties, and shall have no authority to make a decision on any other issue not so submitted to him/her. The arbitrator shall submit in writing his/her decision within thirty (30) days following close of the hearing or the submission of briefs by the parties, whichever is later, provided that the parties may mutually agree in writing to extend said limitation. The decision shall be based solely upon his/her interpretation of the meaning or application of the express terms of this Contract to the facts of the grievance presented. Consistent with this section, the decision of the arbitrator shall be final and binding.

Section 4.5. Expenses of Arbitration. The fee and expenses of the arbitrator shall be paid by the party not prevailing in the decision of the arbitrator. If only one party wishes a written transcript, it shall be the party's sole financial responsibility. If both parties wish the transcript, they shall split the cost. Each party shall be responsible for compensating its own representative and witnesses.

Section 4.6. Election of Remedies. Disciplinary actions may be grieved under the grievance/arbitration provisions contained in this Article or to a Hearing Examiner, who shall be selected by utilizing the procedures outlined in Section 4.3 of this Article. Disciplinary actions that may be appealed through the Hearing Examiner process include only removals, suspensions or demotions. A grievance involving the interpretation or application of this Agreement may be grieved solely under the grievance/arbitration provisions contained in this Article. Grievances regarding certain non-disciplinary matters, such as disagreements as to the waiving or application of changes to personnel rules or other work rules or policies may be filed via the Personnel Board procedures. The decision of the hearing officer shall be final and binding. The cost of a Hearing Officer shall be paid by the City. Any proceedings before the Hearing Examiner shall be conducted pursuant to the attached Hearing Examiner Rules.

Section 4.7 Grievances Involving Discipline. Discipline shall only be for cause but shall not include informal counseling or oral reprimands that are not written up and placed in the employee's Personnel file. Written reprimands, suspensions, and dismissals shall be considered discipline. Any employee who has completed the working test period (probationary period) and who is disciplined may file a grievance concerning same. Grievances involving disciplinary actions, may be filed at Step II of the grievance process as set forth in Section 4.2 or, if applicable, through the Hearing Examiner process as stated in Section 4.6. Written reprimands may only be grieved through Step III of this procedure. The City will review and consider the length of time of previous reprimands as part of the progressive discipline process.

Section 4.8. Union Stewards. Union Stewards shall be designated by the Union. The Union shall be entitled to 18 Stewards distributed as follows:

Sanitation	3
Parks Maintenance	2*
Fleet Management	2*
Water/Sewer	2
Streets and Streetlights	1
Property Management	1
Recreation & Parks Department & Bass Museum	4
Parking Department	1
Chief Steward (Police Department)	1
Fire Support	1

* Each at a different location.

The Chief Steward (or President) shall have the right to function in the absence of any designated Steward. The Union shall certify in writing to the City the names of the Stewards in each of the foregoing areas who shall be employed in said area. Stewards shall be permitted during working hours without loss of pay, to investigate, discuss and process grievances in their respective areas; provided the following conditions are met: (1) They first secure the permission of the Supervisor designated by the City for this purpose (such permission shall not be unreasonably denied); (2) The Supervisor shall be notified 24 hours prior to investigating, discussing, and processing grievances on City time (shorter notice may be given to the Supervisor in the case of an urgent matter); and (3) The Union Steward or Representative will report his/her return to work to the immediate Supervisor upon conclusion of the use of time for grievance under this section.

Section 4.9. Grievance Meetings. Grievance meetings shall be held at mutually agreed to times and places. Where practicable, the parties should schedule such meetings during working hours.

Section 4.10. Union Representation. The Union, in accordance with Chapter 447.401, Florida Statutes, shall not be required to process grievances for employees who are not members of the Union. The Union will, however, be notified of the filing of all grievances and shall have a right to be present at any scheduled meetings or hearings held pursuant to Section 4.2 (Grievance Procedure). In addition, the union shall be notified of all proposed grievance settlement with any bargaining unit member in writing prior to the final disposition of a settlement agreement.

The City shall notify the Union of all grievances filed by bargaining unit members, scheduled meetings, and hearings at Step III of the grievance process pursuant to Section 4.2. In addition, the Union shall be notified of all proposed grievance settlements with any bargaining unit member in writing prior to final disposition of a settlement agreement.

Section 4.11 Union Time Bank

The City agrees to provide a time bank of 1040 hours per year to be used by the Union President and his or her designee to conduct union business. No more than two (2) of the designated union representatives may use time from the union time bank at the same time. The President or designated union representative shall provide a minimum of twenty-four (24) hours notice to the appropriate Department or Division Director or designee for any leave to be granted. If the union time bank is exhausted prior to the start of the next contract year, no more paid time off to conduct union business on City time shall be requested, paid or approved, unless done with employees' individual leave balances from leave other than Sick Leave.

Section 4.12. Employee Rights During Meetings or Interviews.

- a) An employee shall be entitled to request Union representation at all meetings where the representative of the City intends to seek to gain information from the employee, which may become a part of the written disciplinary record or may result in a written warning/reprimand of the employee.

- b) The employee shall be informed of the nature of the meeting, the alleged conduct, and if requested, be given a reasonable period of time prior to the meeting to contact and consult with the Union. Nothing contained herein shall preclude an employee from legal representation in the event of a criminal investigation.

- c) All meetings will be held in the City at a reasonable hour during the employee's shift or contiguous to the shift on the clock, unless an emergency or serious condition prevents such action.

ARTICLE 5
NO STRIKE AND NO LOCKOUT

Section 5.1. No Strike. The parties hereby recognize the provisions of Chapter 447, Florida Statutes, which define strikes, prohibit strikes, and establish penalties in the case of a strike and incorporate those statutory provisions herein by reference. The parties further agree that the City shall have the right to discharge or otherwise discipline any employee(s) who engage(s) in any activity defined in Section 447.203(6) of the Florida Statutes.

Section 5.2. No Lockout. The City will not lockout any employees during the term of this Contract as a result of a labor dispute with the Union.

ARTICLE 6
MANAGEMENT RIGHTS

It is recognized that except as stated herein, it is the right of the City to determine unilaterally the purpose of each of its constituent agencies, set standards of service to be offered to the public, and exercise control and discretion over its organization and operations. The Union recognizes the sole and exclusive rights, powers, and authorities of the City further include but are not limited to the following: to direct and manage employees of the City; to hire, promote, transfer, schedule, assign, and retain employees; to suspend, demote, discharge or take other disciplinary action against employees for just cause; to relieve employees from duty because of lack of work, funds or other legitimate reasons; to maintain the efficiency of its operations, including the right to contract and subcontract existing and future work; to determine the duties to be included in job classifications and the numbers, types, and grades of positions or employees assigned to an organizational unit, department or project; to assign overtime and to determine the amount of overtime required; to control and regulate the use of all its equipment and property; to establish and require employees to observe all applicable rules and regulations; to conduct performance evaluations; and, to determine internal security practices; provided however, that the exercise of any of the above rights shall not conflict with any of the express written provisions of this Agreement. The Union, its officers, agents, and members agree that they will not interfere with Management in the performance of its duties. The City agrees that, prior to layoff of bargaining unit members, it will advise the Union.

If, in the sole discretion of the City, 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 or his/her designee during the time of the declared emergency, provided that wage rates and monetary fringe benefits shall not be suspended.

Should an emergency arise, the Union President and Staff Representative shall be advised as soon as possible of the nature of the emergency. Nothing contained in this Agreement shall prohibit the implementation of personnel actions the City deems necessary to comply with the Americans With Disabilities Act (ADA).

ARTICLE 7
HOURS OF WORK AND OVERTIME

Section 7.1. Purpose. This Article is intended to define the normal hours of work and to provide the basis for the calculation and payment of overtime. It shall not be construed as a guarantee of hours of work per day or per week, or of days of work per week.

