

**FIRST AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN
THE CITY OF DELRAY BEACH AND THE PALM BEACH COUNTY POLICE
BENEVOLENT ASSOCIATION, INC. FOR POLICE LIEUTENANTS**

THIS FIRST AMENDMENT (the "First Amendment") dated _____, 2016 amends that certain Collective Bargaining Agreement entered into between the **CITY OF DELRAY BEACH** (the "City") and the **Palm Beach County Police Benevolent Association, Inc.** ("the PBA") for Police Lieutenants dated as of April 29, 2015, (the "CBA").

WITNESSETH:

WHEREAS, the parties have entered into the CBA for a term commencing on October 1, 2014 and ending on September 30, 2017 to establish an agreement concerning rates of pay, wages, hours of work, and other conditions of employment; and

WHEREAS, on December 9, 2015 City staff and representatives of the PBA participated in collective bargaining to discuss additional terms and conditions regarding Article 41 "Pension Plan Matters" of the CBA; and

WHEREAS, at the above referenced collective bargaining meeting, in addition to the discussion regarding pension matters, the parties also discussed a one (1) year extension to the term of the current CBA; and

WHEREAS, the parties wish to memorialize their agreement at the collective bargaining meeting with respect to certain pension matters as more specifically described in this First Amendment and to further extend the term of the CBA for one additional year through September 30, 2018.

NOW, THEREFORE, the parties hereto in consideration of the covenants herein contained agree as follows:

1. **Recitals.** The recitals set forth above are hereby incorporated as if fully set forth herein.

2. Article 41, "Pension Plan Matters" is hereby amended as follows: _

ARTICLE 41

PENSION PLAN MATTERS

The Parties agree to amend the City of Delray Beach Pension Code of Ordinances substantially as follows:

Section 1

- (a) to provide for the separation of the current retirement system such that the retirement system will no longer be jointly for police and fire employees but solely for police employees operating as a local law plan pursuant to Chapter 185, Florida Statutes. Upon establishment of this plan a new Board of Trustees shall be formed composed of two (2) residents of the City appointed by the City Commission, two (2) full-time police officers elected by the active police officers who are members of the plan, and one (1) elected by a majority of the other members of the Board of Trustees;
- (b) to comply with Chapter 2015-39 of the Laws of Florida;
- (c) to utilize monies received pursuant to Chapter 185 each year to offset the cost of the pension plan (i.e., reduce city pension contributions) up to the amount of money received during the 2013 calendar year (\$606,595);
- (d) all accumulated excess premium tax monies held in reserve will be used to pay down the unfunded liability attributable to police officers.

Section 2

To establish benefits as follows:

Tier 1: Employees with 20 or more years of service and retired/terminated employees:

- No change in pension benefits.

Tier 2: Employees with at least 10 years of service but less than 20 years of service:

- Multiplier reduced from 3.5% to 3% for all future service, all retirement benefits determined using the final average compensation as of the retirement and/or termination date.
- Starting benefit limited to \$108,000 per year.
- Employees that reach 20 years of service shall retain the 3.5% multiplier for all years of service prior to the Plan change.
- Compensation includes 25 hours of overtime.
- Participants remain eligible for the DROP on same terms as existing on day before amendment to Ordinance.
- COLA of not less than one percent (1%) will continue to be applied annually.

Tier 3: Employees not vested at the time of plan change:

- Multiplier reduced from 3.5% to 3% for all future service, all retirement benefits determined using the final average compensation as of the retirement and/or termination date.
- Compensation excludes any overtime earned after the plan change.
- Employees that reach 20 years of service shall retain the 3.55 multiplier for all years of service prior to the Plan change.

- COLA of not less than one percent (1%) will continue to be applied annually.
- Participants remain eligible for DROP on the same terms as existing on the day before amendment to Ordinance.
- Average Final Compensation: Highest 5 of last 10 years.
- Starting benefit limited to \$108,000 per year.

Tier 4: Employees hired on or after plan change:

- 2.75% multiplier for all credited service.
- Benefit limited to 68.75% of final average compensation.
- Normal Retirement changed to the later of age 55 or 25 years of service.
- Eliminated Early Retirement.
- Compensation excludes any overtime.
- Average Final Compensation: Highest 5 of last 10 years.
- Starting benefit limited to \$108,000 per year

Section 3

Notwithstanding any other provision of this Article, the parties agree that once the pension ordinance has been amended in accordance with Section 1 above, the City may revoke its participation in Chapter 185 pursuant to Fla. Stat. 185.60 at any time during the term of this Agreement if it determines that it is dissatisfied with the performance of the Board of Trustees responsible for administering the Chapter 185 pension plan (Plan). In determining the performance of the Board of Trustees the City shall consider some or all of the following factors in its sole discretion:

- (i) the investment performance of the plan;
- (ii) the Board of Trustees' choice of its investment advisor;

- (iii) the extent of the Board of Trustees' efforts to control administrative costs through the use of attorneys, actuaries, accounting firms and other professional advisors the City utilizes to provide services to its other employee pension plans;
- (iv) the appropriateness of the Plan's actuarial assumptions and methods;
- (v) the extent to which the Board of Trustees delegates administrative functions to the City's Finance Department.

