

Order 84-17/18

Passage: 8-0 (Thibodeau absent) on 11/6/2017

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
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**CITY OF PORTLAND**  
**IN THE CITY COUNCIL**

Effective 11/16/2017

DAVID H. BRENERMAN (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT  
WITH THE POLICE BENEVOLENT ASSOCIATION FOR 2017 TO 2019**

**ORDERED**, that the Collective Bargaining Agreement with the Police Benevolent Association for January 1, 2017 through December 31, 2019 is hereby approved in substantially the form attached.

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**CITY OF PORTLAND**

**AND**

**PORTLAND POLICE BENEVOLENT ASSOCIATION**

**January 1, 2017 – December 31, 2019**

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# AGREEMENT

AGREEMENT made this day of **November**, 2017 by and between the City of Portland, hereinafter the "City", and the Police Benevolent Association, hereinafter the "Association".

## 1. **PREAMBLE:**

1.1 Pursuant to the provisions of the Municipal Public Employees Labor Relations Law (Chapter 9-a, Title 26, M.S.R.A.), the parties have entered into this Agreement with the goal of establishing mutual rights, preserving proper employee morale, and promoting effective municipal operations.

## 2. **RECOGNITION:**

2.1 The City hereby recognizes that the Association is the sole and exclusive bargaining representative of all police officers in the Portland Police Department below the rank of Sergeant for the purpose of bargaining with respect to wages, hours of work and working conditions, except employees excluded by Chapter 9-A, Title 26, Maine Revised Statutes Annotated.

## 3. **NO DISCRIMINATION BY PARTIES:**

3.1 Employees covered by this Agreement shall have the right to join the Association or to refrain from joining the Association. No employee shall be favored or discriminated against either by the City or by the Association because of his membership or non-membership in the Association.

3.2 The parties agree that, pursuant to Federal and State law, they will not unlawfully discriminate against any employee because of race, color, sex, sexual orientation, physical or mental disability, except where based upon a bonafide occupational qualification, religion, age, ancestry or national origin.

3.3 The use of male or female gender nouns or pronouns is not intended to describe any specific employee or group of employees, but is intended to refer to all employees, regardless of sex.

## 4. **SALARIES:**

4.1 Base Wages

- 4.1.1 Employees will be paid pursuant to the pay plan attached as Exhibit A and incorporated herein.
- 4.1.2 Employees hired prior to April 27, 1987 will be compensated at the pay step representing their number of years of aggregate permanent service with the City. Except as provided in 4.1.3 below, employees hired on or after April 27, 1987 will be compensated at the pay step representing their number of years of aggregate permanent service within the Department as a Police Officer including any Cadet time earned.
- 4.1.3 Employees who possessed Maine Criminal Justice Academy certification or equivalent certification and subsequent municipal law enforcement experience prior to being hired by the City as a Police Officer are eligible to be placed on the PBA scale at the pay step that recognizes the number of years of law enforcement experience following certification. Employees are responsible for providing the City with documentation regarding Academy certification and prior law enforcement experience. Pay increases will be processed for the pay period following receipt of this information. Subsequent step movement will be based on this initial service credit plus permanent continuous service as a Police Officer with the Portland Police Department. This advanced placement is for pay purposes only and does not affect any other benefits, including seniority.
- 4.1.4 Changes in pay step based on service requirements will be effective the first full pay week after the employee's anniversary date with the Portland Police Department except as follows: employees who receive credit for prior service in accordance with 4.1.3 will receive step increases based on an adjusted date that takes that service into account.
- 4.1.5 Effective upon the signing of this agreement and upon implementation of kiosks with printers available to the employees, the City shall implement a paperless pay stub system. Also effective upon the signing and as soon as the re-loadable debit cards are available, all current and newly hired employees will have mandatory direct deposit for all monies owed by the City. If an employee opts for the re-loadable debit card, the debit card will be supplied and replaced at no cost to the employees. The City agrees to give a two week notice to all employees prior to implementation.**

## 4.2 Specialty Payments

- 4.2.1 Employees in the following full time specialty positions will receive specialty payments in accordance with the schedule below:

Detective / Evidence Technician  
Island Officers (with both EMT certification and Drill School Training)  
Traffic Investigator  
Canine Officer  
Field Training Officer  
~~Senior Lead Officer~~ Community Policing Officer  
Crime Reduction Unit  
School Resource Officer

Stipend Amount: \$40.00/week

- 4.2.2 Employees in the following part time specialty positions will receive specialty payments in accordance with the schedule below:

Polygraph Operator  
Special Reaction Team  
Hostage Negotiator  
Dive Team  
Hazardous Devices Team  
Haz Mat Technicians  
MCJA Certified Firearms Instructor  
Portland Regional Command Vehicle Team  
Defensive Tactics  
Accident Reconstruction \*This part-time specialty stipend is not available to those who receive the full-time Traffic Investigator stipend.

Stipend Amount: \$30.00/week

- 4.2.3 Specialists on the Special Reaction Team, Hostage Negotiation Team and the Hazardous Devices Unit will receive specialty pay upon completion of their required training or certification as designated by the Police Chief.
- 4.2.4 Employees selected to a full time specialty designated in 4.2.1 above may hold and be compensated for up to one (1) additional part time specialty as listed in 4.2.2 above.
- 4.2.5 Employees assigned to the Special Reaction Team who are in training will receive a \$75 annual stipend payable as soon as possible after the beginning of the fiscal year, but not later than

thirty (30) days after the beginning of the fiscal year. This is a retroactive payment for that fiscal year. The employee must be an active employee on July 1st in order to qualify for the payment. The stipend will be pro-rated for employees who qualified for the stipend for less than the full prior calendar year.

4.2.6 Employees with an up-to-date Emergency Medical Technician certification shall receive a stipend of \$15.00 per week. The Island Officers are currently required to possess an EMT certification for their specialty assignment and are excluded from this provision.

#### 4.3 Educational Incentive Stipend

4.3.1 The City shall pay to employees an educational incentive stipend (EIS) based upon educational level attained above high school.

4.3.2 Eligible employees will receive an hourly educational incentive stipend to be included in the employee's regular rate of pay. The hourly stipends based on the forty (40) hour work week are as follows:

Associate's Degree	\$.34/hour
Bachelor's Degree	\$.46/hour
Master's Degree	\$.58/hour

#### 4.4 Shift Differential

4.4.1 Police Officers are eligible for shift differential in accordance with 4.1.2 following certification by the Maine Criminal Justice Academy or upon their date of hire as a Portland Police Officer if they possess prior MCJA certification or certification recognized by the Maine Criminal Justice Academy.

4.4.2 Officers, including detectives and evidence technicians, whose regular assignment is to a shift for which the majority of the hours fall after 6:00 p.m. shall receive a shift differential of fifty cents (\$.50) per hour for the entire shift. Officers, including detectives and evidence technicians, whose regular shift assignment is to a shift for which the majority of the hours fall after 11:00 p.m. shall receive a shift differential of sixty-five cents (\$.65) per hour for the entire shift.

\$.40 per hour - for officers whose majority of work hours fall between 1:00 p.m. and 9:00 p.m.

4.4.2.1 Officers assigned to the above Teams but who work a part of their week on days at the department's

request will receive night shift differential.

4.4.2.2 Officers assigned to the above teams who work a part of their week or a full week on days at their own request will not receive night shift differential.

4.4.2.3 Officers who are not regularly assigned to the above teams but who work the above schedules for any reason are not eligible for shift differential.

4.4.2.4 Officers whose regular work schedule does not consist of five (5) consecutive eight (8) hour days, or four (4) consecutive ten (10) hour days will not receive a shift differential.

4.4.3 To ensure the safety of all teams:

4.4.3.1 Shifts or teams shall be assigned by seniority with the exception of probationary officers.

4.4.3.2 The department shall ensure that each shift or team has no less than one-third of its officers with four years in the department. The Chief may waive this requirement at his discretion.

4.4.3.3 Should the number of officers with four years in the department fall below one-third on any shift or team, the department will request volunteers who are willing to bump into that shift or team providing the Chief has not waived this requirement. Volunteers may bump into that shift or team by departmental seniority.

4.4.3.4 If there are insufficient volunteers, the department may implement a temporary transfer of the least senior officer who has completed the working test period and who has four or more years of creditable law enforcement experience following certification either in the department or at another law enforcement agency. However, that officer will maintain his/her slot on the shift or team that he/she is temporarily transferred from. When there is a next least senior officer with four or more years in the department, the officer temporarily transferred will return to his/her original assignment. Once a shift or team has one-third of its officers with four or more years on the department temporary transfers will

cease.

- 4.5 When officers involved in a critical incident, such as use of deadly force, or motor vehicle accident involving death or serious injury, on or off duty, while operating under the color of the law, are placed on administrative leave, the City will pay them their average salary to include overtime earned during the previous fifty-two (52) weeks.

5. **HOURS AND OVERTIME:**

- 5.1 The regular work week shall be forty (40) hours comprised of five (5) eight (8) hours days, or four (4) ten (10) hour days for all Police Officers except those assigned to the Islands. Police Officers whose regular work schedule is four (4) ten (10) hour days shall be paid at the rate of one and one-half (1-1/2) times the "regular rate of pay" for hours worked in excess of forty (40) hours per week or ten (10) hours per day, but not for both. Police Officers whose regular work schedule is five (5) eight (8) hour days shall be paid at the rate of one and one-half (1-1/2) times the regular rate of pay for hours worked in excess of forty (40) hours per week or eight (8) hours per day, but not for both. The "regular rate of pay" shall include all stipends, specialties, educational incentives and differentials paid hereunder, or allowed under the Fair Labor Standards Act. The work week and overtime rate for Island Officers is defined in Exhibit H.

5.1.0 Work Schedule Re-opener

The parties agree to reopen the contract to amend provisions impacted by a work schedule change that is agreed upon by the PBA, the Police Chief and the City Manager.

- 5.1.1 When a member of the Detective Bureau, Polygraph Operator, **Hit & Run Investigator** **Traffic Investigator**, Evidence Technician, Canine Officer or Island Officer works an overtime shift in Patrol, the Officer's overtime rate will be used.
- 5.1.2 When an Officer whose regular shift assignment does not entitle him/her to shift differential works an overtime shift, that Officer will not receive night shift differential even if a majority of the hours worked fall between 1:00 p.m. and 8:00 a.m.
- 5.1.3 When a time change occurs during an employee's shift, the employee will be paid in accordance with actual hours worked. In the Spring, when the shift is seven (7) hours or nine (9) hours, depending upon the employee's regularly assigned shift schedule,

the employee will be scheduled to work a full eight (8) or ten (10) hour shift. In the Fall, when the shift is nine (9) hours or eleven (11) hours, depending upon the employee's regularly assigned shift schedule, the employee will be paid overtime for the additional hour.

- 5.1.4 Officers who are not permanently assigned to the islands and who have up-to-date EMT certification may be assigned to Peaks Island on a temporary basis. They will work under the terms and conditions of employment that are defined by Exhibit H for the duration of the assignment, which will not exceed six (6) months. Officers who are assigned to Peaks Island on a temporary basis will be eligible to receive specialty pay for the duration of the assignment once they have completed Fire Drill School. Officers certified prior to March 15, 1996 may refuse such assignments; however, the City will not continue to pay their certification fees.
- 5.2 The regular forty (40) hour work week shall not be shortened; provided, however, that this provision shall not be construed as restricting, limiting, or qualifying in any manner the right of the City to lay off members or reduce the work force in the Police Department in accordance with the seniority provisions.
- 5.3 For the purpose of this section, "hours worked" shall mean only one of the following:
  - (a) Hours actually worked and paid for with City of Portland Police Department funds.
  - (b) Hours compensated for by holiday pay.
  - (c) Hours compensated for by vacation pay.
  - (d) Hours compensated for by bereavement and funeral leave.
  - (e) Hours spent riding to and from Peaks Island up to a total of 30 minutes per round trip. The Chief may approve compensation for boat travel time to Peaks Island in excess of 30 minutes in unusual or emergency circumstances.
  - (f) Hours compensated for by personal leave.
- 5.4 For the purpose of this section, "hours worked" shall not include:
  - (a) Hours compensated for by sick leave.
  - (b) Hours compensated for on so-called "non-City doubles" or special

details as defined below.

- (c) Hours compensated for by reserve service leave or military leave.
- (d) Hours compensated for by jury pay.
- (e) Hours compensated for by injury pay.
- (f) Hours compensated for workers' compensation pay.
- (g) Hours cashed in for vacation and comp time

5.5 Any employee required, during his otherwise off-duty time, to appear at the Maine District, Superior, Juvenile, or U.S. District Courts; Grand Jury; Liquor Commission hearings, or Secretary of State hearings to be a witness in any matter arising out of the performance of duty shall receive a minimum of four (4) hours pay at one and one-half (1-1/2) times their regular rate of pay. Employees required to make multiple court appearances on a given day may submit one court slip for the morning and one court slip for the afternoon. Employees may submit an additional slip in either the morning or afternoon if required to attend Secretary of State hearings (Motor Vehicle) in addition to another type of court hearing in the same morning or same afternoon. Employees may submit two (2) slips if a morning court session extends into any portion of the afternoon, excluding the usual noontime lunch hour.

5.6 In the case of Civil Service Commission hearings only, any employee required to attend said hearings as a witness in any matter arising out of the performance of duty shall receive a minimum of two (2) hours pay or may receive one and one-half (1-1/2) times their regular rate of pay for hours spent testifying as a witness, whichever is greater, but not both.

5.7 The employee shall turn over to the City all witness fees or other payments paid directly from the Maine District, Superior, or U.S. District Courts; Grand Jury; Liquor Commission hearings; Secretary of State hearings; and Civil Service Commission hearings as or because of the employee being a witness and for which time he was compensated by the City pursuant to this section.

5.8 Special Details

5.8.1 For special detail assignments, where the Department is reimbursed by non-City recipients of Police Department services, except as provided in 5.8.2 below employees shall receive a flat rate of \$50.00 per hour minimum of six (6) hours pay at the maximum Detective rate or one and one-half (1 - 1/2) times the maximum Detective rate times the hours actually worked,

~~whichever is greater but not both.~~

- 5.8.2 Employees assigned to non-City or non-school strike sites shall receive a minimum of eight (8) hours pay at the maximum Detective rate or double time the maximum Detective rate times the hours actually worked, whichever is greater.
- 5.8.3 For special detail assignments where the Department is reimbursed directly by any City Department or the School Department, employees shall receive either a minimum of six (6) hours pay at their regular rate or one and one-half (1 1/2) times their regular rate of pay times the hours actually worked, whichever is greater, but not both.
- 5.8.4 Officers assigned to non-City special detail assignments as outlined in Section 5.8.1, or non-city or non-school strike sites as outlined in Section 5.8.2, shall receive four (4) hours of overtime pay calculated at ~~1-1/2 times the maximum Detective base hourly rate~~ **\$50.00 per hour** for cancellations with less than twelve (12) hours advance notice.
- 5.9 Employees called back to work shall receive a minimum of four (4) hours pay for the work for which they are called back, or may receive one and one-half (1-1/2) times their regular rate of pay under the above provisions, whichever is greater, but not both. Any questions regarding appropriate payment for call-ins will be determined in accordance with Portland Police Department Administrative Memorandum dated February 24, 1999 and reissued in February 2001.
- 5.9.1 Employees who are called on New Year's Eve and July 4<sup>th</sup> to report early for their shift on that day will receive call-back pay provided in 5.9 above.
- 5.10 Overtime
- 5.10.1 For the purpose of overtime and paid detail selection, selection shall be made initially by seniority, with the most senior officer being offered the overtime assignment first. Subsequent overtime assignments shall be made from the seniority list on a rotating basis. Seniority shall be determined by the established seniority list. For the purpose of maintaining their positions on the seniority list, officers working their regular assigned tour of duty or on military leave shall not be removed from their standing on the list, and they shall be offered the next available overtime detail.