Section 7.2. Normal Workday. The normal workday shall consist of eight (8) or ten (10) consecutive hours of work, exclusive of the lunch period, in a twenty-four (24) hour period. Prior to any change in the normal workday of a group of employees, the City will discuss the proposed change with the Union.

Section 7.3. Normal Workweek. The normal workweek shall consist of forty (40) hours per week. The workweek shall begin with the employee's first regular shift each week. If the workweek is changed, the employee will normally be notified fourteen (14) calendar days prior to the effective date of change; provided that shorter notice may be given if circumstances do not permit the giving of fourteen (14) calendar days notice; provided further that it may be changed upon shorter notice upon agreement by the Union. Agreement shall not be unreasonably denied. The implementation of this provision shall not be arbitrary and capricious.

Section 7.4. Weekly Overtime. For all hours worked in excess of forty (40) hours during an employee's workweek, the City will pay the employee at the applicable overtime rate.

Section 7.5. Distribution of Overtime Opportunity. Opportunity to work overtime shall be distributed equally as practicable among employees in the same job classification in the same work section and area starting with the most senior employee, provided the employees are qualified to perform the specific overtime work required. Seniority for the purpose of this subsection only shall mean length of continuous service in the division in question. Overtime opportunities shall be accumulated on adequate records (which shall be available to the Union and employees with overtime rosters posted on divisional board and updated monthly) and offered overtime not worked shall be considered as worked in

maintaining these records. If any employee establishes that he/she has not received his/her fair share of overtime opportunities, such employee shall have first preference to future overtime work until reasonable balance is recreated. Employees who have been recorded for overtime hours not worked shall not be discriminated against with respect to future overtime opportunities or job assignments. Overtime worked shall be voluntary, whenever possible. On a particular job, an employee may be asked to complete work in progress during overtime when hazardous conditions are present.

Section 7.6. No Pyramiding. Compensation shall not be more than once for the same hours.

Section 7.7. Paid Leave as Time Worked for Purpose of Computing Overtime. A holiday or other paid leave (excluding workers compensation leave and sick leave) which is observed during an employee's regularly scheduled workweek shall be considered as time worked for the purpose of computing overtime.

Section 7.8. Rest Periods. Each employee shall be granted a fifteen (15) minute rest period with pay which will be scheduled whenever practicable approximately midpoint in the first one-half of the employee's regular work shift and in the second one-half of the shift.

Section 7.9. Seventh Consecutive Day of Work. For all hours worked on an employee's seventh consecutive workday within his/her workweek, the City shall pay two (2) times the employee's straight time hourly rate of pay, provided the employee has worked his/her full shift on each of the six (6) preceding workdays; provided that paid leave will not be considered as time worked for the purpose of this Section. This provision shall not be applicable if a substantial number of employees are scheduled to work seven (7) consecutive workdays because of an emergency such as a hurricane.

Section 7.10. Shift Starting Time. If the scheduled shift starting time of an employee is changed, the employee will normally be notified ten (10) days prior to the effective date of change; provided that shorter notice may be given if circumstances do not permit the giving of ten (10) days notice.

Section 7.11. Reporting Pay. An employee who reports to work as scheduled will be guaranteed eight (8) hours of work or eight (8) hours of pay at the applicable rate; provided, however, if the employee does not perform the work assigned to him/her (within or below his/her classification) he/she shall not receive any pay for time not worked.

Section 7.12. Call-In and Call-Back Pay. An employee who is called to work outside of his/her normal hours of work will be guaranteed four (4) hours of work or four (4) hours of pay at the applicable rate; provided, however, if the employee does not perform the work assigned in his/her job classification he/she shall not receive any pay for the time not worked.

This provision shall not apply to an early call-in or early report which overlaps into the employee's regular shift. In such case, the early call-in or early report time will be compensated at the employee's regular rate of pay or at the rate of time and one-half the regular rate of pay if the total hours worked in the workweek exceed forty.

Section 7.13. Work Schedule. Work schedule shall normally show the employees' shifts, work days, and hours, and shall be posted when necessary on an appropriate bulletin board.

Section 7.14. Standby. Employees expressly assigned to standby status shall receive two (2) hours of straight time as a Standby bonus for each day of that assignment. Employees will not be paid both the Standby bonus and Call Back pay for the same day (i.e., if called in while on Standby status the employee will be paid only the Call Back pay). The Standby bonus is not considered hours worked for determining overtime. Standby shall be assigned in the City's sole discretion. Employees assigned to standby must respond to any call within ten (10) minutes and must be available to report to the work-site within thirty (30) minutes (or some other reasonable period of time as determined based upon the circumstances). Failure to meet these requirements (as may be modified in the City's sole discretion), or other requirements related to standby assignments that may be determined necessary by the City, shall result in forfeiture of the Standby bonus, and possible disciplinary action, based on the circumstances of each case.

ARTICLE 8

WAGES AND FRINGE BENEFITS

Section 8.1. Wages.

The City of Miami Beach classification and pay system will be utilized under this contract. This includes salary range changes, job audits, and market classification studies. This does not include cost-of-living increases. No change shall take place until the Union President or his/her designee concurs. No decision made within the context of this provision shall result in a lower grade, the removal of a job classification from the bargaining unit, nor shall said decision result in an exemption from FLSA overtime requirements.

No bargaining unit member who left the City's employment prior to the date of ratification of this Agreement by both parties will be eligible for any wages or benefits under this Agreement.

- a.) Effective the first (1st) pay period ending in May, 2010, there shall be no across-the-board wage increase for any bargaining unit positions. Also, there shall be no increase on the minimums and maximums of each range.

- b.) Effective the first (1st) pay period ending in May, 2011, there shall be no across-the-board wage increase for any bargaining unit positions. Also, there shall be no increase on the minimums and maximums of each range.

- c.) Effective with the first full pay period ending in April 2012, there shall be an across-the-board wage increase of three percent (3%) for all bargaining unit positions. Also, the minimums and maximums of each range will increase by three percent (3%) effective with the first full pay period ending in April 2012.

Within sixty (60) days of an employee's merit review date, the employee's Department shall complete a Performance Evaluation and forward it to Human Resources. The Evaluation shall be completed in accordance with the policy established by Human Resources. Failure to complete a Performance Evaluation within sixty (60) days will result in an automatic two percent (2%) salary increase.

The following language does not apply for this Agreement:

Employees who receive a score of ninety (90) or above shall receive a four percent (4%) increase on their merit review date.

Employees who receive a score of less than ninety (90), but eighty (80) or above, shall receive a three percent (3%) increase on their merit date.

Employees who receive a score of less than eighty (80), but sixty (60) or above, shall receive a two percent (2%) increase on their merit date.

Any other increase will take effect retroactively when the evaluation is completed. Performance Evaluation increases may total no more than four percent (4%).

The following language applies for this Agreement:

Employees who receive a score of sixty (60) or above shall receive a two percent (2%) increase on their merit review date.

Employees who receive a score of less than sixty (60) shall not receive a merit increase.

For the period of May 1, 2010 through April 30, 2011 and May 1, 2011 through April 30, 2012, there shall be no merit salary increases for any bargaining unit employees. Beginning May 1, 2012, all bargaining unit employees may be eligible to receive a two percent (2%) merit increase subject to the provisions outlined above.

If an employee's merit rating score does not qualify him/her for a merit increase, the employee may grieve the evaluation up to Step 3 under the provisions of this Agreement.

Section 8.2. Shift Differential. There shall be a shift differential of forty five cents (\$.45) per hour for work performed at the City's request on shifts beginning after 2:30 P.M. and at or before 11:00 P.M. There shall be a shift differential of fifty five cents (\$.55) per hour for work performed at the City's request on shifts beginning after 11:00 P.M. and before 6:00 A.M.