Section 4

As a safe harbor provision, during any time the Plan is using the same actuary, investment advisor, (and is following that investment advisor's recommendations with respect to portfolio allocation and selection of funds and fund managers) auditor, attorney, and administrative function provider as the City's General Municipal Employees Pension Plan, the parties agree the City may not exercise its revocation rights pursuant to Section 3. If the Board of Trustees believes it is operating within the safe harbor established herein, it may request the City to confirm the same in writing. The City shall respond to such a request within thirty (30) days of receipt of the same. Once the City has confirmed that the Board of Trustees is operating within the safe harbor, the City may not invoke the revocation procedures provided in Section 5 below unless it first provides the Board of Trustees notice of its intent to do the same along with an explanation of why the Board of Trustees is no longer operating within the safe harbor. The Board of Trustees shall have thirty (30) days from the date of receipt of such notice to resume operation within the safe harbor. If the Board of Trustees fails to resume operating within the safe harbor, the City may, at its discretion, proceed to invoke the revocation procedures provided in Section 5 below. If the City then provides notice of revocation pursuant to Section 5(i) below, the safe harbor provision may not be utilized and shall no longer be in effect.

Section 5

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The City's exercise of its revocation rights under Section 3 shall be undertaken as follows:

(i) the City Manager or designee shall provide at least sixty (60) days written notice to the Union and shall provide a general explanation of the reason(s) for the City's intended action in the notice;

(ii) the issue shall be placed on the agenda for the next City Commission meeting scheduled after expiration of the notice period;

(iii) the Union shall be given an opportunity to be heard by their designee at the City Commission meeting held to consider the City's exercise of its revocation rights.

Section 6

The parties agree that the City's decision to revoke its participation in Chapter 185 shall be final and that the City's exercise of its revocation right under this Article shall not be subject to challenge or appeal through the grievance and/or arbitration provisions of this Agreement or otherwise.

Section 7

In the event the City revokes its participation in Chapter 185, the parties agree that Chapter 33 of the Code of Ordinances for the City of Delray Beach shall be amended in whatever way necessary to accomplish the revocation and to change the composition of the pension board.

Upon the City's revocation, any benefits that were being provided with premium tax money above the 1993 amount shall be discontinued. All accumulated excess

state premium tax monies held in reserve at the time of withdrawal and any other premium tax money that is not allocated to pay for pension benefits or that has been allocated to pay for benefits that are discontinued will be used to pay down the unfunded liability attributable to police officers.

The Parties agree that, if required by the Division of Retirement to accomplish the intent of the preceding sentence, employee contributions may be increased and then immediately decreased in an amount equal to the amount used to pay down the unfunded liability attributable to police officers, such that there is no actual change in employee contributions.

Participation in Chapter 185, Florida Statutes. The City will withdraw from participation in Chapter 185. Any benefits that are now being provided with premium tax money above the 1993 amount shall be discontinued, and any premium tax money that is now allocated to pay for the inclusion of overtime pay in pensionable earnings or the pension COLA will be used to pay down the unfunded liability attributable to police officers.

The Police Pension Board after the date of the Plan change shall be composed of not more than five (5) trustees, of whom four (4) will be selected by the City Commission. One member of the Police Pension Board shall be a Delray Beach Police Officer and member of the Police Benevolent Association (PBA) selected as follows: The PBA shall propose from among its membership at least 3 qualified members for consideration to serve as a member of the Police Pension Board (Board). The Delray Beach Police Chief shall, in his or her discretion, select one individual from among the list of PBA

~~recommended individuals to serve on the Board. The member shall serve a term of office on the same terms as the other Board members and enjoy the identical rights and privileges. In order to qualify for consideration and selection to the Board as the PBA member an individual shall meet the following minimum criteria: (i) be a Delray Beach Police Officer in good standing, (ii) be a member of the PBA in good standing, and (iii) demonstrate through work history, education, or experience an understanding of financial retirement planning and pensions.~~

3. Article 42, "Duration, Modification, and Termination, Reopener is hereby amended to read as follows:

ARTICLE 42

DURATION, MODIFICATION, AND TERMINATION, REOPENER

Except as otherwise provide in this agreement, this agreement shall be effective from October 1, 2014 and continue through September 30, 2017~~8~~. If the parties have not executed a written argument by the expiration date hereof, i.e. September 30, 2017~~8~~, then the terms and conditions of this contract shall continue in effect, except as modified herein. Negotiations for a successor agreement shall commence no later than May 1, 2017~~8~~. Without a successor agreement in place, (after the expiration of this agreement and before the effective date of a successor agreement) wage increases shall be frozen effective October 1, 2017~~8~~ until such time as an agreement has been reached. Where applicable, all references, terms, and conditions in this Agreement which apply to fiscal year 2016-2017 shall equally apply to fiscal year 2017-2018 through the termination date of this Agreement.

3. **Entire Agreement.** Except as modified by this First Amendment, the CBA shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on the date written above.

ATTEST:

City Clerk

CITY OF DELRAY BEACH

By: _____
Cary Glickstein, Mayor

Approved as to Form:

City Attorney

ATTEST:

(Print or Type Name)
PBA Representative

POLICE BENEVOLENT ASSOCIATION

By: _____
John Kazanian, President

By: _____
Gary Lippman, General Counsel