There shall be no exceptions allowed to the rotating selection list. For the purpose of the rotation list, refusal or non-availability shall

be deemed the same as acceptance for the selection process. There shall be no penalty imposed by the City for non-acceptance of an overtime assignment. However, once accepted, failure by an officer to complete the assignment shall be grounds for discipline in accordance with the provisions of Article 20. The Officer may turn the job back in to the on-duty Shift Commander if he/she is unable to work it providing it is turned in prior to the scheduled start of the assignment. SOP 3.2 includes notations to be made to the overtime log for jobs turned in.

5.10.2 If no one in the bargaining unit accepts the overtime assignment, the Chief or his designee will determine if the assignment needs to be filled. The procedures outlined in SOP 3.2 will be utilized. Officers shall not be "forced" in to work an overtime assignment on their scheduled day off unless the Police Chief, or Designee, declares an emergency.

5.10.3 Any bargaining unit member may review the rotation list at reasonable times. Superior officers shall account for notification by indicating the date, time and their initials of the attempt to notify any member and the disposition of that notification. (see exhibit below). No member will be given a refusal if he/she declines overtime that is offered less than five (5) hours before the start of the assignment. Whenever an overtime opportunity occurs, not more than two (2) hours prior to the end of the shift, the Department may offer assignments to officers presently working. Any job accepted by a member will be marked in the overtime book. Such logs shall be made available for Union Executive Board review at reasonable times.

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J. Smith	R 9/7 Lt. 1200 hrs. T.J	N/A 9/9 1200 hrs.	Lt. J.T.
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J. Doe	A 9/8 Sgt. 1100 hrs. A.J.		
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R = Refusal  
 N/A = Not Available  
 A = Accepted Job

5.10.4 The current practice of filling overtime jobs up to three (3) days ahead of time will continue for the term of the 2017-2019 contract.

5.10.5 Officers with less than three years of service at the police department will be placed on the "forced list" for the purpose of

filling overtime assignments. The officer's name will be removed from the list upon their three-year anniversary date.

#### 5.11 Overtime/Compensatory Time

5.11.1 Except as provided in 5.11.2 below an employee may, at his/her discretion and with the approval of the Bureau Commander or designee, receive compensation for overtime worked in the form of compensatory time at the time and one-half rate in lieu of overtime pay for non-reimbursed City jobs. Examples of reimbursed City jobs include the Jetport, Court, Public Services, and the City's Oxford Street Shelter.

5.11.2 Compensation for hours spent in non-mandatory training will be in the form of compensatory time at a time and one-half rate.

5.11.3 After twenty (20) years of service Officers will not be allowed to accumulate more than 120 hours of compensatory time. During the twelve (12) months prior to the twentieth year cap the Officer will be required to utilize his/her compensatory time in excess of 120 hours. The Department will ensure that the Officer is given the opportunity to utilize those excess hours.

5.11.4 Officers shall receive four (4) hours of compensatory time for attendance at assigned Honor Guard events approved by the Chief of Police.

5.11.5 Any employee covered under this agreement may cash in forty (40) hours of compensatory time per fiscal year for equivalent pay.

#### 5.12 Overtime Board

A departmental Overtime Board comprised of a Major, or his/her designee, and the Presidents of both PBA and PSOBA, or their designees, will meet on an as-needed basis to discuss overtime issues raised by PBA and/or PSOBA bargaining unit members. Issues will be related primarily to overtime scheduling concerns but the Board will also have the authority to recommend new or revised procedures providing such procedures are not in violation of departmental SOP's and to implement such recommendations upon a unanimous vote of the Board. PBA and PSOBA bargaining unit members will be required to present their concern/issue to this Board prior to initiating a grievance regarding that same issue.

### 6. **HOLIDAYS:**

6.1 The following shall be paid holidays for all employees covered by this Agreement, for the duration of said Agreement:

- |                                   |                      |
|-----------------------------------|----------------------|
| (a) New Year's Day                | (g) Labor Day        |
| (b) Martin Luther King's Birthday | (h) Columbus Day     |
| (c) Presidents Day                | (i) Veteran's Day    |
| (d) Patriot's Day                 | (j) Thanksgiving Day |
| (e) Memorial Day                  | (k) Christmas Day    |
| (f) Independence Day              | (l) Floating Holiday |

6.2 In the event an employee is assigned to work on one of the said observed holidays, the Chief shall grant him/her a compensatory day off, which shall be ten (10) hours or eight (8) hours depending upon the employee's regular work schedule, or allow the employee to cash in the holiday for eight (8) hours of holiday pay. Employees who are not assigned to work on one of the said holidays will receive a holiday credit. In no instance shall more than five (5) holidays be carried into the next calendar year. Employees may cash in any holidays they would lose because of this carry-over requirement for eight (8) hours of holiday pay.

6.3 Except as provided below, minimum staffing levels for each holiday will be determined by Police administration and each team will be responsible for meeting that staffing level.

6.3.1 For the Fourth of July, Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve and New Year's Day, the minimum staffing level for the early out shift (B Team) will be maintained by Shift Commanders.

6.3.2 Administration will start working on the holiday schedule at least four (4) weeks prior to the holiday period and post it at least ten (10) calendar days prior to the holiday period. The schedule will be put together based on Officer requests and in accordance with established departmental procedure. Requests received less than four (4) weeks prior to the holiday will be evaluated on a first-come, first-serve basis rather than on a seniority basis.

6.3.3 The following specialty positions will be exempt from the "bidding" process for this period and can receive Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve and New Year's Day off, at their request:

- |                                 |                          |
|---------------------------------|--------------------------|
| Detectives/Evidence Technicians | Traffic Unit             |
| CRU Personnel                   | School Resource Officers |

If an officer or supervisor assigned to a specialty position chooses to work on Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve or New Year's Day; the Shift Commander may take that officer or supervisor into account in determining the appropriate

staffing levels for the holiday.

- 6.4 If an observed holiday occurs during the work week in which an employee is actually on scheduled vacation, the employee will not be charged a vacation day for the day of the observed holiday. In such a case, however, the employee may, at his/her option, charge the observed holiday as a day of vacation leave or compensatory time and receive a holiday credit if such employee has sufficient accrued vacation leave or compensatory time prior to such observed holiday to so charge it.
- 6.5 In no event shall an employee be permitted to charge an observed holiday, Christmas Eve or New Year's Eve as a day of personal leave.
- 6.6 In addition to the above, any special, non-recurring holiday declared by the President of the United States or the Governor of the State of Maine and observed by other City employees pursuant to order or resolution of the City Council of the City of Portland shall be allowed as additional holiday.
- 6.7 The Maine Public Employees Retirement System clarified their definition of earnable compensation effective July 1, 1990. Effective August 1, 1991 members who cash in holidays after the week in which they occur will not have pension contributions deducted from these holiday payments. Holidays cashed in after the week in which they occur will be pensioned if and only if holiday hours when combined with other hours paid that week total less than or equal to forty (40) hours.

Members who elect to take payment for these holidays in the week the holiday occurs will have pension contributions deducted from these holiday payments. Floating holidays when cashed in will be considered to be taken during the week in which they occur and will be pensioned as long as they are not carried into the next calendar year.

Members may receive reimbursements from MainePERS for pension contribution deductions taken during the period from July 1, 1990 through July 1991.

## **7. VACATIONS:**

- 7.1 Vacation leave shall be earned by permanent employees at the rate of 1.54 hours per full payroll week in the first through the second years of service; 2.31 hours per full payroll week in the third through the sixth years of service; 3.08 hours per full payroll week in the seventh through the nineteenth year of service; and 3.85 hours per full payroll week in the twentieth and each succeeding year of service. The weekly earnings rate

shall be adjusted in the final week of the calendar year in accordance with annual accrual amounts of 80 hours, 120 hours, 160 hours, and 200 hours.

7.2 Vacation leave earnings shall be credited and posted on a weekly basis. For purposes of this Article, years of service is defined as consecutive City service.

7.3 Maximum Accumulation

7.3.1 Employees may accumulate, or carry over, earned vacation time on the following basis:

- a. All employees hired by the City on or after January 1, 1981 may accumulate up to a maximum of 160 hours of vacation leave.
- b. All employees hired prior to January 1, 1981 may accumulate up to a maximum of 240 hours of vacation leave.

7.3.2 Employees shall not earn, or carry on the books, more than the applicable maximum accumulation, including any time converted from sick leave to vacation leave pursuant to Article 11.1.3.

7.3.3 In determining the amount of vacation time an employee can accumulate, only continuous permanent City service shall be considered.

7.4 Vacations shall be scheduled according to the present practice. All vacations, regardless of duration, must have the approval of the Chief of Police or his/her designee as to scheduling.

7.5 Any employee covered under this agreement who is entitled three (3) weeks of vacation or more may cash in forty (40) hours of said leave per fiscal year for equivalent pay.

**8. CLOTHING:**

8.1 The City agrees to pay 100% of the cost of normal acquisition and reasonable replacement of uniforms and accouterments as defined by Exhibit B.

8.2 In all cases, police officers, including plain clothes officers, shall be responsible for having and maintaining the required equipment and uniforms as specified by the Chief and attached as Exhibit B. Plainclothes detectives, Evidence Technicians, and the Court Officer will be reimbursed

by the City for purchase of articles of clothing that are reasonably necessary for the performance of their duties up to a maximum of \$1,000 upon promotion and up to a maximum of \$1,000 per fiscal year for maintenance of a professional appearance.

8.2.1 All officers will be permitted to purchase allowable apparel and equipment on Exhibit C. Officers will be reimbursed for such items up to a maximum of \$300 per fiscal year. The officer's original receipts detailing their purchases must be submitted to the Police Department's Finance Department by the close of business on June 20<sup>th</sup> of each year.

8.2.3 All Crime Reduction Unit (CRU) members will be reimbursed up to a maximum of \$500.00 per fiscal year for allowable apparel and equipment.

8.2.4 Honor Guard members (up to fifteen maximum) will be reimbursed up to a maximum of \$200.00 per fiscal year for appropriate clothing/equipment as determined by the Chief of Police.

- 8.3 The Chief has the right to promulgate General Orders requiring appearance standards for all uniforms and equipment. The Chief may prescribe additional items of required or allowable equipment or uniforms, with the agreement of the PBA Executive Board.
- 8.4 Notwithstanding the above, the City agrees to pay 100% of the cost of repairing or replacing required uniforms or equipment, as well as eyeglasses, cell phones, dentures or hearing aids, damaged, lost, or destroyed in the performance of duties. The City further agrees to pay up to one hundred (\$100.00) dollars for repair or replacement of other personal items worn or carried by the officer, and damaged or destroyed in the performance of duties, except that the maximum reimbursement for footwear will be \$100.00. The Bureau Commander or designee determines whether the damage occurred during the performance of duty and, if so, whether repair or replacement is appropriate.
- 8.5 The City agrees to pay the reasonable cost of repair or replacement of civilian clothing and to pay up to one hundred (\$100.00) dollars for the repair or replacement for accouterments worn by plainclothes patrol officers, when such clothing has been damaged or destroyed in the performance of duties.
- 8.6 The City will not, in any case, reimburse employees for personal items lost or stolen in the line of duty.
- 8.7 The City agrees that plainclothes patrol officers will be permitted to work

extra jobs, outside work and overtime in regular uniforms on the same basis as any normally uniformed employee.

- 8.8 Upon termination, an employee shall turn into the Police Department all items of required clothing and equipment provided in Exhibit B or non-required items provided to the employee by the City.

## 9. **INSURANCE:**

### 9.1 Life Insurance

9.1.1 The City will pay the full cost of premiums of the Maine Public Employees Retirement System Group Life Insurance Plan for each employee at the maximum level permitted at the basic level of said insurance program. Those employees electing the supplemental coverage will pay the full cost for such coverage. Employees will continue to pay the cost of dependent life insurance premiums.

9.1.2 The City reserves the right to obtain the same or a better level of life insurance benefits and claim service from any other source during the contract period for any price. The City will provide the Association with thirty (30) days' prior notice of any change in insurance provider and the Association shall have ten (10) days thereafter to comment on such change.

9.1.3 The City agrees to continue life insurance deductions on a pre-tax basis as provided by the Internal Revenue Service.

### 9.2 Medical Insurance

9.2.1 The City currently provides a primary self-insured health insurance benefits program with claims administration by a third party administrator. Effective January 1, 2005, changes to the City's Point of Service health benefit plan were implemented following mid-term reopener negotiations. Effective no sooner than January 1, 2016, changes to the City's health plan will be implemented incorporating the principles of a value-based insurance design. (See Attachment A) The terms of the new plan will be no worse for employees than those described in Attachment A.

9.2.1.1 First year of implementation of the changes to the City's health plan shall include a two hundred dollar (\$200) deductible for the single plan and four hundred dollar (\$400) deductible for the family plan per year.

- 9.2.1.2 The second year of implementation of the changes to the City's health plan shall include a four hundred dollar (\$400) deductible for the single plan and eight hundred dollar (\$800) deductible for the family plan per year.
- 9.2.1.3 The City has agreed to establish a reserve account of one hundred fifty thousand dollars (\$150,000) to be used as outlined by the Health Insurance Advisory Committee. (See Attachment B)
- 9.2.2 For employees who are hired into a permanent position prior to January 1, 1985, the City will pay the full cost of the medical insurance premium for an individual or family subscriptions as appropriate per employee as outlined in subsection 9.2.4 below.
- 9.2.3 For employees who are hired into a permanent position on or after January 1, 1985, the City will pay the full cost of the medical insurance premium for an individual subscription per employee and in the case of an employee eligible for and electing family coverage, the City will pay fifty-three percent (53%) of the difference between the cost of the individual subscription for an employee who is eligible for and who elects to have such family medical insurance. Effective no sooner than January 2016, the City will pay 85% of the medical insurance premium for an individual subscription per employee. Annually, the employee will have the opportunity to earn up to a 15% premium credit by meeting the five (5) requirements of the City's wellness program that consist of completing a health risk assessment (3%), completing biometric testing (3%), meeting with a health coach (3%), documenting fitness related activity (3%), and being tobacco free or enrolled in a smoking cessation program (3%). Employees will earn a 3% credit for each of the five (5) wellness criteria that they meet; for example, for meeting three (3) wellness items they would receive a 9% discount on their health insurance premium.
- 9.2.4 The City will pay, or share in the payment of, whichever is applicable, only the subscription level to which an employee is entitled by virtue of the number of people he may insure. However, employees who are members of the same family and eligible for coverage by more than one family subscription will be entitled to full or part payment, as applicable, from the City for no more than one family subscription, with other family members entitled only to individual subscriptions, except employees receiving double family coverage prior to September 26, 1983 shall continue to do so. Said subscriptions shall be on the same terms and conditions as specified in subsections 9.2.1 - 9.2.3 above.