Section 8.3. Holidays. The following fourteen (14) days shall be considered holidays: New Year's Day, Dr. Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the day following Thanksgiving, Christmas Day, three (3) floating holidays, and the Employee's Birthday. Employees shall become eligible for floating holidays and the Birthday Holiday upon completing six (6) months continuous service with the City.

Section 8.4. Holiday Pay. Employees shall receive eight (8) hours pay at the employee's regular rate of pay for holidays not worked. Effective November 1, 2001, an employee who is scheduled to work on a holiday shall receive time and one half (1 ½) his/her regular rate of pay for all hours worked in addition to his/her holiday pay. An employee who works over eight (8) hours on a day that is observed as a holiday shall receive two (2) times his/her straight time hourly rate of pay for any such hours worked over eight (8).

To be eligible for holiday pay, an employee must report for scheduled work on the holiday, on the last scheduled day preceding the holiday, and the first scheduled day following the holiday unless such absences are excused. Excused absences are defined as:

- 1) an absence due to serious illness or injury;
- 2) approved annual leave;
- 3) floating holiday;
- 4) birthday.

If an employee, scheduled to work, works more than his/her normal hours on a holiday, the excess hours shall be paid at the holiday rate.

Section 8.5. Rate of Pay When Working Out of Classification. An employee may be required to temporarily work out of his/her classification when directed by management. Temporarily is defined as an employee who is clearly and definitely performing the principal duties in a higher pay

classification for more than one hour per day, and they shall not exceed 580 hours in a 12-month period, and shall be paid as follows, except at the sole discretion of the Human Resources Director, he/she may waive the 580 hour cap if in his/her judgment, it will best serve the needs of the City service:

- a) Out of class pay shall be distributed as equally as practicable among employees in the same job classification in the same work section.
- b) If he/she is temporarily working in a lower classification, he/she shall receive his/her hourly rate in his/her regular classification. Employees will not be assigned to lower classification work as punishment or to demean the employee.
- c) If he/she is temporarily working for one or more consecutive hours in a higher paying classification, he/she shall be paid an hourly rate of one dollar (\$1.00) per hour to be added to the employee's straight-time rate of pay.

Employees being trained with on-site supervisory assistance in a bona-fide training program for a higher paying classification will be paid their current rate in their regular classification during such training time.

Section 8.6. Uniforms. The City will provide uniforms to bargaining unit employees who are required to wear them. The composition of the uniform shall be determined after consultation with the Union. The Uniforms issued shall be chosen based on considerations of employee safety and comfort, as well as cost. Issued uniforms will be replaced by the Department upon presentation of worn or damaged uniform items by the employee no less than once per year. Each Department Director shall provide necessary safety/foul weather gear, as appropriate.

The vendors will deliver the uniforms in the month of April of each year for the term of this Contract.

All employees shall receive six uniforms.

Six pants or shorts (if appropriate)

Six shirts

Six T-Shirts

One Uniform Jacket (one jacket during the term of the contract)

Sponsorship: In the event that the City enters into an agreement with any outside sponsor concerning uniforms that may be issued to any employee(s) (but not necessarily all employees) who are in the AFSCME bargaining unit, the Union agrees that these sponsored uniforms may be issued to satisfy the contractual uniform obligations. The Union agrees that no additional contract obligations concerning uniforms are hereby created, and that such sponsored uniforms may be discontinued at any time by the City. The issuance and/or discontinuance of any such uniforms pursuant to such a sponsorship arrangement shall not be subject to any grievance or appeal process.

Section 8.7. Safety Shoes. Employees in the following job classifications will be required to wear safety shoes during all working hours. Effective October of each year a safety shoe certificate will be provided to those employees in the following job classifications for the purchase of safety shoes meeting ASTM F2413-05 Federal Safety Standards.

Those employees in the following classifications will make his/her safety shoe selection from a predetermined list of safety shoes, which will be developed by the Shoe Safety Committee comprised of two (2) Union representatives and two (2) Management representatives.

- | | |
|----------------------------------------|-------------------------------------|
| Assistant Pumping Mechanic | Pest Control Supervisor |
| Diesel Generator Mechanic | Pumping Mechanic |
| Building Services Technician | Sewer Supervisor |
| Building Supervisor | Sewer Pipe Fitter |
| Control Room Operator | Sign Maker |
| Central Services Technician | Street Supervisor |
| Fire Equipment Mechanic | Street Lighting Technician I and II |
| Fleet Service Representative | Stores Clerk |
| Heavy Equipment Operator I and II | Storekeeper I, II and III |
| Ice Rink Technician | Storekeeper/Mechanic |
| Irrigation Systems Supervisor | Tree Trimmer |
| Mechanic I, II and III | Water Meter Technician I and II |
| Municipal Service Worker I, II and III | Waste Collector |
| Municipal Service Worker Trainee | Waste Driver Supervisor |
| Park Supervisor | Water Pipe Fitter |
| | Water Supervisor |

Employees receiving the safety shoe certificate will be required to purchase and wear the safety shoes during all working hours unless medically prohibited by workers compensation or primary physician, and will be subject to up to the loss of a day's pay for each day that the employee reports to work and fails to wear the required safety shoes. Action taken against the employee under this Section shall not be appealable to the Hearing Examiner or grievable under this Agreement. The City Manager's designee for Labor Relations shall review any questions on the interpretation of this paragraph.

When, due to extreme wear and tear or accidental destruction, a replacement pair of safety shoes is required, the City will grant an additional shoe certificate.

Section 8.8. Vacation Benefits. Consistent with applicable ordinances, the vacation benefits presently enjoyed by the employees covered by this Contract shall continue for the term of this Contract.

Section 8.9. Meal Allowance. An employee who works three (3) consecutive hours or more of pre-shift or post-shift overtime shall be paid \$7.00 unless meals are provided by the City. Employees shall receive compensation within three (3) months.

In the event employees are supplied with a meal while working the overtime hours, the meal allowance, as provided under this Section, shall cease.

Section 8.10. Jury and Witness Duty. The City shall permit employees to keep either payments received from courts of competent jurisdiction for being on jury duty or in the alternative his/her standard rate of pay, plus reimbursement of court parking expenses, upon presentation of a receipt for such expenditure.

For each day an employee is called to jury duty, he/she shall be excused from work for such time as is necessary to complete jury duty service. If three (3) or more hours are left in the employee's work shift upon release from jury duty, the employee shall immediately contact his/her immediate supervisor for instruction regarding his/her return to work.

An employee subpoenaed as a witness (not a defendant) for a matter which has arisen in the employee's performance of duties, shall be granted temporary leave of duty with pay equal to the difference between the employee's regular rate of pay and any witness fees received.

An employee who is a defendant in a matter which has arisen in the employee's performance of duties and who is adjudged not guilty or not liable will be reimbursed for work time lost by reason of time spent in court.

Section 8.11. Tool Allowance. Effective January 1, 2002, employees in the Mechanic II, Mechanic III, and Fire Equipment Mechanic job classifications shall receive a tool allowance of Fifteen Dollars (\$15.00) per pay period; employees in the Mechanic I and Storekeeper/Mechanic job classifications who regularly are required to use their own personal tools as part of their job duties, shall receive a tool allowance of Ten Dollars (\$10.00) per pay period. As a condition precedent to being eligible to receive the tool allowance outlined herein, the following will apply:

Management will produce a detailed list of tools that the tool allowance recipient must have in his/her on site tool box inventory. Further, such tool inventory shall not include tools manufactured by companies that do not offer a 100% tool replacement warranty policy, except for those drill motors or electronic tools that may have less than a 100% warranty. In the limited exception for electric drill motors or electronic tools, all such electric drill motors or electronic tools shall be of professional, industrial grade, manufactured by known quality vendors.

Those employees who do not have all the required tools on the tool inventory shall not receive the tool allowance. Should the individual wish to be re-considered for the tool allowance, he/she may purchase the missing inventory tools and then re-apply for the tool allowance the following month.