- 9.2.5 The City will provide the Union with thirty (30) days prior notice of any change in insurance provider, and the Union shall have ten (10) days thereafter within which to comment on such change.
- 9.2.6 The City shall begin payment on health insurance premiums on the first of the month following the first full month of service.
- 9.2.7 In addition to any other benefit which may be available, the City agrees to pay \$2,500 for funeral and incidental expenses to the primary beneficiary of an employee who dies in the line of duty.
- 9.2.8 Except as provided in 9.2.9 below, the City agrees to continue health care benefit deductions on a pre-tax basis as provided by the Internal Revenue Service. The City further agrees to continue offering to employees the annual election of pre-tax health care flexible spending accounts on a voluntary basis.
- 9.2.9 Notwithstanding any other provision of this collective bargaining agreement, the PBA agrees to re-open the cost-sharing provisions of this Article upon a written request of the City. The City agrees to reopen the Wage Article of this Agreement upon written request of the PBA in connection with the health insurance reopener.
- 9.2.9.1 The PBA agrees to participate in coalition bargaining with other City unions concerning health insurance when requested to do so by the City. The PBA membership, however, must ratify changes to the health insurance plan.
- 9.2.10 For the purposes of this article, "family" is defined as spouse or domestic partner and dependents. To enroll a domestic partner on the City's health insurance plan, the employee must satisfy the City's eligibility requirements for claiming an individual as a domestic partner.
- 9.2.10.1 The portion of the employee's health insurance contribution for domestic partner coverage as outlined in 9.2.3 above will be taken on a post-tax basis.
- 9.2.10.2 The City's contribution to the premium cost for domestic partner coverage and coverage of dependents of the domestic partner will be reported as imputed income at year end, in accordance with Internal Revenue Service regulations, and will be calculated into the employee's gross earnings as taxable wages.

### 9.3 Income Protection and Dental Insurance Deductions

- 9.3.1 The City agrees to provide an income protection plan of its own choosing for employees and to permit employees to participate in such program at their own cost and through payroll deductions. The City reserves the right to modify its income protection plan at any time.
- 9.3.2 Employees may participate in any dental insurance plan which may be made available to employees at their own cost and through payroll deductions. Employees may enroll a spouse and dependent children on the plan; effective July 1, 1999 employees may enroll a domestic partner on the City's dental insurance plan providing the employee satisfies the City's eligibility requirements for claiming an individual as a domestic partner. In no case shall the City be required to make a dental insurance plan available to employees.

## 10. PENSIONS:

- 10.1 Permanent employees shall participate in the appropriate Maine Public Employees Retirement System defined benefit plan or the ICMA 401(a) defined contribution plan for their primary pension plan. The options are outlined below:
  - 10.1.1 The City shall continue to provide to all employees employed as police officers as of April 16, 1980, a retirement benefit through Maine Public Employees Retirement System, pursuant to the Consolidated Plan, Chapter 803, Sec. 8 Paragraph A (Special Benefit Plan 1), of one-half of the average final compensation after twenty (20) years of creditable service regardless of age.
  - 10.1.2 The City shall continue to provide to employees hired after April 16, 1980, a retirement benefit through Maine Public Employees Retirement System, pursuant to the Consolidated Plan, Chapter 803, Sec. 8 Paragraph C (Special Benefit Plan 2), in the amount of one-half of the average final compensation after twenty-five (25) years of creditable service regardless of age.
  - 10.1.3 The City currently offers an ICMA 401(a) defined contribution qualified pension plan to new hires and current employees as an alternative to participation in the Maine Public Employees Retirement System defined benefit plan. Each participant has a plan account to which employee and employer contributions are made. Plan benefits are based on the total amount of money in the participant's account at retirement or eligible event.

- 10.1.4 Effective July 12, 2010, transfers between the Maine Public Employees Retirement System (MainePERS) and the ICMA 401(a) defined contribution qualified pension plan are no longer permitted, and an employee's decision to join either plan is irrevocable for all periods of employment with the same employer as per MainePERS laws and rules.
- 10.1.5 Effective January 1, 1984, each employee's pension contribution rate shall be 6.5% of his/her gross weekly earnings.
- 10.2 The City shall continue to make available to all eligible employees enrolled in MainePERS for their primary pension plan the additional benefit of the so-called "two percent option" pursuant to the Consolidated Plan, Chapter 803, Sec. 8 to the extent this option continues to be provided in the Maine Public Employees Retirement System Laws and the Consolidated Plan. Said option shall be applied only to each year of membership service in the Department served after completion of the applicable service conditions for retirement and after April 16, 1980.
- 10.3 The City agrees to provide a listing of all options and benefits which are available to retiring employees.
- 10.4 Any employee hired prior to July 1, 1984 may at their own expense buy back both their total share and the City's total contribution obligation for their initial six (6) months of employment in which they were excluded from membership in the Maine Public Employees Retirement System. The Union acknowledges that the City shall have no financial obligation under this voluntary buy back provision.
- 10.5 The City offers a 457 plan through ICMA. Participation in this plan is voluntary and is in addition to participation in a primary pension plan as outlined in 10.1.
- 10.6 If the Union wishes the City to pursue an alternative pension plan to Maine Public Employees Retirement System during the term of this Agreement, the City agrees to reopen negotiations regarding such a plan.
- 10.7 The City agrees to continue pension deductions on a pre-tax basis as provided by the Internal Revenue Service.

## **11. SICK, BEREAVEMENT, FUNERAL AND PERSONAL LEAVE:**

### **11.1 Sick Leave**

- 11.1.1 Employees who work a five (5) day, eight (8) hour schedule shall accrue sick leave at the rate of 1.85 hours for each full payroll

week of service with unlimited accumulation. Employees who work a four (4) day, ten (10) hour schedule shall accrue sick leave at the rate of 2.31 hours for each full payroll week of service with unlimited accumulation. Peaks Island employees who work a twenty-four (24) hour schedule shall accrue sick leave at the rate of 2.77 hours for each payroll week of service with unlimited accumulation.

11.1.1.a. When an employee uses a sick day they shall have ten (10) hours deducted from their sick leave balance if working a 4/10 schedule, or eight (8) hours deducted from their sick leave balance if working a 5/8 schedule. Peaks Island Officers who use a sick day shall have twenty-four (24) hours deducted from their sick leave balance.

11.1.1.b. Balances of accrued sick leave under the 5/8 or 4/10 schedule will not be converted in the event of a transfer/promotion of an employee working a 4/10 to a 5/8 schedule, or vice versa. Accrued balances will not be reduced or increased.

11.1.2 Sick leave may be used for the following cases:

11.1.2.1 Personal illness or physical incapacity of such a degree as to render the employee unable to perform the duties of his position, unless the Police Chief determines that the employee is capable of other work in the Police Department. If requested, the employee shall furnish the Chief a certificate from his attending physician.

11.1.2.2 Attendance upon members of the family within the household of the employee, including domestic partner and relatives of domestic partner, when their illness requires care by such employee, not to exceed twelve (12) days per year. If requested, the employee shall furnish the Chief a certificate from the attending physician.

11.1.2.3 In the discretion of the Police Chief, sick leave may be used in the event of the death of an immediate family member (defined hereby as spouse or domestic partner, child, mother, father, brother, sister, mother-in-law or father-in-law).

11.1.2.4 Employees who wish to use sick leave to care for a domestic partner or relatives of domestic partner in

accordance with 11.1.2.2 above, or in conjunction with bereavement leave in accordance with 11.1.2.3 above, must satisfy the City's eligibility requirements for claiming an individual as a domestic partner.

### 11.1.3 Conversion to Vacation Leave

11.1.3.1 Any permanent employee working the standard work week who uses the equivalent of two or fewer sick days within any consecutive 12 month period may elect to convert 48 hours of accrued sick leave to 40 hours of vacation leave. "Two or fewer days" is equivalent to a maximum of sixteen (16) hours for employees working a 5/8 schedule, twenty (20) hours for employees working a 4/10 schedule, and twenty-four (24) hours for employees working the Peak's Island schedule.

11.1.3.2 Alternatively, an employee who has 12 or more years of permanent City service and a sick leave balance of no less than 768 hours may elect to convert 48 hours of accrued sick leave to 40 hours of pay at their regular hourly rate.

Employees may make one of the above elections only once for any consecutive 12 month period, and only once during any 12 month period.

11.1.3.3 The conversion of sick leave to vacation leave shall not be permitted if doing so would result in exceeding the maximum permitted vacation accumulation.

The Director of Human Resources shall determine the rates applicable for the conversions outlined above for permanent employees working other than a 5/8, 4/10, or Peaks Island schedule.

## 11.2 Bereavement Leave

11.2.1 An employee shall be excused from work for ~~three (3) days~~ **forty (40) hours** because of a death in the employee's immediate family, as defined in 11.2.3.

11.2.2 Employees working the 5/8 or 4/10 schedule shall be paid their regular rate of pay for the regularly scheduled work hours missed, either eight (8) or ten (10) hours, respectively. Employee's

working the Peaks Island schedule shall be paid the regular work hours for the 5/8 schedule (i.e., three (3), eight (8)-hour increments.) A maximum of eight (8) hours of bereavement leave per day shall be paid to employees working the 5/8 or Peaks Island schedule, and a maximum of ten (10) hours of bereavement leave per day shall be paid to employees working a 4/10 schedule. It is intended that this time off be used for the purpose of handling necessary arrangements and attendance at the funeral.

11.2.3 Immediate family is defined hereby as spouse or domestic partner, child, child of a domestic partner, mother, father, brother, sister, mother-in-law, father-in-law, step-parents, grandparents, or other relatives living in same household. Immediate family also includes member of domestic partner's family similarly related providing the employee meets the City's eligibility requirements for claiming an individual as a domestic partner.

11.2.4 An employee may also use sick leave in addition to bereavement leave in the manner provided in subsection 11.1.2.4 above.

### 11.3 Funeral Leave

11.3.1 One (1) day may be used for attendance at the funeral of the following relatives: aunt, uncle, niece, nephew, grandchild, stepfather, brother-in-law, stepmother, or sister-in-law. One (1) day may be used to attend the funeral of a relative of the employee's domestic partner who is similarly related providing the employee meets the City's eligibility requirements for claiming an individual as a domestic partner.

11.3.2 Employees working the 5/8 or 4/10 schedule shall be paid their regular rate of pay for the regularly scheduled work hours missed, either eight (8) or ten (10) hours, respectively. Employees working the Peaks Island schedule shall be paid the regular work hours for the 5/8 schedule (i.e., one (1), eight (8)-hour increment.)

11.4 For the purpose of this article, "family" includes domestic partner. In order to use bereavement leave for the death of a domestic partner or child of a domestic partner, or funeral leave for the death of a relative of a domestic partner, the employee must meet the City's eligibility requirements for claiming an individual as a domestic partner.

### 11.5 Personal Leave

11.5.1 Any permanent employee working a standard work week who has

been employed by the City for twelve (12) consecutive months as of the beginning of the calendar year is eligible to convert up to two (2) days or sixteen (16) hours of previously earned sick leave, vacation leave or compensatory time to an equivalent amount of personal leave. Employees working the 4/10 schedule may convert up to two (2) days or twenty (20) hours of previously earned sick leave, vacation leave or compensatory time to an equivalent amount of personal leave. Eligible employees may make that election only during the month of July of each calendar year in accordance with the provisions of 11.5.2.

11.5.2 Earned leave will be converted to personal leave at the time the conversion is elected. The personal leave balance will change as personal time is used. Neither conversion of sick leave to personal leave, **approved sick leave in conjunction with bereavement leave**, nor the subsequent use of personal leave under this section shall be considered to be use of sick leave for purposes of determining eligibility for either the sick leave conversion to vacation outlined in Article 11.1.3 or the Chief's Perfect Attendance Program.

11.5.3 The employee will give the Bureau Commander or designee as much advance notice of the use of personal leave as circumstances permit; and in any case the employee will notify the Bureau Commander or designee of the use of personal leave in the same manner as required for sick leave. When using personal leave time, the employee is not required to give the reason for use of such time. Personal leave balances are not payable at separation from employment. However, an employee shall have the option at separation to convert unused personal leave to sick leave.

## **12. UNUSED SICK LEAVE UPON RETIREMENT, LAYOFF, RESIGNATION OR DEATH:**

### **12.1.1 Retirement Benefits**

When an employee retires from continuous permanent active service with the City with twenty (20) years of permanent, continuous City service if hired on or before April 16, 1980 and with twenty-five (25) years of permanent, continuous City service if hired after April 16, 1980, he shall be entitled to receive an amount equal to his salary at the time of retirement for one-half (1/2) of accumulated sick leave up to a maximum of nine hundred (900) hours of pay, provided the employee has a minimum of four hundred eighty (480) hours of sick leave accumulated. Retiring employees with less than four hundred eighty (480) hours shall not receive any payment.

### 12.1.2 Layoff Benefits

When an employee is laid off from continuous permanent service with the City, the employee may elect to receive an amount equal to his salary at the time of lay-off for one-half (1/2) the number of days for unused sick leave which the employee has accumulated, provided that the maximum payment shall not exceed an amount equal to wages for ninety (90) days.

- 12.2 In the event of death before retirement of an employee covered by this Agreement, unused sick leave shall be paid, subject to the limitation set forth above for retiring persons, in the salary equivalent as follows:

12.2.1 To a beneficiary designated in writing by the employee, providing that the designation is in a form approved by the City and is on file in the employee's personnel file in Human Resources at the time of death. The City reserves the right to maintain the payment in escrow in the event of any dispute as to entitlement of such payment.

12.2.2 If there is no such designated beneficiary on file, then payment shall be made to:

12.2.2.1 If said employee leaves a spouse, with whom he or she was living at the time of death, then to such spouse.

12.2.2.2 If no such spouse, then to the children but if said employee leaves a minor child or minor children (including adopted children) then to the guardian of such minor child or minor children.

12.2.2.3 If no such spouse or no minor child or children, then to the estate of said employee.

- 12.3 In the event of death in the line of duty of an employee, the City shall pay one hundred percent (100%) of the total accumulated allowable amount up to one hundred eighty (180) days as outlined in 12.2 above.

- 12.4 For resigning employees of good standing with more than three (3) but less than ten (10) years of continuous permanent service within the Department, payment shall be one-fifth (1/5) of accumulation with a maximum payment of thirty (30) days; for resigning employees of good standing with ten (10) years or more of permanent continuous Departmental service, payment shall be one-half (1/2) of accumulation with a maximum payment of forty-five (45) days. A good standing resignation is considered to be two (2) weeks notice of resignation.

### **13. ON-THE-JOB INJURIES**

13.1 Employees covered by this Agreement who are injured on the job and eligible for Workers' Compensation benefits shall receive, in addition to compensation paid or payable under the Workers' Compensation Act, an amount sufficient to bring them up to net pay while any incapacity exists, or until they are either placed on disability retirement, special plan retirement, return to active duty, resign, or are terminated by the Civil Service Commission for just cause. Absence because of such injuries shall not be charged to accumulated sick leave.

13.1.1 "Net Pay" is defined as the employee's regular wages minus his/her federal and state income tax deductions as of the date of injury.

13.2 In the event an injury is eligible for Workers' Compensation benefits, the 7-day waiting period shall be paid as part of the compensation due to the employee. If an employee injured on duty is disabled for more than fourteen (14) calendar days from the date of injury and the Workers' Compensation payment to the City for the 7-day waiting period exceeds the extra-hazardous payment for the waiting period, the City will send the employee a check for the excess.

13.3 Employees receiving Workers' Compensation benefits under this article shall continue to accrue sick leave, vacation benefits and holidays subject to the maximum accumulation, during the first twelve (12) months of incapacity. Employees may take vacation leave while out on Workers' Compensation, but in no case shall they receive double payment for vacation time. Insurance benefits shall continue as set forth in the Agreement.

13.4 Except as provided in paragraph 13.4.2 below, effective January 1, 2004, employees out on Workers' Compensation must pay their pension contribution based on the wage portion of the Workers' Compensation benefits that the employee received. All pension payments will be made pursuant to the rules of the Maine Public Employees Retirement System. If payment is not made within thirty (30) days of when the employee receives the Workers' Compensation benefit, the employee will be responsible for accrued interest until contributions are paid.

13.4.1 Employees out on Workers' Compensation prior to January 1, 2004 may pay their pension contribution on an optional basis under the rules of the Maine Public Employees Retirement System. If such employee contribution is made by the employee while out on Workers' Compensation or by the end of the calendar year during

which the employee lost time, the employee is only required to pay that contribution amount. If the employee pays their share after the end of the calendar year, they will be responsible for their contribution plus interest in accordance with Maine Public Employees Retirement System laws. The City will pay its share, including interest, in accordance with Maine Public Employees Retirement laws.

13.4.2 The City has provided notice to the Maine Public Employees Retirement System of employees out on Workers' Compensation between January 1, 2004 and October 28, 2005, and has paid the interest for the employee accrued from January 1, 2004 through the date of letter(s) sent to each employee by the Maine Public Employees Retirement System regarding payment of pension contributions on their Workers' Compensation benefits. If payment is not made within thirty (30) days of when the employee receives the MainePERS letter, the employee will be responsible for accrued interest until such contributions are paid.

13.4.3 Retirement service credit will be provided only for time for which pension contributions have been paid.

13.5 The references to the Workers' Compensation Act in this article are not intended to expand or contract any rights the City has under the Workers' Compensation Act.

13.6 When medical testing is required by the City as a result of a known work-related exposure to air or blood borne pathogens and is scheduled by the City during an officer's off-duty time, the City will compensate ~~the officer for the actual time spent in the medical office or testing location at the officer's regular rate, or overtime rate in the event that the total hours worked that week exceed 40~~ **this situation as a call-in per section 5.9 of this contract. A minimum of 1 hour will be paid.** Travel time to or from the medical office or testing location will not be compensated. Any follow-up visits for additional testing or treatment which are required by the City will also be compensated on the same basis as provided in this section. The employee may receive compensatory time off rather than pay hereunder, at his/her option. Examples of pathogens which may result in such testing are tuberculosis, rabies or hepatitis.

13.6.1 Except as specifically provided above, and in section 13.6.4, hours spent in medical treatment, testing, or other therapy which is done during off-duty hours by an employee will not be compensated, whether such treatment, testing or other therapy is related to a work-related injury or exposure or not.

13.6.2 The City reserves the right to arrange testing and/or treatment

during an employee's regular work schedule.

13.6.3 The City and the employee reserve any rights they have pursuant to the Maine Workers' Compensation Act.

13.6.4 When medical treatment is required by an officer's supervisor during an officer's regular shift as a result of an on-duty, work-related injury, and if the treatment extends beyond the officer's current shift, the City will compensate the officer for the off-duty time spent in the medical office, not to exceed two (2) hours at the officer's overtime rate in the event that the total hours worked that week exceed forty (40), or eight (8) or ten (10) hours per day as determined by the officer's regular shift, but not for both. If the officer is required to return to the police department to complete necessary reports or paperwork after the medical treatment is concluded, the City will compensate the officer for the actual time spent at the officer's overtime rate. The employee may receive compensatory time off rather than pay hereunder, at his/her option.

### 13.7 Transitional Work Program

13.7.1 It is the goal of the City of Portland to assist an employee who sustains a work-related injury to return to work as quickly as medically possible. To that end, the City will define specific work assignments or "Transitional Work" that will be made available to such employees who, in the City's judgment, based on medical evidence relative to the injury, will probably be able to return to "Regular Work" within three years of the date of injury.

13.7.1.1 "Transitional Work" is defined as a temporary job assignment created for the purpose of this provision of a regular job assignment that has been modified to eliminate or significantly limit one or more of its essential functions temporarily for the purpose of this provision.

13.7.1.2 "Regular Work" is defined as the position the employee held at the time of the injury or, in the event that position is not available, another suitable position within the bargaining unit.

### 13.7.2 Eligibility

Participation in the Transitional Work Program will be limited to a period of three years after the date of injury. In order to be eligible for assignment to Transitional Work, an employee (1) must have sustained an injury arising out of and in the course of

employment with the City of Portland; (2) must have the approval of a treating physician; and (3) must sign a Transitional Work Agreement. The City will provide Transitional Work within the injured employee's department providing such work is available.

### 13.7.3 Duration of Agreement

An employee who meets the eligibility requirements in the policy will be assigned to the next available Transitional Work assignment and will be permitted to work for up to 90 days in that assignment. The employee will be medically evaluated during this 90 day period at intervals specified by the employee's treating physician and/or as requested by the City. If, by the end of the 90 day period, the employee has not been released to Regular Work, the employee will no longer be eligible for Transitional Work, unless further medical evidence is furnished that permits the City to believe that, with reasonable further periods of Transitional Work, the employee will probably be able to return to Regular Work. If such evidence is furnished, the City may offer additional periods of Transitional Work. This process may be repeated until the end of the three-year period following the date of injury.

If, during the course of Transitional Work, further medical evidence indicates to the City that the injured employee probably will not be able to return to Regular Work within three years of the date of injury, the Transitional Work assignment may be terminated. Such employees will retain any rights they may have under 39 MRSA Sec. 217 with regard to employment rehabilitation.

### 13.7.4 Return to Work within Three Years of Date of Injury

13.7.4.1 If an employee becomes capable of performing the essential functions of the job classification held on the date of injury, with or without reasonable accommodation, within three years of the date of injury, the employee may return to work in that capacity. Upon return to work the employee shall receive pay and benefits including seniority from that point forward at the level he/she would have received if the injury had not occurred.

13.7.4.2 If the employee cannot return to the job classification held on the date of injury within three years of date of injury, the City will evaluate up-dated medical evidence to determine the employee's ability to perform other permanent assignments that are available within the bargaining unit.

13.7.4.3 Upon a determination of capability to work, the employee will provide the City with his/her current medical restrictions and the positions he/she wishes to be considered for if unable to return to "Regular Work". If the employee is able to return to work for the City, but not in the position held at the time of the injury, the City will seek to return the employee to the Police Department unless no suitable position exists within the bargaining unit. Except as provided in Exhibit K, pay\_and benefits for the position outside the bargaining unit shall be determined by the City under the appropriate bargaining agreement and with concurrence of the bargaining unit representative. If the employee should return to a non-union position, the City's non-union personnel policy will determine pay and benefits.

13.7.4.4 The acceptance or refusal of appointment to a position other than the position held on the date of injury shall not terminate the employee's right, at a later date, to seek return to the position held on the date of injury.

#### 13.7.5 Termination of Employment

13.7.5.1 In those cases in which an employee has been unable to perform the essential functions of his/her Regular Work for three years from the date of injury, the employee may be terminated from employment. This termination is non-disciplinary. In the event of termination, the employee will receive at least ninety (90) day notification of the termination process and, at the same time, will be requested to provide a current medical report which assesses his/her ability to return to Regular Work within the ninety (90) day period.

13.7.5.2 If unable to return to Regular Work by the date specified in the 90-day notification listed in 13.7.4.1 and providing the updated medical evaluation indicates a work capacity, the employee will provide the City with his/her current medical restrictions and the positions he/she wishes to be considered for, as an alternative to termination. The provisions of 13.7.3 will apply if the employee is capable of performing another permanent budgeted position

with the City that is available within the ninety (90) day period.

13.7.5 Notwithstanding the above, all parties reserve all their rights under the Workers' Compensation statute and other applicable federal or state law.

13.7.6 In the event of death in the line of duty of an employee, the City shall pay up to \$15,000.00 for funeral expenses.

**14. MANAGEMENT RIGHTS AND DEPARTMENT RULES:**

14.1 The City retains all rights and authority to manage and direct its employees, except as otherwise specified in this Agreement. The Association acknowledges the right of the City to make appropriate rules and regulations governing the conduct of its employees, provided they are not inconsistent with the provisions of this Agreement.

**15. LEGAL AID AND PROTECTION:**

15.1 Provided that the award of damages, including costs other than defense costs, against both the City and its employee(s) shall not exceed Four Hundred Thousand (\$400,000.00) which includes plaintiff's attorney fees and costs but not defense fees and costs, for any and all claims arising out of a single occurrence and subject only to the limitations set out hereinafter, when a member covered by this Agreement is sued for damages as a result of acts arising out of and in the course of his employment, the City shall:

- (a) Arrange, at the City's expense, for an attorney selected by the Corporation Counsel, to defend the member; and
- (b) Upon final judgment or settlement of the case, the City shall pay through a self-insurance program or in its discretion through purchased insurance coverage, the amount of any judgment or settlement so limited, including court costs; or
- (c) Provide, in the City's discretion, defense and/or indemnification through purchased insurance coverage (limited to \$400,000.00, which includes plaintiff's attorneys' costs but not defense costs, for any and all claims arising out of a single occurrence).

15.2 Members have the following rights when represented by an attorney provided and selected by the City:

- 15.2.1 The City attorney, prior to selecting an attorney to represent an Officer named in a lawsuit filed with the City, will consult with the Officer regarding the case and the attorney selection. Officers may indicate a preference for one (or more) attorney(s) over another (others) from the list of attorneys pre-approved by the City's attorney and the City shall take the Officer's input into account when selecting the attorney.
- 15.2.2 Officers who are named defendants in the case are entitled to be present at meetings between City representatives and the Officer's attorney regarding the case, including settlement discussions that would affect the Officer.
- 15.2.3 Attorneys hired by the City who simultaneously represent multiple parties, Officer(s) and/or Police Chief as well as the City, will recommend separate counsel for the Officer in the event that they determine that any of these parties have divergent interests.
- 15.3 Notwithstanding the above, the City shall not be required to either defend or to indemnify a member who engages in acts for which that member is charged with or indicted for a criminal offense; or for acts which are committed while off-duty that are not lawfully authorized law enforcement conduct; or for on-duty conduct that is the subject of a civil complaint and which the City determines, following an investigation, constitutes bad faith conduct by the Officer. The City shall in no event be required to pay any exemplary or punitive damages.
- 15.4 In any instance where the City has refused to provide an attorney to a member for the reasons outlined in 15.3, the following provisions shall apply:
- 15.4.1 If upon final judgment it is determined by a Court in a criminal action that the Officer is acquitted of any criminal charges, or the Officer is found not guilty in a criminal proceeding, or the criminal charges are dismissed and the dismissal not part of a plea bargain in which the Officer pleads guilty or "nolo contendere" on other charges, the City shall reimburse the member in full for all costs of defense, including reasonable attorney's fees, incurred after the issuance of a criminal complaint or indictment. The City shall not be responsible for any costs incurred prior to the issuance of a complaint or an indictment. The member shall notify Corporation Counsel of the name of the attorney selected to represent the members before any costs are incurred.
- 15.4.2 In any instance where the City denied coverage because it concluded that the Officer was not engaged in the good faith performance of his or her lawfully authorized duties when

committing the acts that are then the subject of the civil case and the civil case results in a judgment for the Officer or only a nominal account of charges are awarded, the City shall reimburse the Officer for all costs of defense, including reasonable attorney's fees and shall pay the nominal damages.

15.4.3 In any instance where the City is required to pay for the Officer's attorney fees as set forth in 15.4.1 or 15.4.2, the fees shall first be approved by the Corporation Counsel and, if a dispute arises as to the reasonableness of costs of defense, including reasonable attorney fees, then the dispute shall be referred to the Board of Overseers Fee Arbitration Panel for a final and binding determination.

15.4.4 The City is not required to pay any exemplary or punitive damages.

15.5 It is a condition of the City's obligation to defend and/or indemnify an employee hereunder that the employee shall fully cooperate with the in any claim by or against the City, regardless of whether the employee works for the City at the time that the claim is filed. "Full cooperation" hereunder shall include, without limitation, providing information to the City and its attorneys (including attorneys designated or hired by the City), appearing and/or participating as a witness in the case when requested to do so by the City including, without limitation, participating in all pre-trial and trial proceedings. "City" as used under this section shall include officer, employees and agents of the City including, without limitation, attorneys designated or hired by the City. Except in those circumstances where such full cooperation is in conflict with the advice of the Officer's legal counsel or is in violation of the Officer's constitutional rights, failure to fully cooperate with the City in any case may result in disciplinary action against the employee, denial of the indemnification obligation hereunder unless otherwise required by the Maine Tort Claims Act, and/or an assessment to the employee of losses incurred by the City that, in the City's judgment, would likely have been reduced or avoided with the employee's full cooperation.

15.6 Paragraph 15.5 above may not be construed to imply that an employee who is not a defendant has no duty to fully cooperate with the City and its representatives, when the City and its representatives, in their sole discretion, determine that the employee has information relevant to the claim or the defense of the claim against the City or another employee of the City. In such a situation, except in those circumstances where such full cooperation is in conflict with the advice of the Officer's legal counsel or is in violation of the Officer's constitutional rights, the non-defendant employee has a duty to fully cooperate with the City and failure to do so may result in disciplinary action against the employee.

- 15.7 The City agrees to release the employee from his/her shift for appearances at any necessary proceedings on the date of such proceedings and at the request of the City's designated defense attorney. Should the proceedings conclude prior to the end of the employee's shift, the employee may be required to report for duty for the remainder of his/her shift.
- 15.8 Any other language in Article 15 notwithstanding, the City's defense and indemnification obligations to an employee who is sued for acts committed while that employee was acting under the direction and control of and for the State, an agency of the State including but not limited to the Maine Drug Enforcement Agency, the Federal government, an agency of the Federal government, or any other governmental or quasi-governmental entity, shall be secondary to defense and indemnification coverage provided by that agency.
- 15.9 The rights of the City and the members are governed by this article and are not affected by the terms of any policy of insurance.