Failure to complete the tool purchase within two (2) weeks will be cause for the employee to be eliminated from consideration for receipt of the appropriate tool allowance. Future compliance with the

tool inventory will allow the employees in those classifications as outlined above to be eligible to receive the appropriate tool allowance.

Each employee will submit to Management a complete inventory of the tools which they maintain at their job site for working on City vehicles, annually. One (1) hour of time to prepare the annual inventory of tools shall be done on City time once a year.

Each employee shall make his tools available to Management staff for an inventory and/or safety check upon reasonable notice.

Section 8.12. Bereavement. In case of death in the immediate family of an employee, time off with straight-time pay will be allowed of two (2) scheduled work days off per death and four (4) scheduled work days off per death if the funeral is held outside the State of Florida. The immediate family shall be defined as father, mother, husband, wife, sister, brother, son, daughter, grandchild, grandfather, grandmother, mother-in-law, father-in-law, stepfather, stepmother, stepson, stepdaughter, or domestic partner as defined in the Domestic Partner Ordinance. Additional time off may be granted by the Department Head, in writing, chargeable to the employee's accrued sick or vacation leave. In such circumstances such additional sick leave shall not count against an employee for purposes of performance evaluations.

Section 8.13. Pay Periods. Pay day shall normally be every other Friday. In the event such a Friday is a holiday or scheduled day off, the City shall attempt to pay on the preceding day.

Section 8.14. Injury Service Connected. An employee who is absent from duty because of injury which the City Manager or his/her designee determines is the direct result of the employee's performance of duties on behalf of the City, shall continue to receive pay during such absence in accordance with applicable City ordinances. Such pay may continue for a period of time not to exceed sixteen (16) weeks unless extended by the City Manager or his/her designee with the approval of the City Commission. Pay during the period of such absence will be computed as follows:

Employees who are entitled to pay because of injury service-connected, will be paid an amount which is equal to the difference between their normal City pay and the amount of compensation payable under the provisions of the Worker's Compensation Law of the State of Florida. A normal day's pay shall be 1/10 of the biweekly rate of pay.

Section 8.15. Certificates. If an employee is required by law for the performance of his/her work, to obtain a certificate for the spraying of insecticides, or a pumping station operator certificate, or a certificate to handle chlorine, the City shall pay the fee for such certificate. The Labor-Management Committee shall discuss whether higher pay ranges may be appropriate where certificates are required.

Section 8.16. Pay for Hazard Duty. Effective November 1, 2001, employees working hazard duty will be paid \$1.00 an hour for time actually spent in these activities. Hazard duty applies to the following activities:

- a. Spraying hazardous chemicals (The definition of "hazardous" shall be consistent with the current definition as of ratification).
- b. Diving with scuba gear
- c. Working in trenches five (5) feet or greater
- d. Working in raw sewage
- e. Working forty (40) feet or higher on aerial lift operations
- f. Boat Operator
- g. Hazardous chemical application as defined by MSDS
- h. Fuel Truck Operator

Section 8.17. Changes in Benefits. The City acknowledges its obligation under state law to notify the Union of any change in a benefit contemplated by the City and permit the Union to bargain over such a change, to the extent that state law requires such bargaining.

Section 8.18. Pension, DROP & Retiree Health. The Miami Beach Employees' Retirement Plan (MBERP) is the pension plan for bargaining unit members, except for those employees who previously elected to remain in the 401-A retirement program (in lieu of participating in the City's pension plan). The current benefits and member contributions provided by the MBERP shall remain in effect for the term of this Agreement, except as follows:

1. For employees hired prior to April 30, 1993 who participate in the MBERP, the employee pension contribution shall increase by 2% of earnings, from 10% to 12% of earnings, effective upon ratification of this Agreement and through the expiration of this agreement on April 30, 2013. For employees hired on or after April 30, 1993 who participate in the MBERP, the employee pension contribution shall increase by 2% of earnings, from 8% to 10% of earnings, effective upon ratification of this Agreement and through the expiration of this agreement on April 30, 2013.
2. The City and Union agree to change the creditable service component of the formula for calculation of the Final Average Monthly Earnings (FAME) for current members from the two (2) highest paid years of creditable service to the five (5) highest paid years of creditable service, phased in over a period of time as described in Appendix 1.
3. The current benefits and member contributions provided by the MBERP shall remain in effect for any new employees hired on or after the date this agreement is ratified, except for those identified in Appendix 2.

For the term of this Agreement, the Deferred Retirement Option Plan (DROP) will continue in accordance with Ordinance No. 2006-3504, as amended.

The parties agree that any bargaining unit member who previously elected to participate in the 401-A retirement program (in lieu of participating in the City's pension plan) shall be required to work at least ten (10) years before becoming eligible for any retiree health benefits from the City.

Any bargaining unit member who is eligible for retiree health benefits from the City must make a one-time irrevocable election to continue receipt of health benefits via the City's plan at the time that the employee terminates City employment. The parties also agree that if a member initially elects to continue under City health insurance, but thereafter discontinues or is discontinued from such coverage, then the retiree may resume coverage only at their own expense, without any employer contribution whatsoever.

Employees hired on or after September 6, 2006, will be entitled to a City contribution against the cost of continued health insurance coverage in the City's health insurance plan after retirement (or separation) from City employment, as set forth in this section. Any employee hired on or after September 6, 2006, who then remains employed until reaching eligibility for normal retirement, and who elects to continue insurance coverage under the City's health plan, shall upon receipt of normal retirement benefits also receive an additional separate supplemental monthly stipend payment in the initial amount of \$10.00 per year of credited service, up to a maximum of \$250.00 per month until age 65, and \$5.00 per year of credited service up to a maximum of \$125.00 per month thereafter. There shall be no other City contribution toward the cost of continued health insurance coverage for such employees and this benefit shall be paid only during the life of the retiree.

Section 8.19. Training and Training Programs. The City and the Union agree that the training and development of employees within the bargaining unit is mutually beneficial. The Union will be kept informed of all training programs. The Union may make recommendations to the City relative to the training of employees within the bargaining unit. The City will consider recommendations and improvements submitted by the Union. The parties agree to meet at the request of either party for the purpose of exchanging information concerning the overall training of employees within the bargaining unit.

Section 8.20. Skill Pay Supplement.

Effective January 1, 2002, the Skill Pay Supplement will be as follows:

<u>Automobile Technicians/Medium/Heavy Truck Technicians</u>	
3 to 5 Certifications	\$40.00/month
6 to 7 Certifications	\$80.00/month
"Master" Auto Technician or Medium/Heavy Truck Technician	\$120.00/month
<u>Fire Mechanics</u>	
Level 1 Fire/Ambulance	\$50.00/month
Level 2 Fire/Ambulance	\$90.00/month
EVT Master Fire/Ambulance	\$130.00/month
<u>Natural Gas ASE Certification</u>	
	\$20.00/month
<u>Parts Specialist</u>	
3 of 3 Certifications	\$40.00/month

Note: The maximum Skill Pay Supplement Benefit would be \$140.00/month

Section 8.21. Health Insurance

- a. The City shall offer medical, dental, and life insurance benefit plans to full-time bargaining unit employees and their legal dependents during the term of this Agreement. The City will continue to pay at least fifty percent (50%) of the premium cost for eligible employees. The City will continue to offer alternative plans as options for employees. The City may change insurance carriers and/or the scope and level of benefits in any plan. The City also may change the percentage of premium cost paid by the City (i.e., provided that it remains at least 50%) from year to year for any one or more of the optional plans available, depending upon the scope and level of benefits available in each of the optional plans.

- b. The City agrees that it will not change the level of benefits during the term of this Agreement without first consulting with the Group Insurance Board, or a labor-management advisory committee created as a substitute for such Board. A bargaining unit employee may serve on this Board/committee for as long as bargaining unit employees participate, exclusively, in the City's group health insurance plan. In the event that the City materially reduces the scope and level of benefits in the current base (PPO or HMO) plan then the Union may request post-implementation impact bargaining. The Union waives impact bargaining over any changes to any optional

plan.

- c. Employees in the bargaining unit shall be eligible to participate in the City's flexible and voluntary benefits plans, which may be modified by the City from time to time. The flexible and voluntary benefits plans shall be administered by the City.

Section 8.22 Essential Personnel (Hurricane Pay). When the City declares an emergency due to a named hurricane and other events and non-essential personnel employees are advised to stay home with pay and essential personnel employees are ordered to work, essential personnel employees shall be paid at the rate of one and one-half of their straight hourly wages for all hours worked for up to three (3) days.

Section 8.23 Landfall Team

Bargaining Unit employees designated to be part of the Landfall Team (designated Landfall Team Members) shall be on a voluntary basis only starting with the most senior person in the same division. There will be a list published by May 1st of each year, according to seniority (updated monthly and/or accordingly). Designated Landfall Team Members shall be compensated at a pay rate of one and one-half of the employee's hourly rate of pay for all hours worked up to three (3) consecutive days. Designated Landfall Team Members shall only qualify for the pay if the Landfall Team is activated by the City's Emergency Operations Center (EOC). Landfall Team Members who report to duty will be paid for the duration of the Landfall Team activation for actual hours worked. During a weather-related emergency event, if a designated Landfall Team Member fails to report for duty during their regularly scheduled shift, where non-designated employees are directed to stay home, said employee will be deemed non-essential and will be compensated "Administrative Hurricane Pay" for those hours that the employee had been regularly scheduled. Administrative Hurricane Pay is compensated at a rate equal to an employee's hourly rate of pay, and is not to be confused with Essential Personnel (Hurricane Pay) as denoted in Section 8.22. Should a designated Landfall Team Member work in excess of forty (40) hours during their regularly scheduled work-week, said employee will be compensated at a rate of time and one-half their regular

hourly rate for those hours worked above forty (40) hours. The City and the Union agree that this compensation may or may not reflect the City's traditional payroll codes, however, the compensation on the employee's paystub will reflect the time and one-half rate for all hours worked in excess of forty (40) by the employee during their regularly scheduled workweek. Employees shall not receive pay for both Essential Personnel (Hurricane Pay) (as described in Section 8.22) and Landfall Team.

Designated Landfall Team Members shall be allowed up to four (4) hours to secure personal property prior to a weather-related emergency event. During the weather-related emergency event, the City shall provide designated Landfall Team Members with food, weather gear, and shelter rated to withstand a category five (5) storm. Designated Landfall Team Members shall be required to seek shelter when winds exceed 40 miles per hour.

The Landfall Team shall not erode the bargaining unit.

ARTICLE 9
SENIORITY

Section 9.1. Definition. Seniority for purposes of application of this Agreement except as otherwise stated, is an employee's length of regular, full time continuous service with the City.

Section 9.2. Layoffs. When there is a reduction in force in any job classification (including those resulting from a consolidation or elimination), employees will be laid off in the following order, and such layoffs shall not have the effect of reducing the City's efforts to diversify the workforce:

- a) Employees in the affected classification who have not completed their working test period (probationary period) will be the first reduced.
- b) In the event of further reductions in force, employees will be reduced from the classification in accordance with their seniority and their ability to perform the work available. When two or more employees have equal skill, ability and qualifications, the employee(s) with the least seniority will be the first laid off.

A non-probationary employee reduced from a job-classification under (b) above may be transferred by the City to another position of equal rate, or failing such transfer, he/she may exercise seniority to replace the least senior employee in a lower rated job classification covered by this Contract where the employee has equal skill, ability, and qualifications to perform the work; provided that the replacing employee will be given an opportunity to become familiar with the work, receive basic instruction concerning the work, and orientation on the operation of equipment, if any.

No AFSCME unit position will be impacted between May 1, 2010 through September 30, 2010. Further, no employee covered under the AFSCME Bargaining Unit will be separated from the City for reasons other than discipline or voluntary separation for the period of time between October 1, 2010 through September 30, 2011 (Fiscal Year 2010-2011) and October 1, 2011 through September 30, 2012 (Fiscal Year 2011-2012).

In the event that there is an impact to a position in FY 2010-2011 or FY 2011-2012, the impacted employee shall be offered a position with the City. The City will offer the impacted employee a position for which they meet the minimum qualifications. If that impacted employee's hourly rate is above the maximum hourly rate of the position offered, that employee will remain at their hourly rate even if that hourly rate exceeds the maximum hourly rate of the position offered. In addition, recall rights will be in place for two (2) years from date of impact.

Section 9.3. Recalls. When there is a recall, employees on layoff with seniority will be recalled in inverse order to their layoff, provided they are presently qualified to perform the work in the classification to which they are recalled. No new employees shall be hired into a classification from which employees have been laid off and remain on layoff status until such laid off employees are offered recall in accordance with Civil Service Rules, which shall govern for recall purposes. Employees shall not be transferred into or assigned to work out of class in a classification from which any employees have been laid off and remain on layoff status, except on a temporary basis not to exceed a total of ninety (90) calendar days in a six-month period.

Section 9.4. Break in Seniority. Seniority and the employment relationship shall be terminated when a non-probationary employee:

- a) quits voluntarily.
- b) is laid off for more than one (1) year, or the employee's length of service, whichever is greater, up to a maximum of two (2) years.
- c) is terminated for cause.
- d) retires or is retired.
- e) fails to return to work at the expiration of any approved leave of absence.
- f) fails to report to work within five (5) workdays after date of written notice of recall to work after a layoff given by the City by certified or registered mail and addressed to the employee at his/her last address appearing on the records of the City. It shall be the employee's responsibility to provide the City with his/her current address.
- g) an employee absent for a period of three (3) work days without notification of a valid reason to the management of his/her department, and who has no legitimate reason for not notifying the management of his/her department shall be considered as having resigned.

Section 9.5. Seniority Lists. Every six (6) months, the City shall post and/or provide for posting on the Bulletin Boards described in Article X, a seniority list showing the continuous service of each employee covered by this Contract and will also provide the Union with a list of new hires and terminations within the bargaining unit during the prior six (6) months. A copy of the seniority list shall be furnished to the Union. The seniority dates and rankings shall be deemed correct unless errors are brought to the attention of the City within thirty (30) days following any posting.

Section 9.6. Union Officer Continuation of Duties. Except as otherwise provided by law, the following Union officers, for the purpose of determining the order of layoff or transfer in lieu of layoff, shall have top seniority within the bargaining unit: President, Vice-President, Secretary-Treasurer, Recording Secretary and Chief Steward.

Section 9.7. Promotions. The term promotion as used in this Contract, means the advancement of an employee to a higher paying classification. Whenever a bargaining unit job opening occurs, other than a temporary opening, in any existing job classification or as the result of the development or establishment of a new job classification, a notice of such opening shall be posted on all bulletin boards for two (2) weeks.

During this period, eligible and qualified employees who wish to apply for the open bargaining unit position or job after it has been announced, may do so. The application shall be in writing, and it shall be submitted to the Human Resources Department.

If there is more than one (1) employee who is qualified for promotion to a job classification in a work section for which no Civil Service examination is required by the Personnel Board, seniority shall be the determining factor where two (2) or more employees within the same work section have equal skill, ability, and qualifications.

Section 9.8. Demotions. The term demotion, as used in this Contract, means reassignment from a position in a higher classification to a position in a lower classification. Demotions may be made to avoid laying off employees, to provide employees with the opportunity to request changes to lower grades for personal convenience, disciplinary reasons, or when an employee is unable to perform satisfactorily the duties of his/her position.

Section 9.9. Preference for Out-of-Class Assignments. Employees who have been previously permanently classified with regular status in a higher rated classification and who have been displaced due to a layoff from that classification but remain in the same division, shall have a preference for any out-of-class assignments to that classification for as long as he/she has recall rights to that classification.