**16. GRIEVANCE PROCEDURE:**

- 16.1 Should the Association feel aggrieved concerning the interpretation or application by the Department or the City of any provision of this Agreement, the Association may seek adjustment of the grievance as follows:
- 16.1.1 The Association, through its authorized representative, shall take up the grievance with the employee's Bureau Commander or designee. The Bureau Commander or designee shall meet with the Association within three (3) working days of receipt of notification of the grievance from the Association.
- 16.1.2 If the Association and the Bureau Commander have not resolved the grievance, the Association may submit the details of such grievance in writing to the Chief of Police within five (5) working days after meeting with the Bureau Commander under 16.1.1. The written grievance shall include the following:
- (a) a statement of grievance including the facts surrounding the issue;
  - (b) identification of the clause, section, or provision of the Agreement which is in dispute;
  - (c) the remedial action requested, when possible or practicable.

The Chief shall respond to the grievance within five (5) working days after the grievance hearing at his level.

16.1.3 Within five (5) working days of receipt of the Chief of Police's decision, the Association may appeal the decision to the Director of Human Resources by filing a copy of the written grievance and the Chief's decision with the Director of Human Resources. The Director of Human Resources shall meet with the Association, the employee, and other persons deemed necessary for a proper resolution of the grievance, and provide the Association with a written response within ten (10) working days after the grievance hearing at the Human Resources level.

16.1.4 Within five (5) working days of receipt of the Human Resources Director's decision, the Association may appeal the decision to the City Manager by filing a copy of the written grievance and the responses at Steps 16.1.2 and 16.1.3. The City Manager shall meet with the Association and provide the Association with a written response within ten (10) working days after the grievance hearing at the Manager's level.

16.1.5 In the event that the decision of the City Manager rendered pursuant to 16.1.4 above is not acceptable to the Association, within five (5) working days after receipt of the decision at Step 16.1.4, it may request in writing that the matter be submitted to arbitration. The City and the Association shall attempt to mutually agree upon an arbitrator. In the event they are unable to agree upon an arbitrator within seven (7) days of the request for arbitration, the arbitrator shall be selected through the American Arbitration Association in accordance with the rules of said Association then in full force and effect. Thereafter, the arbitration shall be conducted in accordance with the rules of the American Arbitration Association. Said arbitrator shall have no authority to add to, subtract from, or modify the provisions of this Agreement. The arbitrator's decision shall be final and binding upon the parties hereto. The costs of the arbitrator and of the arbitration shall be borne equally by the parties.

16.1.5.1 In the event that the decision of the City Manager rendered pursuant to 16.1.4 above is not acceptable to the Association, within five (5) working days after receipt of the decision at Step 16.1.4, the Association may request in writing that the matter be submitted to mediation. If the parties agree that mediation is appropriate, a joint request to the Federal Mediation and Conciliation Board (FMCS) will be made. If mediation (i) is not requested, (ii) does

not resolve the grievance, or (iii) the City declines to mediate, then the parties may proceed to arbitration. A parties decision to request or decline mediation in this or any grievance shall not be used or held against either party in any future grievance or arbitration, nor shall it establish any precedent.

16.1.5.2 In the event that the decision of the City Manager rendered pursuant to Step 16.1.4 above is not acceptable to the Association, and/or the parties have exhausted all remedies including Mediation as set forth in 16.1.5.1 above, within five (5) working days after receipt of the decision at Step 16.1.4 or within five (5) working days after mediation without resolution has occurred, the Association may request in writing that the matter be submitted to arbitration. The City and the Association shall attempt to mutually agree upon an arbitrator. In the event they are unable to agree upon an arbitrator within seven (7) working days of the request for arbitration, the arbitrator shall be selected through the American Arbitration Association in accordance with the rules of said Association then in full force and effect. Thereafter, the arbitration shall be conducted in accordance with the rules of the American Arbitration Association. Said arbitrator shall have no authority to add to, subtract from, or modify the provisions of this Agreement. The arbitrator's decision shall be final and binding upon the parties hereto. The costs of the mediation services provided by the FMCS and/or the arbitrator and of the arbitration shall be borne equally by the parties.

16.1.6 If a hearing has not been scheduled within ten (10) working days of receipt of the grievance at steps 16.1.2, 16.1.3 or 16.1.4 above, the Association may appeal the grievance to the next consecutive step of the grievance procedure. The time limits for processing of grievances may be extended by written consent of the parties.

16.1.7 At Steps 16.1.2, 16.1.3, and 16.1.4 of the grievance procedure, the Chief of Police, Director of Human Resources, or City Manager may designate a duly authorized representative to act on his/her behalf.

16.1.8 All grievances shall be commenced not later than thirty (30) days after the occurrence of one of the following two events, whichever shall be later in time:

- (a) The time of the occurrence of the event giving rise to the grievance; or
- (b) The time the event became known to either the Association or the employees concerned.

16.1.9 For the purposes of this Article, a work day shall be based upon a Monday through Friday, forty (40) hour work week.

## **17. DUES DEDUCTION:**

17.1 The City shall deduct regular weekly Association dues only upon receipt of a signed authorization from individuals who are members of the Association on forms supplied by the Association and acceptable to the City, a sample copy of which form is appended hereto as Exhibit D which shall be the form used in every instance. The City shall forward the aggregate dues to the duly elected Treasurer of the Association as soon as practicable. The City shall also forward, with the aggregate dues, separate totals of amounts paid to the Portland Police Protective Association and the Police Benevolent Association. Said forms shall include a provision that the deduction may be cancelled only after fourteen (14) days written notice to the City. If the notice of cancellation is not revoked in writing by the member within said fourteen (14) day period, the City shall cease making deductions. In the event of a change in the amount of the dues voted by the union membership during the term of this Agreement, the Treasurer of the Union shall notify the Personnel Director in writing. After receipt of same, dues as therein noted shall be deemed to have been authorized to be withheld on behalf of the employees who had previously signed authorization forms.

17.2 The Association shall indemnify and save the City harmless against all claims and suits which may arise by reason of any action taken in making deductions and remitting same to the Association pursuant to this section. Notwithstanding the above, nothing herein shall be construed as requiring employees represented by the Association to become or remain members of the Association.

### **17.3 Union Security**

17.3.1 Effective as of January 1, 1985, it shall be a condition of employment that employees either (1) join the Association, or (2) agree to pay their fair share toward the Association's cost of collective bargaining, contract administration, and the adjustment of grievances through payroll deductions as outlined in this Article. The Association shall establish said fair share annually not to exceed 85% of full Association dues and shall notify the City

promptly as to the percentage and dollar amount of said fair share. Employees not in the Association as of the execution date shall have 10 days after execution, and new hires shall have 10 days after completion of the probationary period within which to join the Association or to agree to pay the fair share amount.

17.3.2 The Association agrees to establish a bonafide internal Association procedure to allow non- Association employees in the unit to challenge the level of the fair share deduction established hereunder. The Union will insure that the challenge procedure complies with all applicable Federal and State laws. In the event of any challenge to the fair share provision, the City shall not be required to discharge any employee(s) for failure to comply with this provision until after the employee(s) have exhausted their internal Association remedies and so long as there is any litigation pending. After such exhaustion and in the absence of any pending litigation, the city shall provide any employee who has not elected to join the Association or to pay their fair share with written notice that he has 30 days to make such election or be discharged from service. Any discharge under this provision is reviewable only in Court and is not grievable or subject to the City's Civil Service Ordinance.

17.3.3 Upon receipt of a written authorization card from the employee, the City shall deduct either the full Association dues or the fair share dues as indicated. The City has no obligation to pay the Association any dues payment for an employee if the employee has not signed said authorization card.

17.3.4 The Association shall indemnify and hold the City harmless against any and all claims or suits which arise out of or result from the deductions of said fees or other action taken pursuant to the Article, said indemnification to include all costs and attorney's fees resulting from any such claims or suits, except for any attorney fee resulting from any fair share claims as defined in Section 17.3.5.

17.3.5 In the event of any administrative or cost litigation which arises out of or as a result from the deductions of said fee the Association will provide legal counsel to defend the propriety of the fee, its deduction or any termination which results from the failure to pay said fee. In such litigation the employer will have no obligation to defend the termination.

**18. PRINTING OF AGREEMENT:**

18.1 The City agrees to provide the Association with twenty-five (25) copies of the Agreement in reasonable size print within a reasonable period after the execution of this Agreement. The City will also provide the Association with a PDF file copy of the Agreement. The Agreement and pay plans will be posted on the City of Portland website. [www.portlandmaine.gov>Departments>Unions](http://www.portlandmaine.gov/Departments/Unions).

**19. P.B.A. PRESIDENT, BOARD OF DIRECTORS AND REPRESENTATIVES:**

19.1 The president of the Association shall be allowed reasonable time off without loss of any benefits to prepare for representation and to represent members.

19.2 Members of the Executive Board shall be allowed reasonable time off without loss of any benefits to represent members at the member's request, at any grievance procedure of departmental hearing and shall be allowed sufficient time to interview and represent a requesting member during all stages of a grievance procedure.

19.3 Members of the Negotiating Committee shall be allowed sufficient time off without loss of benefits to represent the Association on all negotiations with the City concerning the Collective Bargaining Agreement.

19.4 The Association shall supply a list of all members referred to in Paragraphs 19.1 - 19.3 above to be kept at the office of the Chief of Police for the purpose of verifying the status of the Association's President, Board of Directors, Executive Committee and Negotiating Committee.

19.5 Team representatives will be allowed one (1) hour during their shifts per week to work on Union matters, except where emergency situations do not allow for the same in the reasonable opinion of the Shift Commander.

19.6 Team representatives who are unable to attend ~~monthly~~ **quarterly** Board meetings during their regular work shift will receive 1.5 hours of compensatory time in consideration for their attendance at these meetings.

19.7 Executive Board Members shall be allowed up to three (3) days per year for the purpose of attending employment related training, education or conferences per approval of the Police Chief. Executive Board Members requesting approval to attend employment related training or conferences shall provide the Police Chief, or Designee, with no less than twenty (20) days advance notice, along with information on the requested training or conference.

## 20. MEMBERS RIGHTS:

- 20.1 Members of the Portland Police Department hold a unique status as public officials, and the security of the City and its citizens depends to a great extent upon the manner in which members of the Department perform their manifold duties. The performance of such duties involves the members in all manner of contacts and relationships with the public. Out of such contacts and relationships may arise questions concerning the actions of members of the force. Such questions may require prompt investigation by Superior Officers designated by the Chief of Police or other competent authority.
- 20.2 To ensure that such investigations are conducted in a manner conducive to good order and discipline, while observing and protecting the individual rights of each member of the Department, the following rules of procedure are established and cover all members of the Department; provided, however, no member who has completed the working test period shall be disciplined without just cause.
- 20.2.1 As much as possible, the interrogation will be conducted at a reasonable time taking into consideration the working hours of the member and the legitimate interests of the Department. The Officer conducting the interrogation shall advise the member that an official investigation is being conducted. The investigating Officer shall inform the member of the nature of the alleged conduct which is the subject matter of the interrogation and, unless in the judgment of the Chief of Police circumstances warrant anonymity, shall identify the complainant. If it is known that the member being interrogated is a witness only, he shall be so informed.
- 20.2.2 The interrogation shall be **tape** recorded and **the tape** preserved by the investigation Officer until the investigation is resolved. A copy **of the tape** shall be provided to the member upon his/**her** written request. The interrogation shall be conducted with the maximum amount of confidentiality possible. The interrogation of a member suspected of violating Department rules and Regulations shall be limited to questions which are directly, narrowly, and specifically related to the member's performance of duty as it relates to the alleged violation.
- 20.2.3 If a member is under arrest or may be, or if he/**she** is a suspect or the target of a criminal investigation, he/**she** shall be afforded all constitutional and statutory rights granted under such circumstances to other persons, including the right to counsel prior to any questioning or interrogation.
- 20.2.4 In all cases wherein a member is to be interrogated concerning an

alleged violation of Departmental Rules and Regulations which, if proven, could result in his/her suspension or removal from the Department, the officer may, at his/her request, be afforded a reasonable opportunity and facilities to contact and consult privately with an attorney of his/her choosing and/or a representative of the Association before being interrogated, and his/her attorney and/or a representative of the Association may be present during the interrogation, and may participate to the full extent of the employee's Weingarten rights.

20.2.5 If a member under investigation is requested to submit to a polygraph examination, he or she will be apprised in writing of the incident or incidents about which the inquiry is to be made to enable the member to confer with counsel of his or her choosing prior to the examination who may monitor the examination. The questions asked on the polygraph examination will be narrow and specific as defined by American Polygraph Association guidelines and will be allowed to be reviewed by member's counsel prior to the examination. The exam will be offered in a format approved by the American Polygraph Association. Such polygraph examination shall be voluntary and the officer shall not be disciplined for refusal to submit to such examination.

20.2.6 The investigation shall be conducted without unreasonable delay and the member will be advised of the final outcome of the investigation.

20.2.7 Consistent with Maine State Law and with the Union's approval all internal affairs records, including computerized records developed during the investigation but excluding the computerized complaint log, that exceed the seven (7) year Statute of Limitations will be destroyed once per year as determined by the Chief. Any member may request that their records be destroyed on the anniversary of the seven (7) year Statute of Limitations.

### 20.3 Disciplinary Action

20.3.1 No disciplinary action shall be taken against any member of the Department who has completed the two (2) year working test period and is covered by this Agreement without due notice and in accordance with the procedures set forth in this Agreement. Any disciplinary action that is taken against a member during his/her working test period shall be governed exclusively by the Civil Service Ordinance.

20.3.2 For purposes of this Article, designee refers to an officer above the rank of Major. Any reference to the Chief of Police in this Article

may also apply to the Chief's designee.

20.3.3 Any member who has completed his/her working test period charged with a violation of Departmental Rules and Regulations shall be entitled to a hearing as outlined below prior to the issuance of any disciplinary action. The Chief shall continue to hold disciplinary hearings that involve major violations of Department Rules and Regulations, such as but not limited to incompetence, misconduct, negligence, insubordination and disloyalty. The Lieutenant or Major will hear the less serious violations, such as but not limited to absenteeism, tardiness, failure to follow work orders, poor job performance and other complaints of similar severity (either internal or external).

20.3.4 Disciplinary hearings shall be informal in nature.

20.3.4.1 At the hearing before the Chief of Police or designee, the employee shall be given sufficient notice of the pre-disciplinary hearing date and shall be given time to allow him/her an opportunity to consult legal counsel, conduct an investigation, and prepare a defense. At the hearing, the member may be accompanied by legal counsel and/or a representative of the Association. The member shall have the right to confer with his/her counsel at any time during the hearing and shall have the right to have his/her counsel speak on his/her behalf. The employee shall have access prior to the hearing to all information and/or documents upon which the contemplated discipline is based unless, in the judgment of the Chief of Police, circumstances warrant anonymity until the Internal Affairs unit has completed its investigation.