Section 9.10. Shift Preference. By August 1st of each year, the City will allow employees to file for shift preference (days off and start/end time). Shift Preference forms shall be filed eight (8) weeks prior to the October 1st effective start date of new shift assignments each year. The City shall make assignments to shifts using the Shift Preference forms for employees in the same job classification, within the same work section within a division. Assignments to shifts shall be based on seniority, skill, ability and past performance. If skill, ability and past performance among the persons seeking the reassignment are equal, seniority shall govern. In the event that management determines that granting the reassignment would provide unbalanced shifts or result in inexperienced persons or shifts without proper or sufficient supervision, then the shift preference shall not be granted. Shift preference forms will be valid for twelve (12) months from the filing date.

An employee who wishes to grieve the implementation of this provision of the contract may elect to bypass Steps 1 and Steps 2 of the Grievance Procedure.

If a vacancy occurs after the effective start date, previously filed shift preference forms will be used to assign a shift in a job classification which operates on more than one shift in a work section within a division. Assignments to shifts shall be based on seniority, skill, ability and past performance. If skill, ability and past performance among the persons seeking the reassignment is equal, seniority shall govern. In the event that management determines that granting the reassignment would provide unbalanced shifts or result in inexperienced persons or shifts without proper or sufficient supervision, then the shift preference shall not be granted.

Section 9.11. Temporary Employees. The City shall have the right to hire up to fifteen (15) temporary employees in any bargaining unit position. Such temporary employees shall be paid at the entry level step for the classification they fill. The City may exceed the cap on the number of temporary employees hired in any bargaining unit position by the number of unused temporary positions from any combination of other bargaining unit positions.

Such temporary employees so hired may not exceed one (1) year of employment. Further, temporary employees may not work in a classification wherein a permanent Civil Service employee is laid off.

The City recognizes the integrity of the certified bargaining unit and will not use the temporary appointment for the purpose of eroding the bargaining unit. Temporary employees will not be covered by Civil Service or this Agreement except as specified herein.

Temporary employees will not receive any pension or fringe benefits, and they shall serve at the will of the employer. Temporary employees may make application for bargaining unit jobs as permanent vacancies are filled.

9.12 Vacations and Emergencies

- a) When vacations are scheduled, permanent vacancies or shifts are filled, promotions are made to a position within the bargaining unit, seniority shall apply when all other factors are equal.
- b) Seniority will not apply in an emergency situation.

ARTICLE 10
GENERAL PROVISIONS

Section 10.1. Work Rules. The City will provide the Union with a copy of any written work rules affecting employees covered by this Contract that are instituted or modified during the term of this Contract. The Union will be provided with an opportunity to discuss any change in a work rule, and its impact prior to implementation of the change. The current work rules will continue to be enforced, however, the Union will be provided with the opportunity to suggest changes or alternatives to the existing rules.

Section 10.2. Clean-up Time. When necessary at the end of the shift, employees shall be allowed up to fifteen (15) minutes clean-up time to include personal and work area cleanup time. Where facilities are provided, they shall be properly supplied.

Section 10.3. Safety.

- a) The City agrees to comply with all laws applicable to its operations concerning the health and safety of the employees covered by this Contract. Each employee covered by this Contract will be required to comply with all safety and health rules and regulations established by the City. Each employee shall be given a copy of any written safety rules. In case a claim of an imminent unsafe condition which poses an immediate threat of loss of life or bodily harm, a Union Safety Representative shall be entitled to present such complaints and/or claims to the supervisor of the area in question or to the City Manager's designee. The City shall hold two (2) safety meetings per year in the departments for all employees to further safety on the job.

- b) When weather and operational conditions permit, employees may be permitted to ride on the rear of work vehicles provided such transportation is safe and the employees are seated securely. Management has the right to eliminate such transportation if, in the discretion of Management, such seating and/or transportation is unsafe. When weather conditions are such that continual, heavy rain, severe lightning or heavy wind storms are occurring in the immediate work area, the employees will not ride in the back of an open vehicle.

- c) During continual, heavy rain (downpour) or severe lightning storms, employees will take shelter or they will be directed to other work or training, so as to not be exposed to the severe lightning or heavy rain storms.

Section 10.4. Safety Glasses. If an employee requires prescription glasses to perform work and the hazards of his/her job are such that special safety glasses are necessary to ensure safe working conditions, the City will provide them. Such requests shall be subject to the approval of Risk Management.

Section 10.5. Safety Equipment. The City will periodically issue certain safety equipment (including but not limited to a safety vest, a hard hat, safety glasses, hearing protection, chaps, shin guards, etc.) to each employee who must use such safety equipment while performing their duties as determined by the City's Risk Management Department. Safety equipment damaged through non-negligent use at work must be returned to the City for replacement at no charge. However, the employee will be charged for any additional safety equipment to replace lost, misplaced, mistreated, and/or stolen equipment. Employees who are issued safety equipment by the City must wear that safety equipment as part of their uniform during all working hours when such safety equipment is necessary, and will be subject to progressive discipline each time that the employee reports to work or a job site without the required safety equipment. Action taken against the employee under this Section shall be appealable up to Step III. The City Manager's designee for Labor Relations shall review any questions on the interpretation of this paragraph.

Section 10.6. Emergency Medical Attention. The City agrees to place first aid kits at various work locations throughout the City. Furthermore, when emergency medical attention is necessary on the job, the City will arrange for expeditious transportation of the employee to a medical treatment facility.

Section 10.7. Transportation of Employees. The City agrees that whenever employees must be transported from an assembly point to a work site or from one work site to another, during inclement weather, such as rain or cold, the means of transportation will be by an enclosed vehicle, wherever possible, except in extenuating circumstances.

Section 10.8. Transfer. Transfer requested by employees to positions in the same classification or pay range within the City's employ may be affected in accordance with the Personnel Rules. The City

shall make reasonable efforts to find suitable work for employees who suffer a physical ailment, injury or disability.

Section 10.9. Civic Duty. Employees required to appear before a court of law or other public body on matters not related to their work, in which they are not personally involved (as plaintiff or defendant) and employees elected or appointed to any political or legislative position who request a leave of absence to perform their civic duty, shall be granted a leave of absence in accordance with the Personnel Rules.

Section 10.10. Unpaid Leaves. Leaves of absence for a limited period, not to exceed six (6) months, may be granted for any reasonable purpose in accordance with the Personnel Rules and such leaves may be extended or renewed at the employee's request and upon agreement by the City.

Leaves of absence for up to six (6) months shall be granted to accept appointment to office within the Union or employment within the Union.

Section 10.11. Negotiation Pay. Up to four (4) members of the Union's Negotiating Committee, during negotiations for a successor collective bargaining agreement, shall be paid for all time spent in negotiations which would otherwise have been time worked by the member of the Negotiating Committee. Negotiating time beyond the normal work hours or beyond an employee's scheduled workday or workweek shall not be considered as time worked for the City.

Section 10.12. Contracting and Subcontracting.

- a. When the City contemplates entering into a contract with an outside supplier or service agency to perform services presently being performed by the Bargaining Unit employees and such contract shall result in the lay-off of any bargaining unit employee, the City agrees that it will, upon written request, meet and discuss with the representatives of the Union the effect of such contract upon members of the Bargaining Unit.

If the City enters into such a Contract and, as a result thereof, an employee will be laid off, the City agrees to ask the Contractor to provide first consideration for such employee for any available work.

In the event that the employee is not employed by the Contractor, the City will offer such employee another available job with the City, if there is a budgeted vacancy and the employee affected by the subcontracting is qualified to perform. Questions of qualification to perform the job duties shall be decided in the sole discretion of the City Manager's designee for Human Resources.