~~20.3.4.2 Prior to the hearing before the Lieutenant or Major, the employee shall be advised of the charges, shall have the right to be heard including the right to a PBA representative, and shall be presented with the information upon which the contemplated discipline is based.~~

20.3.5 If, following the initial hearing, the ~~Hearing Officer~~ Chief of Police finds there is just cause for taking disciplinary action, he/she may:

20.3.5.1 Issue an oral or written reprimand or warning. ~~A Lieutenant may suspend a member for up to three (3) days per offense and no more than five (5) days~~

~~aggregate during any twelve (12) month period that follows a suspension in the event of multiple offenses.~~ Notwithstanding anything in the Civil Service Ordinance to the contrary, the Chief may suspend a member for not more than thirty (30) days for one offense, provided that such suspensions shall not exceed forty-five (45) days in the aggregate during any twelve (12) month period that follows a suspension.

20.3.5.2 In lieu of suspension and upon concurrence of the member, require the member to work not more than ten (10) days off without compensation; or,

20.3.5.3 In addition to any disciplinary action imposed under this Article, the member may be required to attend corrective training during the member's on-duty time.

~~20.3.5.4 An aggrieved officer may appeal the Lieutenant's decision in writing, within five (5) City business days of the Lieutenant's written decision to discipline. The Major will convene a Review Board within ten (10) City business days of receipt of a written appeal. The Review Board will consist of himself, two uninvolved Lieutenants and a non-voting PBA member. If the Major served as Hearing Officer for the discipline in question, the Bureau Commander will convene the Review Board consisting of himself, two uninvolved Lieutenants and a non-voting PBA member. The aggrieved employee along with the PBA representative shall have the opportunity to address the Review Board. The Review Board will confer following the employee's presentation in private and may sustain the action, overturn or modify the action, including increasing the disciplinary action. The Review Board will issue a written decision within five (5) City business days of the appeal hearing.~~

20.3.5.5 Employees shall be notified of any disciplinary action taken against them, and the Association shall be provided with written notice of all disciplinary actions. Any disciplinary action administered under this section may be processed to grievance arbitration under Article 16, Grievance Procedure.

20.3.5.6 The new hearing and appeal procedure shall be on a trial basis for the term of this contract. The role of

the non-voting PBA member is process-related. The Union agrees the discussions of the Review Board will be confidential and information from these discussions will not be entered as evidence at any subsequent proceeding.

- 20.3.6 No written reprimands involving an alleged violation of Departmental Rules and Regulations shall be placed in a member's personnel file and/or records unless the member is first given a copy of the written reprimand. The member shall have the opportunity to respond in writing and contest the validity of the written reprimand. The Chief of Police shall review both the reprimand and contesting document and upon finding just cause for the reprimand, may place in the member's personnel file and/or records the written reprimand and the contesting document. Such written refutation by the member shall be submitted to the Chief of Police within five (5) days after the member has received a copy of the reprimand.
- 20.3.7 When, through appropriate procedures, it is determined by the Chief of Police that just cause exists for removing a member or suspending them for a period greater than fifteen (15) working days, the Chief of Police may seek their removal or suspension through the Civil Service procedures as set forth in 20.16. However, the employee may waive in writing all Civil Service procedures regarding the proposed discipline and proceed before the Chief in accordance with the procedures set forth in 20.3. If the employee opts to proceed and accept discipline directly from the Chief, and feels aggrieved concerning the discipline, the Association may process such grievance in accordance with Article 16 of this agreement.
- 20.3.8 No record of an oral reprimand shall appear in a member's personnel file. However, routine critiques of an officer's performance by his supervisors shall not be defined as an oral reprimand and may be noted in a member's performance evaluation.
- 20.3.9 All written reprimands and reports of disciplinary action (except instances involving suspension) shall be removed from the personnel file and/or records and destroyed one year after the incident involved, unless during that year the member has had subsequent disciplinary action taken against him involving other incidents. Under no circumstances shall the written reprimand or report of disciplinary action remain in the member's personnel file for more than two (2) years.

- 20.3.9.1 All records and/or reports of disciplinary action involving the suspension of a member for five (5) days or less shall be removed from the personnel file and/or records and destroyed three (3) years after the incident involved, unless during that period of time the member has had subsequent disciplinary action taken against him involving other incidents. Under no circumstances shall the written reprimand or report of the disciplinary action remain in the member's personnel file and/or records for more than five (5) years.
- 20.3.9.2 All records and/or reports of disciplinary action involving the suspension of a member for more than five (5) days shall be removed from the personnel file five (5) years after the suspension, unless during that period of time the member has had subsequent disciplinary action taken against him involving other incidents. Under no circumstances shall the records and/or reports of disciplinary action remain in the member's personnel file for more than eight (8) years.
- 20.3.10 All personnel records shall be confidential in conformity with applicable State Law. Any dispute concerning the confidentiality of such records or the access of members to those records shall be finally determined by a court of competent jurisdiction and is not an arbitrable matter under Section 16 of this contract.
- 20.3.11 Personnel records shall include any record or file, except Internal Affairs cases, that contain any information which can affect the employee's employment, promotion, or any other condition of employment wherever that record is located. Employees shall, upon written request to the Chief, have access to all such records and shall have the right to have such records copied at reasonable cost.
- 20.3.12 Upon request, a member shall have the right to inspect his/her official personnel record wherever kept. Inspection shall be during regular business hours of the respective repository and be conducted under supervision by the Department. A member shall have the right to make duplicate copies for his/her own use. No record(s) shall be withheld from a member's inspection.
- 20.3.13 A member shall have the right to include in his/her

personnel record written refutation of any material he considers to be detrimental.

#### 20.4 Civil Service Commission Disciplinary Actions

20.4.1 The Chief may recommend suspension in excess of fifteen (15) days (or thirty (30) days aggregate in a calendar year), demotion, or discharge of an employee to the Civil Service Commission. Any such recommendation shall be processed under the Civil Service Ordinance.

20.4.2 Any disciplinary action prosecuted before the Civil Service Commission, including the Chief's recommendation therefore, shall not be grievable under this Agreement. Any final decision of the Civil Service Commission may be appealed only to court.

20.4.3 In the event that an employee is suspended by the Commission for a period in excess of thirty (30) consecutive days, the employee shall not accrue vacation, sick, or holiday benefits during the period of such suspension.

20.4.4 If the member under investigation is requested to submit to a polygraph examination, he or she will be furnished a list of questions which will be asked prior to the commencement of the examination, to enable the member to confer with counsel of his choosing. If a member is requested to submit to any other type of test, he or she will be advised of the type of test and the member will be afforded an opportunity to obtain similar independent test, if available. The taking of a polygraph examination is voluntary. If a member refuses to take a polygraph test, the refusal shall not be introduced into evidence in any disciplinary hearing nor have any bearing upon discipline, suspension or dismissal. If a polygraph examination is taken, neither party to the contract, nor its representatives, may object to the admissibility and use of the examination's results at any hearing, but either party may argue as to the weight to be accorded such results at any such hearing.

#### 21. **STRIKES AND SLOWDOWNS PROHIBITED:**

21.1 The parties hereto agree that there will not be, and that the Association, its officers, members, or agents, will not engage in, encourage, sanction, or suggest strikes or slowdowns which would involve suspension of or interference with normal work.

#### 22. **SAVINGS CLAUSE:**

22.1 If any provision of this Agreement shall be contrary to any law or a City Ordinance, such invalidity shall not affect the validity of the remaining provisions. This section shall be without prejudice to either party, however, as it might relate to the application of the Municipal Public Employees' Labor Relations Law, M.R.S.A., Title 26, Sec. 969, to this Agreement.

**23. PHYSICAL FITNESS:**

23.1 The parties hereby recognize that the physical fitness of employees vitally affects the efficient, safe, and productive operation of the Department and the quality of police services provided to the public. Each employee is required to maintain the level of physical fitness necessary to perform the normal duties of his/her position.

23.2 The Chief is authorized to promulgate a rule requiring each employee to undergo a physical fitness testing program on a regular basis beginning July 1984. Said rule shall outline the tests which the employee is required to undergo and tests shall be objective and measurable. Reasonable provision shall be made for any known physical disability of any employee by offering alternative tests or by permitting extensions of time for taking such tests in the case of temporary disabilities. Discipline shall not result from the employee's failure of the initial test or any portion thereof. However, the City may then order the employee into a remedial or structured program at the City's expense as necessary. The Chief shall determine appropriate discipline in the event of subsequent full or partial test failure with the following exception: So long as the program coordinator certifies that said employee has been diligently participating since entering the remedial or structured program, the employee will not be disciplined for failing the physical fitness test.

23.3 The Chief shall consult with the Civil Service Commission and the Association regarding appropriate physical standards and tests prior to promulgation of the rule. In addition, the Association shall be given the draft of the rule and shall have no less than fifteen (15) working days to make written comments on such draft rule prior to its final promulgation. The same procedure as provided in this subsection shall be followed in the event of any amendments to said Rule.

23.4 The City shall provide \$100 annually to each employee to be used for a physical examination and/or to maintain their level of physical fitness to perform the normal duties of their position. In no case shall the City be obligated under this Article to spend more than \$100.00 per employee per year. Payment of the \$100 shall be made as soon as possible after the beginning of each fiscal year, beginning July 1, 1985, but not later than 30

days after the beginning of the new fiscal year. Notwithstanding the above, the payment shall be considered a retroactive payment for the previous fiscal year as provided in the grievance settlement dated September 10, 1985.

**24. SENIORITY AND LAYOFFS:**

24.1 Seniority is defined as continuous service with the Department from the date of swearing in as a full time Police Officer, except that all employees hired prior to January 4, 1982 shall have seniority dates as provided in Exhibit E, which is attached and incorporated herein. If an employee is sworn in prior to starting City service the seniority date will be the date of hire with the City as a Police Officer.

24.1.1 When an employee who has held the rank of sergeant or above is demoted [as discipline or at the employee's request] to the rank of patrol officer, that employee shall retain his/her seniority date, as defined herein, and shall be restored as a member of this bargaining unit. The employee shall not, however, be allowed, based upon his/her seniority, to "bump" or displace another member of the unit from his/her current position. The returning officer shall be assigned to a currently open position.

Thereafter, the demoted employee may use his/her seniority in the same manner as any other member of the unit; this will include, but not be limited to, applying for open shift assignments, specialty positions and promotions, as well as layoffs, reductions in force and use of leave time.

This section is not intended to apply to reductions in rank caused by layoffs or reductions in force. This Amendment will have no retroactive application.

24.1.2 Seniority for Police Officers with the same date of hire who are hired on or after January 1, 2000 shall be determined by their score on the Civil Service written test. Numerical scores will be maintained by Human Resources and will not be released to the Union or the Department for confidentiality reasons. The person with the highest score will be senior to the other officers starting on the same day. In the event of equal scores, the first letter of the last name will be used to break the tie.

24.1.3 Seniority for Police Officers with the same date of hire who are hired on or after March 27, 1995 but prior to January 1, 2000 shall be determined by their Civil Service point total. The person with the highest score will be senior to the other Officers starting on the

same day. In the event of equal scores, the first letter of the last name will be used to break the tie.

24.1.4 Seniority for Police Officers with the same date of hire who were hired prior to March 27, 1995 has been determined by the first letter of the last name. The Officer whose first letter is closest to the beginning of the alphabet will be senior to the other Officers starting on the same day.

24.2 Seniority shall be a factor when considering job openings. The criteria for making job assignments are outlined in Exhibit F.

24.3 Seniority shall be the sole factor for purposes of layoffs, days off, and work shift assignments except as provided otherwise herein.

24.4 In the event of a lay-off, the affected employee has recall rights for twenty-four (24) months from the day of such lay-off. The affected employee shall deliver his or her then mailing address and telephone number, if any, to the Chief of Police at his/her office and shall be obligated, as a continuing condition of his/her recall rights for said twenty-four (24) month period, to continue to inform the Chief in writing of any change thereafter.

24.5 The Chief, or his/her authorized representative, will allow switching days off between employees in the Unit on advance notice of at least five (5) days, so long as the Department's functions are not thereby impaired. When extenuating circumstances exist, the five (5) day notice requirement may be waived by the Chief or his authorized representative.

24.5.1 Requests will be made for good reason only. The employees involved in the swap must work within the same division or specialty. A swap may be denied if it is not for good reason or if it is determined that the two employees are not equally qualified.

24.5.2 Swaps need not occur within the same week. However, once approval is received, it is the responsibility of the employee requesting the swap to notify the substitute. The City shall not be held responsible for enforcing any agreement made between employees and shall be under no obligation to the substitute for his/her duty as a substitute.

24.5.3 Swaps shall be made for single shifts only. Consecutive shift requests will be considered only in emergency situations and require approval of the Major.

24.5.4 Swaps shall not be denied for arbitrary or capricious reasons. An employee may appeal any denial by a Lieutenant to the Major.

Such appeals will be expedited by the Major and are grievable only through Step 2 of the grievance procedure.

24.5.5 The employees involved in the swap will be held responsible for the shift being covered. Any employee who does not meet this obligation will not be permitted to participate in any swap for six (6) months or longer.

**25. RESPONSE TIME:**

25.1 Residency within the territorial limits of the City of Portland shall not be a condition of employment; however, in order to safeguard the health, safety, and welfare of Portland citizens, the Chief of Police has the authority to promulgate a Departmental Rule and Regulation establishing a required "response time" for employees; however, prior to promulgating such a rule, the Chief of Police will consult with the PBA Executive Board.

25.2 Within five (5) working days of the date of promulgation of the rule, the Association may appeal the rule to a single arbitrator on the sole issue of whether or not the rule is reasonable. The selection of the arbitrator and the rules of the arbitration shall be the same as those provided in Section E of Article 16, Grievance Procedure. The arbitrator's decision shall be final and binding upon the parties. The costs of the arbitrator and of the arbitration shall be borne equally by the parties.

**26. LEAVES OF ABSENCE:**

26.1 Military leave and Reserve Service Leave shall be available to employees under the terms and conditions of applicable federal and/or State legislation. Any disputes as to rights under this provision are not arbitrable, but may be determined by a court of competent jurisdiction.

26.2 Disability Leave of Absence

26.2.1 When disabled, a member will be placed on an unpaid leave of absence of up to three (3) months if (1) employee requests a leave, (2) employee is disabled by his/her doctor from performing his/her duties for a period of more than one (1) consecutive week, or (3) employee's attendance or performance becomes unsatisfactory because of the disability. Employees will provide the City with a doctor's note for all absences exceeding one consecutive week that are related to a medical incapacity. The initial twelve (12) week period will be processed as a Family Medical Leave if the disability is covered by the Family Medical Leave Act.

Except for emergencies, the employee shall submit a written request or a doctor's note to the Chief at least one (1) month prior to the anticipated departure. The employee is required, as a condition of this leave, to provide a statement from an attending physician setting forth (a) the anticipated duration of the disability, and (b) any conditions which may limit the employee's performance of his/her job before or after the leave. A decision regarding approval of such leaves shall be made by the Chief based upon medical documentation. Leaves may be denied if medical documentation is insufficient or does not support the leave but leaves shall not be denied for arbitrary or capricious reasons.

26.2.2 The Chief shall have the authority to extend such leave upon written request from the employee.

26.2.3 Accumulated sick leave benefits shall be applied to any portion of the requested leave so eligible at the option of the member, but cannot be used to extend a disability leave.

26.2.4 Disability due to pregnancy or child-birth are, for all job-related purposes, temporary disabilities.

### 26.3 Personal Leave of Absence

26.3.1 A member may request a personal leave of absence without pay for a period not in excess of thirty (30) days. The Chief, in his sole discretion, may grant such leave.

### 26.4 Family and Medical Leave

26.4.1 An employee who has been employed for twelve (12) consecutive months and who has worked 1250 hours in those last twelve months is entitled to up to a total of twelve (12) weeks of Family and Medical Leave (FMLA) in any twelve (12) month period. The leave shall be an unpaid leave unless the employee elects to use any accumulated paid leave. The employee must give at least 30 days notice of the intended date upon which Family and Medical Leave will commence and terminate, unless prevented by an emergency situation from giving that notice. The employee shall provide medical certification, in the form of a completed City of Portland Health Care Provider Certificate Form, of the need for the leave. FMLA leave is governed by the requirements of the state and/or federal FMLA laws, as they apply. If the requirements, benefits, definitions and/or scope of FMLA changes during the term of this Agreement, such changes are automatically incorporated by this Agreement.

26.4.2 Employees who request to use Family Medical Leave for the purpose of caring for a domestic partner, child of a domestic partner or parent of domestic partner must satisfy the City's eligibility requirements for claiming an individual as a domestic partner.

26.5 The City will continue the employee's health benefits coverage during the leaves referenced in 26.1, 26.2, 26.3 and 26.4. The employee will accrue holiday, vacation and sick leave credits during the first twelve (12) weeks of such leave. After the first twelve (12) weeks, there will be no further accrual of holiday, sick or vacation leave. Seniority, however, will accrue during the time of the leave. An employee taking such leave is entitled to be restored to the position held by the employee when the leave commenced, and will be entitled to any other benefit the employee would have accrued had he/she not taken the leave.

## **27. MANDATORY TRAINING:**

27.1 The City agrees to make available a minimum of twenty (20) hours per year of in-service training to each employee. Employees will attend training as directed or approved by the City. Employees will be compensated at their appropriate base rate for the time spent in training. Any training required for a particular job assignment will be offered on a yearly basis.

27.2 Travel time will be paid for travel to and from required training that the Officer is attending as a student providing the Officer has already worked eight (8) hours or ten (10) hours, depending upon their regular shift assignment, including time spent in training, on the day the travel occurs. Such compensation shall be in the form of compensatory time at a time and one-half rate and shall not exceed a maximum of two hours each way.

27.2.1 Requests for compensation for travel time must be submitted on a pay slip separate from the slip for the training.

27.2.2 The Chief or designee may approve travel time associated with non-required training but such approval is at his/her discretion.

27.3 The City will make EMT training available to employees in the following priority order:

a. To employees who request the training and request a regular assignment to the islands;

- b. To employees who request the training and are willing to accept temporary assignments to the islands, as needed, including those in Specialty positions; and,
  - c. To other employees who request the training as City resources allow.
- 27.4 Once EMT-trained by the City, employees will be required to maintain their EMT certification for a minimum of 5 years from their initial certification, or so long as they are regularly assigned to Island duty, whichever is longer. Employees regularly assigned to Island duty must maintain certification as an Emergency Medical Technician or may be subject to disciplinary action.
- 27.5 Fire drill school training will be provided to employees regularly assigned to the islands and to employees who are willing to accept temporary assignments to the Islands as needed. EMT training and fire drill school training shall count toward completion of the minimum hours of mandatory training.

## **28. SAFETY COMMITTEE**

- 28.1 The Safety Committee shall be comprised of three (3) members appointed by the President of the PBA, one (1) member appointed by the President of the PSOBA, two (2) members appointed by the Chief of Police, and the Risk Manager or designee.
- 28.2 The Committee shall meet bi-monthly or as set by the Committee, or more often at the request of any member of the Committee.
- 28.3 The Committee shall develop recommendations on matters affecting employee safety for the Chief of Police. Recommendations shall be adopted by the Committee, for transmittal to the Chief, by majority vote.
- 28.4 The Chief shall respond in writing to all recommendations of the Committee as expeditiously as possible.

## **29. TERM OF AGREEMENT**

- 29.1 This Agreement shall govern the rights of the parties from January 1, 2017 until and including December 31, 2019.
- 29.2 This Agreement shall remain in full force and effect until a new Agreement has been executed in accordance with 26 M.R.S.A. 965.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by Jon P. Jennings, its City Manager, and the Association has caused this Agreement to be signed by James A. Keddy, its President, and Daniel Felkel, PBA Legal Counsel.

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_  
Jon P. Jennings  
City of Portland

\_\_\_\_\_

\_\_\_\_\_  
James A. Keddy  
Portland Police Benevolent Association

\_\_\_\_\_

\_\_\_\_\_  
Daniel Felkel, Counsel for  
Portland Police Benevolent Association

**EXHIBIT A**  
**PBA PAY PLAN**

<b><u>Police Officer</u></b>		Effective 1/3/2016	Effective 1/2/2017	Effective 1/1/2018	Effective 1/7/2019
		Current	0.02	0.04	0.04
1	0 - 3	\$ 21.64 \$ 865.60	\$ 22.07 \$ 882.80	\$ 22.95 \$ 918.00	\$ 23.87 \$ 954.80
2	3 - 5	\$ 23.13 \$ 925.20	\$ 23.59 \$ 943.60	\$ 24.53 \$ 981.20	\$ 25.51 \$ 1,020.40
3	5 - 8	\$ 24.04 \$ 961.60	\$ 24.52 \$ 980.80	\$ 25.50 \$ 1,020.00	\$ 26.52 \$ 1,060.80
4	8 - 10	\$ 24.74 \$ 989.60	\$ 25.23 \$ 1,009.20	\$ 26.24 \$ 1,049.60	\$ 27.29 \$ 1,091.60
5	10 - 12	\$ 25.69 \$ 1,027.60	\$ 26.20 \$ 1,048.00	\$ 27.25 \$ 1,090.00	\$ 28.34 \$ 1,133.60
6	12 - 18	\$ 26.46 \$ 1,058.40	\$ 26.99 \$ 1,079.60	\$ 28.07 \$ 1,122.80	\$ 29.19 \$ 1,167.60
7	18+		\$ 27.80 \$ 1,112.00	\$ 28.91 \$ 1,156.40	\$ 30.07 \$ 1,202.80

**Detective, Court Officers, Evidence Technicians**

		Effective 1/3/2016	Effective 1/2/2017	Effective 1/1/2018	Effective 1/7/2019
		Current	0.02	0.04	0.04
1	0-3	\$ 22.72 \$ 908.80	\$ 23.17 \$ 926.80	\$ 24.10 \$ 964.00	\$ 25.06 \$ 1,002.40
2	3-5	\$ 24.28 \$ 971.20	\$ 24.77 \$ 990.80	\$ 25.76 \$ 1,030.40	\$ 26.79 \$ 1,071.60
3	5-8	\$ 25.24 \$ 1,009.60	\$ 25.74 \$ 1,029.60	\$ 26.77 \$ 1,070.80	\$ 27.84 \$ 1,113.60
4	8-10	\$ 25.98 \$ 1,039.20	\$ 26.50 \$ 1,060.00	\$ 27.56 \$ 1,102.40	\$ 28.66 \$ 1,146.40
5	10-12	\$ 26.98 \$ 1,079.20	\$ 27.52 \$ 1,100.80	\$ 28.62 \$ 1,144.80	\$ 29.76 \$ 1,190.40
6	12-18	\$ 27.79 \$ 1,111.60	\$ 28.35 \$ 1,134.00	\$ 29.48 \$ 1,179.20	\$ 30.66 \$ 1,226.40
7	18+		\$ 29.20 \$ 1,168.00	\$ 30.36 \$ 1,214.40	\$ 31.58 \$ 1,263.20

## EXHIBIT B

### Initial Issue of Equipment

<u>Minimum Quantity</u>	<u>Item</u>
1	Firearm – Glock 21
3	Magazines
25 or 40 rounds	45 cal. Ammunition (Glock 21)
1	Double Magazine Pouch
1	Baton
1	Baton Holder
2	Breast Badges
1	Hat Badge
1 ea.	Building, Lockerroom, Cruiser Key
1	Metal Clipboard
1	Cuff Case
1 pr.	Handcuffs
1	Double Lock Cuff Key
1	* Dress Blouse (Honor Guard Only)
1	* Sam Browne Crossover Belt (Honor Guard Only)
1	Funeral Band
1	Gun Belt
1	Garrison Belt
4	Gun Belt Keepers
1	Glove Case
4 pr.	Disposable Gloves
1	Hat
1	Hat Cover
1	Ballcap (K9 only)
1	Holster
1	3 in 1 Jacket w/ Traffic Vest
1	Raincoat
1	Locker with Lock
1	OC Spray
1	OC Spray Pouch
1	Miranda Card
1	Microphone Pouch w/ cable link microphone
1	Name Tag
1	Serving Since Pin
1	Neck Tie
1	Tie Clip
1	Police ID card
1	Radio Case
1	Radio
1	Protective Vest
6	Long Sleeved shirts
5	Short Sleeved Shirts
5 pr.	Socks
3 pr.	Summer Trousers Uniform pants

**EXHIBIT B (cont'd)**

**Initial Issue of Equipment**

<u>Minimum Quantity</u>	<u>Item</u>
3 1 pr.	<del>Winter Trousers</del> Dress pants
5 sets	** BDU (1 set = pants, shirt)
1	*** Bicycle Helmet
1	*** Bicycle Jacket
1 pr.	*** Bicycle Gloves
2 pr.	*** Bicycle Shorts
2 pr.	*** Bicycle Pants
2 pr.	*** Bicycle Shirts
1	**** Leather Jacket
1 pr.	**** Motorcycle Boots
1	**** Motorcycle Helmet
1 pr.	**** Motorcycle Britches
1	***** Fire Jacket
1	***** Fire Helmet
1 pr.	***** Fire Boots
1 pr.	***** Fire Gloves
2 sets	***** BDUs (Green=SRT; Negotiators; Bomb Squad)
1 set	***** BDUs (Blue-Fire Investigator)

- \* Will be available in several sizes to be signed out by other Officers for special events
- \*\* Evidence Technicians, Canine Officers, Property Coordinator – Blue
- \*\*\* Qualified Bicycle Officers only
- \*\*\*\* Qualified Motorcycle Officers only
- \*\*\*\*\* Island Services Officers only

## EXHIBIT C

### Allowable Apparel and Equipment

Black Leather Jacket  
Black Shoes  
Black Leather Gloves  
Winter Footgear  
Court Attire (including dress trousers, collared shirts, socks, ties, shoes, and other related dress apparel approved by the Police Chief, or Designee)  
Alterations to Court Attire/ Uniforms  
Sweater  
Black Boots  
Shoe Polish and accessories  
Socks  
T-Shirts  
Prescription Eyewear  
\*Whistle and Chain  
\*Ear Phones  
\*Ticket Book Holders  
\*Off-Duty Holster  
\*On-Duty Holster (Approved)  
\*Badge  
\*Badge Case  
\*Black Pens  
Flashlight (and replacement batteries, bulbs, lenses)  
Flashlight holder  
\*Hand cuffs / Case  
\*Cuff Key  
Practice Ammunition  
Ear and Eye Protection (for shooting)  
Items Related to Recognized Specialty Position(s) (subject to the approval of the Team Commander and Police Chief)  
Winter Scarf (Navy blue or black)  
\*Trooper-Style Pile Caps  
\*Insulated Collarless Vests  
Sneakers (Chief designated)  
Running shoes  
Sunglasses  
Turtleneck  
Watch Cap  
\*Approved Multi-Purpose Knife  
\*Duty Bag  
\*Nylon or Leather Duty Belt and attached accessories (standard model approved by the Police Chief, or Designee)  
\*BDU's for training purposes  
\*Duty Approved Weapon (Glock 17, 19, 21, 26, 30 or pre-approved and inspected AR-15/M16 .223 rifles), **pre-approved weapons optics and anything else that can be considered parts and equipment, all of which must be inspected and approved by the Department Armorer or a Firearms Instructor** ~~and attached flashlight and replacement batteries, bulbs and lenses~~  
\*Cell Phones

\*Department approved outer vest carrier

## **EXHIBIT C**

### **Allowable Apparel and Equipment (cont'd)**

\*Business Cards

\*Job Specific Books

\*Promotional Study Material

\*Items designated as equipment.

EXHIBIT D

EMPLOYEE VOLUNTARY DEDUCTION AUTHORIZATION FORM

EMPLOYEE VOLUNTARY DEDUCTION FORM

Print (last name first)

Fund Dept. Div. Prog. Soc. Sec. No. Employee Name

Code

Amount Add  
Delete Check add  
for perm. change; check delete to  
drop deduction.

INSTRUCTIONS: Please type or print. The deduction form must accompany the payroll that change appears on.

NOTE: The figure under "Amount" Effective  
is a replacement figure  
only. It is not the net  
difference. See reverse  
side for code number.

EXHIBIT E

PORTLAND POLICE DEPARTMENT

Staff Services Division

SENIORITY LIST OF PATROL OFFICERS

HIRED PRIOR TO JANUARY 4, 1982

**NAME**

**DATE**

Richardson, Randolph

01-03-82

**EXHIBIT F**  
**PORTLAND POLICE DEPARTMENT**  
**Memorandum**

**RE:** Filling of Vacancies

The following guidelines are set forth to establish a procedure for the filling of vacancies.

1. In accordance with Section 24.3 of the PBA contract, the following assignments will be considered shifts, and the sole factor for selection will be seniority.

Team assignments in the Patrol Division: A, B and C. Job assignments within the teams will be made by the lieutenants, based upon department needs.

2. In accordance with Section 24.2 of the PBA contract, the following facts will be used for filling the job openings listed below: Performance Evaluations, Sick Leave Use, Training, Disciplinary Record, and Seniority.

**Criminal Investigations Division**

General Investigator  
Narcotics Investigator  
Evidence Technician  
Court Officer  
Crime Reduction Unit

**Operations Group**

Canine Handler  
Traffic Investigator  
Youth Services Officer  
Islands Officer  
School Resource Officer  
~~Senior Lead Officer (SLO)~~ Community Policing Officer

Besides the aforementioned factors, additional ones may be used for specific job assignments, e.g., when a position is posted, the Bureau Commander will also post any additional screening mechanism, such as a written assignment, interviews, etc.

3. Canine handlers will be part of the Patrol Teams and assigned according to department needs and the PBA contract.
4. ~~Senior Lead Officers (SLOs)~~ Community Policing Officers will be assigned by the Chief or his designee based upon Department needs and the PBA contract.