If there are no jobs available, the Reduction in Force provision contained in this Agreement shall apply, provided that such laid-off employee shall be recalled to work before the City hires a new, permanent employee to perform the work of the classification held by the employee at the time of the layoff.

This recall right shall exist for up to the individual's total service time with the City, but not to exceed two (2) years after the date of the person's layoff date, but such recall right shall cease as of two (2) years after layoff, or if the employee does not return to work as scheduled if he/she is offered a recall notice prior to the two (2) years.

It shall be the responsibility of the laid-off employee to notify the Human Resources Department when technical skills, training, and experience have been enhanced during the lay-off period, which may allow the individual to apply for another bargaining unit job with the City.

Nothing in this Section will be construed to limit the Union's right to bargain concerning the identified impact or effects of subcontracting out or transferring upon Bargaining Unit members.

- b. At least thirty (30) days prior to making a decision to subcontract or contract out a function being performed by bargaining unit employees, management will notify the bargaining unit. If the bargaining unit so request in writing within 10 days of notification, management shall convene a Labor Management conference conducted by the Human Resources Department to discuss.

Section 10.13. Sick and Vacation Leave Accrual and Maximum Payment on Termination. The present policy concerning sick leave, including the policy for payment of accrued sick and vacation time combined, up to a maximum of one year's salary, upon termination, retirement, or death, shall continue for all employees hired before October 1, 1978.

The annual and sick leave accrual rate is subject to the City of Miami Beach Classified Employees' Leave Ordinance.

Regular full-time employees with less than ten (10) years of service shall accrue 96 hours of annual leave and 96 hours of sick leave, prorated bi-weekly, each payroll year. A payroll year is defined as the first through the last pay period of each calendar year.

Regular employees with more than ten (10) but less than twenty (20) years of service shall accrue 136 hours of annual leave and 96 hours of sick leave, prorated bi-weekly, per payroll year upon completion of ten (10) years of employment.

Regular employees with more than twenty (20) years of service shall accrue 176 hours of annual leave per year and 96 hours of sick leave, prorated bi-weekly, per payroll year upon completion of twenty (20) years of employment.

All employees covered by the agreement shall, under applicable ordinances, rules and regulations shall be allowed to accumulate no more than 500 hours of vacation leave per payroll year. At time of termination, death, or retirement, all employees covered by this agreement shall be permitted a maximum payment of 620 hours vacation leave. In addition to vacation leave, all employees covered by the agreement shall be permitted a maximum payment at time of termination, death, or retirement of one-half (50%) of accumulated sick leave to a maximum of 600 hours of sick leave. All employees covered by the agreement shall be permitted to transfer sick leave in excess of 360 hours to vacation leave at the rate of two (2) days of sick leave to one (1) day vacation leave to be used in the pay period year when transferred.

The "must use" accrual on vacation leave from one payroll year to the next is 500 hours.

Section 10.14. Perfect Attendance Bonus. Employees who perform the full scope of their regularly assigned classification for each calendar year shall receive a lump sum bonus of \$300.00 (non-pensionable earnings) provided that they have not used sick leave, or been absent for any reason that was not authorized at least 48 hours in advance. An employee will also be allowed two (2) incidents of tardiness and one (1) emergency vacation. Employees out on ISC will not be eligible for the perfect attendance bonus.

Section 10.15. Changes in Job Specifications and New Classifications. Changes in existing specifications or the creation of new classifications shall be submitted for review and comment by the Union prior to implementation or submission to the Personnel Board.

Section 10.16. Opportunity for Advancement. To the extent that funds and personnel are available, the City is committed to facilitating the efforts of employees, through training, to increase their efficiency, broaden their knowledge, and become more effective in performing their duties in order to enhance their opportunity for promotion.

Section 10.17. Union Conventions. Up to a maximum of three (3) delegates of the Union will be permitted to annually use a pool of paid time-off, not to exceed a total of ten (10) working days in any one fiscal year, for the purpose of attending State and International conventions. The Union will provide the City with the name(s) of the delegate(s) selected to use the Convention time-off under this section and the Union must provide the dates and locations of any such conventions for which a leave of absence under this section is requested at least six (6) weeks in advance of the convention so that the department can make appropriate arrangements. Requests for use of this paid leave may be denied if the time off will create any scheduling or manpower problems. In addition, up to five (5) duly authorized delegates of the Union may request a leave of absence without pay, not to exceed three (3) weeks per delegate in any one year and no more than two (2) weeks at a time, for the purpose of attending conventions and training seminars of the Union. Requests for this unpaid leave shall be submitted at least one month prior to commencement of the leave and said requests will not be unreasonably denied.

Section 10.18. Educational Leave. An employee may request an educational leave of absence without pay to take a course or courses in a field related to the work assignment or career ladder direction of said employee. The City's existing tuition refund program shall be continued for the term of this Contract.

Section 10.19. Meetings Leave. The Union shall have the right to designate one (1) representative, authorized with pay for time he/she would have otherwise been working, to attend any formal meetings and/or hearings of any sub-divisions of the governing bodies of the City, including City Commission meetings, when a matter relating to the Union is on the agenda for such meeting and if prior notice to the representative's supervisor has been given.

Section 10.20. Union Bulletin Boards. The City will make available one (1) enclosed bulletin board for the posting of official Union notices at each of the following locations, and the Union will limit the posting of Union notices to such bulletin boards:

- 1) Public Works Operations - 451 Dade Boulevard
- 2) Sanitation - 140 MacArthur Causeway
- 3) Fleet Management - 140 MacArthur Causeway
- 4) Parks Maintenance Division, 2100 Meridian Avenue
- 5) Fire Department Service Area
- 6) Meter Parking – 1837 Bay Road
- 7) City Police Station
- 8) City Hall
- 9) Recreation Centers (provided AFSCME pays the cost of the new board(s)):
 - a. Teen Center – 2100 Washington Avenue
 - b. Flamingo Park & 11th Street at Jefferson Avenue – Tennis Courts and Swimming Pool
 - c. Muss Park – 4400 Chase Avenue
 - d. Normandy Isle Park and Swimming Pool (Afterschool Programs) – 7030 Trouville Esplande
 - e. North Shore Park Youth Center – 501 72nd Street
 - f. Polo Park (Sport Camp) – 4301 N. Michigan Street
 - g. Scott Rakow Youth Center – Ice Rink and Swimming Pool – 2700 Sheridan Avenue
 - h. South Point Park (Fishing and Water Camps) – 1 Washington Avenue
 - i. Stillwater Park (Outdoor rentals) – 8440 Hawthorne Avenue

Section 10.21. Labor Management Committee. In order to strengthen the parties' labor-management relations, the AFSCME agrees to participate with the City in labor-management committees to address the issues in Departments. Such committees may be requested by the AFSCME or by the City (through the City Manager, Department Directors, or designees) to meet at mutually accepted times. The parties agree that uniforms will be discussed through such Labor Management Committees.

Section 10.22. Me Too and Re-openers. The AFSCME reserves the right to a "Me too" agreement with the CWA and GSA bargaining units on parallel economic issues including but not limited to wages, COLA and pension should the City modify those collective bargaining agreements. Any such discussions shall not exceed a period of ninety (90) days from the day of the first meeting, and in no event shall the discussions continue beyond the contract expiration date.

ARTICLE 11
DRUG AND ALCOHOL TESTING

Section 11.1. The City and the Union recognize the employee substance and alcohol abuse has an adverse impact on City government, the image of City employees, the general health, welfare and safety of employees, and to the general public at large. Therefore, it is in the best interest of the parties to negotiate over the subject of drug and alcohol testing.

Section 11.2. Using, selling, possessing or being under the influence of drugs or controlled substances while at work is prohibited. Employees are further prohibited from consuming alcohol and drugs on duty and/or abusing alcohol and drugs off duty to the extent that such use and/or abuse tends to have an effect upon the performance of their job functions.

Section 11.3. The City may require any employee to submit to a blood analysis, urine analysis and/or Breathalyzer when it has a reasonable suspicion as defined in Florida Statutes 440.102 (N) that an employee is under the influence of or using alcohol, drugs or narcotics and/or when an employee has caused, contributed to or been involved in an accident (i.e., automobile or other injury).

Section 11.4. In the event a urine specimen is tested as positive, a portion of that sample will be subjected to a second test at the employee's request and at the employee's expense. If the second test is negative, the employee will be reimbursed by the City.

Section 11.5. At the conclusion of the drug and alcohol testing, the City may take whatever action, if any, it deems appropriate. In the event that said action is in the form of discipline, the employee may grieve said discipline through the contractual grievance/arbitration procedure.

Section 11.6. The parties agree that an employee's refusal to submit ("refusal to submit" includes adulterating a sample or submitting a false sample) to drug or alcohol testing in accordance with the provisions of this Article may result in disciplinary action being taken against the employee up to and including dismissal.

Section 11.7. Drug/Alcohol Random Testing. It is important to the safety and welfare of employees and the public that bargaining unit members not be impaired by alcohol while on duty nor use illegal drugs. To demonstrate the commitment of the City and the Union to this notion, employees

will be subject to random testing during the term of this Agreement. Employees will be chosen from a blind list by the Human Resources Department or its designee. Those employees who have a CDL license and are in the CDL Drug Testing Pool will not be part of the AFSCME Drug Testing Pool since the employees who hold a CDL license are already being randomly tested. In other words, all AFSCME employees will be in either the CDL Random Drug Testing Pool or the AFSCME Random Drug Testing Pool.

Section 11.8. Last Chance Agreement. Employees testing positive may be offered the opportunity to enter into a "Last Chance Agreement" (for a maximum duration of 2 years, except in extenuating circumstances) to continue their employment. The Agreement shall require participation in a rehabilitation program and such other requirements as set forth by the City. The City reserves the right to terminate an employee without providing him/her with a Last Chance Agreement, if the incident giving rise to the positive drug test involved threatening or violent behavior or conduct so disgraceful that it causes substantial embarrassment to the Administration. Employees under a Last Chance Agreement who test positive shall be terminated from employment with the City and this is not grievable under the grievance procedure. Employees may be given no more than one (1) chance for substance abuse rehabilitation during employment with the City.

ARTICLE 12

SAVINGS

In the event any article, section, or portion of this Contract should be held invalid and unenforceable by any court or higher authority of competent jurisdiction, such decision shall apply only to the specific article, section, or portion thereof specified in the decision, and upon issuance of such decision, the City and the Union agree to immediately negotiate a substitute for the invalidated article, section, or portion thereof.

ARTICLE 13
ENTIRE CONTRACT

The parties acknowledge that during the negotiations which resulted in this Contract, each had the 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 Contract. Therefore, the City and the Union, for the duration of this Contract, 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 referred to, or covered or not referred to or covered in this Contract.

ARTICLE 14
TERM OF CONTRACT

This Contract shall be effective as of date of ratification, and shall remain in full force and effect through the 30th day of April, 2013.

It shall automatically be renewed from year to year thereafter unless either party shall notify the other in writing one hundred twenty (120) days prior to the anniversary date that it desires to modify this Contract.

Any such notification of a desire to open negotiations shall include specific articles proposed for renegotiations, and only such articles shall be mandatorily negotiated.

This Contract shall remain in full force and effect during the period of negotiations, unless either party gives the other party at least ten (10) days written notice of its desire to terminate this Contract.

Executed by the parties hereto on the 8th day of OCTOBER, 2010, by the Mayor and City Clerk.

**AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,
LOCAL 1554 (AFSCME)**

CITY OF MIAMI BEACH, FLORIDA

By: Josephine Le Beau
Josephine LeBeau
Regional Director

By: Jorge M. Gonzalez
Jorge M. Gonzalez
City Manager

By: Perman Terry
Perman Terry
AFSCME, Local 1554 President

Billy Hat
[Signature]
[Signature]

Approved by Vote of the
City Commission July 14, 2010

Matti Herrera Bower
Matti Herrera Bower
Mayor

Attest: Robert Paicher
City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

[Signature] 10/8/10
City Attorney Date

**AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES
AFSCME LOCAL 1554**

ELECTION OF REMEDY FORM

Grievance No. (if applicable) _____

This form must be completed and signed prior to the second step of the grievance procedure, or at the time when appeal to the Hearing Examiner is filed.

Employee must elect, sign, and date only one of the two following choices:

1. _____ I/We elect to utilize the Grievance Procedure contained in the current Contract between the City of Miami Beach, Florida, and AFSCME Local 1554. Except as provided in number two (#2) below the Union has the exclusive right to represent all employees and to control the submission of grievances to arbitration.

Signature

Date

2. _____ I/We elect to utilize another forum for my/our grievance, and in doing so, I/we permanently waive my/our contractual right to the Grievance Procedure contained in the current Labor Contract between the City of Miami Beach, Florida, and AFSCME Local 1554.

Signature

Date

If Number 1 is elected, sign if you wish to authorize the following:

I/We hereby authorize AFSCME Local 1554 to process the attached grievance on my/our behalf.

Signature

Date

Addendum: Hearing Examiner Rules

HEARING EXAMINER RULES

SECTION 1: REQUEST FOR HEARING: Any member of the bargaining unit may appeal from disciplinary action within ten (10) days after the delivery or mailing to him/her of such written notice, by filing a written request for a hearing with the Hearing Examiner to the City Manager's designee for Labor Relations. If the tenth day falls on a Saturday or Sunday, he/she will have the ability to file for an appeal on the following Monday.

SECTION 2: DISCIPLINARY HEARINGS:

- (a) The City Manager's designee for Labor Relations not later than ten (10) days after receipt of such appeal, shall fix a place and time for holding a public hearing within a reasonable time thereafter. Written notice of such time and place shall be delivered or mailed promptly to both the Appellant and the Appointing Officer.

Only the Hearing Examiner may grant a continuance to either party for good and sufficient cause. No continuance shall be granted to either party unless such request for continuance is received in writing by the City Manager's designee for Labor Relations at least ten (10) days prior to the date of said scheduled hearing of appeal.

- (b) The Hearing Examiner may, at the request of the Appointing Officer or the Appellant, call or request any person or records for the purpose of ascertaining the facts.
- (c) The Appointing Officer or a representative designated by him/her, shall have the right to be present at such hearing and to be represented by the City Attorney.
- (d) The Appellant shall have the right to be present at such hearing and to be represented by an AFSCME bargaining agent or an attorney of his/her choice.
- (e) The findings of the Hearing Examiner shall be based upon competent substantial evidence of record.
- (f) The Appointing Officer shall have the burden of presenting evidence to support the truth of the charges as contained in the written notice.
- (g) The Appellant shall have the right to present evidence to refute the charges brought against him/her.

- (h) The Appellant shall have the right to be confronted by his/her accuser, and the Appellant and the Appointing Officer shall each have the right to cross-examine the witnesses of the other.
- (i) After both the Appointing Officer and the Appellant shall have presented their testimony and evidence, the Hearing Examiner shall receive argument in summation. The Appointing Officer shall have both the opening and closing argument.
- (j) After the completion of closing oral argument, the Hearing Examiner shall consider the testimony and evidence presented before the Hearing Examiner to determine the truth or untruth of the charges.
- (k) Within five (5) working days after the completion of the hearing, the Hearing Examiner shall issue his or her findings as to the truth or untruth of the charges in writing. The City Manager's designee for Labor Relations shall promptly deliver or mail a copy of such findings to the Appointing Officer and to the Appellant.
- (l) A copy of the written statement given the officer or employee, a copy of any reply thereto, and a copy of the findings of the Hearing Examiner shall be filed as a Public Record in the Human Resources Department.