**EXHIBIT G**  
**MEMORANDUM OF AGREEMENT**

This AGREEMENT made this            day of March, 2005, between the City of Portland (hereinafter the "City") and the Portland Police Benevolent Association, (hereinafter the "Association"), to amend the 2003-2004 Collective Bargaining Agreement (hereinafter the "Contract") between the City and the Association in regard to an alternative work schedule for Police Officers regularly assigned to Peaks Island.

WHEREAS, the Police Officers who are regularly scheduled to work on Peaks Island (hereinafter the "Island Officers") have requested a change in their work schedule; and the City agrees that this schedule incorporates certain operating efficiencies;

WHEREAS, the City agrees to continue this program for the duration of this contract as long as overtime costs do not increase;

NOW, THEREFORE, the parties agree to amend their contract to provide that the following terms and conditions of employment will be in effect for Officers assigned to the Island Services Unit and to Officers assigned to a temporary vacancy in accordance with Article 5.1.4. The following terms and conditions do not apply to Police Officers who may be temporarily assigned to the Islands to cover a vacancy that does not require a change to their regularly scheduled hours of work.

**Article 4 - Salaries**

- No change to current weekly salary
- No change to Specialty Pay

**Article 5 - Hours and Overtime**

- Amend regular work week to be 48 hours (consisting of two shifts of 24 hours) within an eight day work period.
- Amend regular work day to be twenty-four (24) hours. At least one Officer will be on patrol at all times. Each Officer will be permitted to sleep for four (4) hours during the hours of 10 p.m. and 6 am.
- Overtime is paid for hours worked in excess of 48 hours per eight day work period.
- Base hourly rate for the purpose of calculating pay for Island overtime assignments is defined as weekly salary divided by forty two hours. Base hourly rate for the purpose of calculating pay for mainland overtime assignments worked by Island Officers is defined as weekly salary divided by forty hours.
- Amend Article 5.3 to exclude hours spent riding to and from Peaks Island for Island Officers only.
- Amend Article 5.4 to include hours spent riding to and from Peaks Island for Island Officers only. In the event of schedule vacancies, management will determine how to meet the needs of the Island without incurring overtime. If overtime is offered, it will be offered to Police Officers with the necessary qualifications in order of seniority. If no one accepts the overtime, the overtime will be worked by an Island Officer eligible to work and in accordance with a rotating force list. The rotating force list will be comprised of Island Officers and will begin with the junior Island Officer. Officers will receive 1 mark for each 8 hour period worked on the Island (3 marks per 24 hour shift).

**EXHIBIT G**  
**MEMORANDUM OF AGREEMENT (cont'd)**

- Island Officers will not be eligible for overtime or special detail assignments during the 24 hour period that falls between two work shifts, during the late shift prior to their first day on, or during the late shift of their fifth day off. Officers will receive no mark in the overtime book for this period of time.
- Island Officers will be eligible for special detail assignments during their five (5) days off except as provided above. All provisions of Article 5.10 shall apply during this five day period.

**Article 6 - Holidays**

- Island Officers will receive eight (8) hours of holiday pay or an eight (8) hour holiday credit.
- If an Island Officer wishes to take a holiday off which is a scheduled work day, that Officer will be required to utilize sixteen (16) hours of accrued leave in addition to eight (8) hours of holiday pay for that 24 hour period.

**Article 7 - Vacations**

Island Officers will accrue vacation at the rate of 1.62 hours per full payroll week in the first through second year of service, 2.42 hours per full payroll week in the third through sixth year of service, and 3.23 hours per full payroll week in the seventh and succeeding year of service. Upon contract execution, Island Officers in their twentieth and succeeding years of service will accrue vacation at the rate of 3.85 hours per full payroll week. The weekly earnings rate shall be adjusted in the final week of the calendar year in accordance with the annual accrual amounts of 84 hours, 126 hours and 168 hours. An Island Officer's vacation accrual will be reduced by 24 hours for each scheduled work day that is taken as a vacation day during this period.

**Article 11 - Sick Leave**

- Sick leave shall continue to accrue at the rate of 1.85 hours per week.
- An Island Officer's sick leave accrual will be reduced by 24 hours for each scheduled work day that is taken as a sick day during this period.
- For the purpose of Article 11.1.3.1 one 24 hour work day taken as sick leave will be considered equivalent to three sick days.
- For the purpose of 11.4.3, a full shift may be taken off in the same manner as sick leave providing all sixteen (16) hours of personal leave are used at once and providing the employee has eight (8) hours of accrued sick leave, vacation leave, compensatory time or holiday credits to supplement the sixteen (16) hours of personal leave. The employee will give the Bureau Commander or designee as much advance notice as circumstances permit.

**Requests for Leave Time**

Island Officers who wish to use accrued leave time (vacation leave, compensatory time, holiday credits) should submit such requests to the **Commander or Supervisor of Special Services supervisor of the Traffic Unit** with as much notice as possible. Reasonable notice is considered to be at least thirty (30) days. Leave requests submitted without 30 days notice will be denied except in unusual circumstances. The appropriate accrual

shall be reduced by actual hours

**EXHIBIT G  
MEMORANDUM OF AGREEMENT (CONT'D)**

used (24 hours for each scheduled work day).

The City will purchase one round trip Casco Bay Lines ticket per Officer per shift.

The only persons considered for Island Officer job vacancies for the term of this agreement will be Police Officers who possess an up-to-date EMT license. All contract provisions remain in effect except to the extent they are specifically modified in this agreement.

The City agrees to continue this program for the duration of this contract as long as overtime costs related to sick leave do not significantly increase. This agreement shall expire effective December 31, 2005 unless the parties mutually agree to extend it.

Agreed to by:

\_\_\_\_\_  
City of Portland

\_\_\_\_\_  
Date

\_\_\_\_\_  
Police Benevolent Association

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel for Police Benevolent  
Association

\_\_\_\_\_  
Date

**EXHIBIT H**

**CITY OF PORTLAND**

**TRANSITIONAL WORK AGREEMENT**

The Employee and the Employer enter into this agreement for a period of Transitional Work, as follows:

The date upon which the Employee sustained an injury is \_\_\_\_\_.

Pursuant to the City of Portland's Transitional Work Policy, the Employee will return to work in a Transitional Work assignment on \_\_\_\_\_.

Attached is a copy of the Transitional Work Policy of the City of Portland which the Employee has read and understood.

The parties agree that the term of this Transitional Work assignment shall be ninety (90) days, from the return to work date above until \_\_\_\_\_.

5. This Transitional Work Agreement does not act as a waiver of rights and obligations of the employee or employer under 39.A MRSA Section 218 or any other applicable law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Employee

\_\_\_\_\_  
City of Portland

## **EXHIBIT I**

### **ON-THE JOB INJURIES**

The purpose of this Exhibit is to provide employees with information about benefits currently provided under State law:

Current State law provides that those employees who are enrolled in Maine Public Employees Retirement System special plan for their primary pension plan are entitled to keep special plan benefits in the event they are unable to return to "Regular Work" within the PBA bargaining unit if the following condition is met. The employee must apply for and be approved for disability retirement benefits before they transfer to a position that is not a sworn position in the Police or Fire Department.

This statement confirms information discussed in negotiations on July 19, 2001. The Union acknowledges that in the event that State law changes with respect to this benefits, this Exhibit will immediately become null and void. The City is not agreeing to provide, through this Exhibit, any benefit greater than what is provided by statute.

## **EXHIBIT J**

The parties incorporate into the 2009-2010 contract their tentative agreement dated July 2, 2009, attached herein.

### **CITY OF PORTLAND AND POLICE BENEVOLENT ASSOCIATION**

#### **TENTATIVE AGREEMENT FOR FISCAL YEAR 2009-2010 CONTRACT**

1. **Wages/Layoffs** – 12-month contract with 0% base pay increase. No layoffs for fiscal year 2010 for PBA members. No freeze on steps, etc. that employees will accede to during fiscal year. In the event of a fiscal emergency, the City may freeze (that is, not fill) any vacancies that may arise through attrition during fiscal year 2010.
2. **Comp Time**
  - a. City and PBA to set up Labor-Management Committee to investigate implementation of Comp Time awards as incentives for reaching higher levels of fitness under the PAT and/or higher score under Firearms Qualifications.
  - b. City to award four (4) hours of Comp Time for attendance at assigned Honor Guard events, as approved by Chief.
3. **Equipment – Exhibit C** – Add additional equipment, clothing, etc. to list of items accessible. Increase allotment under Exhibit C from \$200 to \$250 (Article 8.2).
  - A. Leather duty belts and attached accessories (standard model approved by administration)
  - B. Broaden definition of business suits to “court attire”, including dress trousers, collared shirts, socks, ties, shoes, etc. (include in allowed expenses alterations to court clothes and uniforms)
  - C. Add running shoes to list of items that do not have to be designated by the Chief
  - D. Add socks to list of apparel
  - E. Add shoe polish and accessories to list of equipment
  - F. T-shirts
  - G. Ear and Eye protection for shooting
  - H. Delete items as possible to limit list
  - I. Items related to recognized specialty (for example, a mask used in scuba-diving). Specialty items subject to approval of Team Commander
4. **Article 8.4** – Add cell phone replacement to list of items that the City will replace if damaged during normal police work (see Article 8.4) and set cap at \$100. Strike “extra-hazardous” duty language from Article 8.
5. **Pagers** – On October 1, 2009, the parties shall revisit the pager issue and any requirements to carry pagers. (See Side Letter – Exhibit K)
6. **Funeral Expenses** – City to contribute up to \$2,500.00 towards funeral expenses and incidental expenses for families of Officers who die in the line of duty.
7. **Regular Rate of Pay/Specialty Rate** – Define Regular Rate of Pay in the contract,

## EXHIBIT J (cont'd)

- for example, working with City's proposal at Article 5, to include Base Wage plus all specialties, stipends, educational incentives and shift differentials. (See Requirements of FLSA). Have "call-in" time work off of the Officer's specialty rate rather than regular rate.
8. **Meetings with City Manager** – As with the other City Unions, the City Manager agrees to meet with the Union President, or his designee, no less than quarterly each fiscal year. The purpose of the meetings is to discuss the status of the budget and potential revenue enhancements and cost savings. The first meeting will be in September 2009. In addition, the City Manager agrees to meet with members of the PBA upon request by appointment.
  9. **Mass Gathering Ordinance** – PBA and City to form Labor-Management Committee to investigate and support the enactment of a "Mass Gathering Ordinance" to formalize requirement of Police Officer coverage, through special detail assignments, at certain public gatherings. The goal of the Committee shall be to create a list of recommended changes for the City Council to consider pertaining to creating/amending said Ordinance(s).
  10. **Dive Team, Hazardous Devices team** to be designated as Specialties.
  11. **Specialty Payments-SLO** – Add new position of Senior Lead Officer with weekly \$30 stipend with incremental increases based upon time in specialty, etc. (See Chief's plan as laid out in City memo dated 6/5/09). Allow SLO to be combined and compensated with any one (1) other Specialty. (Additional draft language on this topic, subject to the City's review and approval, to be forwarded separately from the Unit)
  13. **Union Business**
    - a. Team representatives will be allowed one (1) hour during their shifts per week to work on Union matters, except where emergency situations do not allow for the same in the reasonable opinion of the Shift Commander. Team representatives who cannot attend monthly board meetings, where their shifts do not allow for the same, will receive 1.5 hours of Comp Time (at their regular rate of pay, not overtime) in consideration of their attendance at these meetings.
    - b. PBA Executive Board members will be allowed up to three days off each year, without loss of pay or other benefit, for the purpose of attending employment related training, education and/or conferences. Board members electing to go to the training or conference will provide the administration with 20 days notice of the same, as well as information on the training or conference. Any such allowance is subject to the Chief's prior approval.
  14. **Personal Leave** – Article 11.5.2 – Delete third sentence (???) Change Article 5.3 so that hours worked include hours compensated for by personal leave.
  15. **Article 5.1.1** – Add City's language at 5.9.1 on New Year's Eve and July 4<sup>th</sup> call-ins.
  16. **Admin Leave** – Agree to City's addition of Article 4.7 language for critical incident

**EXHIBIT J (cont'd)**

payments:

17. **Special Details** — The City Manager's Office shall work with the Police Administration and the PBA in an attempt to modify outside detail work done for Vendors using police services, as follows:

a. For example, in the event a non-City overtime detail is canceled on less than 12 hours notice, the PBA member scheduled to work the detail will be paid 4 hours overtime pay. (Adjustments will be made on "marks" in the OT books, etc.)

b. For example, officers will be paid a \$3.00/hour surcharge for working outside details in which alcohol is involved.

c. To the extent that there are written contracts in place between the City and the Vendors, those contracts will be modified to reflect the above-referenced additional benefits for PBA members. To the extent there are not such written contracts in place, then the current practice will be changed to reflect the above and the City will work with the Vendors to notify them of these changes, and seek implementation so that the changes will occur as broadly as possible, and as soon as possible. In addition, the forms filled out at the Police Department for those outside details shall be modified to reflect the above changes. It is understood by the parties that this tentative agreement relates to a matter that is more likely to be memorialized outside the Contract than within the Contract itself.

18. **Miscellaneous** — Any other items the City has offered that the Union finds acceptable. For example, the elimination of Officers being required to wear hats at all times and the changing Washington's Birthday to President's Day. Also, Unit has an interest in at least trying to work out an arrangement for a re-draft of Article 5 language with the City. Otherwise, the Union does not anticipate accepting any of the other changes proposed by the City.

APPROVED BY:

\_\_\_\_\_  
For the City

\_\_\_\_\_  
For the PBA

## EXHIBIT K

### EVIDENCE TECHNICIANS

The City of Portland and the Portland Police Benevolent Association agree as follows in regard to the "on-call" status of Evidence Technicians:

1. Twenty-four hour crime scene processing by qualified personnel is essential whenever crimes and accidents occur which require the prompt collection and preservation of physical evidence.
2. When the immediate services of an Evidence Technician (E.T.) are required and there is no Evidence Technician on duty, an on-call E.T. will be notified and expected to respond as soon as possible.
3. Any E.T. is subject to being called in to work during his/her off-duty time. E.T.'s will provide the department with a phone number where s/he can be reached when off-duty.
4. Call-ins will be prioritized as follows, depending on the needs of the department:
  - a. Evidence Technicians whose off-duty time is within four (4) hours of their regular shift (before and after) will be called first.
  - b. Evidence Technicians on their regular days off will be called second.
  - c. Evidence Technicians on any other type of leave, except military leave, sick leave or Family Medical Leave, will be called last.
  - d. Evidence Technicians on military leave, sick leave or Family Medical Leave will not be subject to call-in.
5. E.T.'s who are subject to call-in are not required to stay within any specific distance of the City and there are no restrictions on their use of off-duty time.
6. When no E.T. is available to respond to a crime or accident scene, another agency with equivalent personnel will be requested to respond and assist.
7. Each Evidence Technician will receive ~~eight (8)~~ **three (3)** hours of compensatory time per ~~month~~ **week** in consideration of this agreement. **Evidence Technicians shall receive the full three (3) hours of compensatory time for any week in which they are eligible to be called in for any of the days of that week.** The compensatory time awarded pursuant to this agreement will be treated the same as any other compensatory time awarded by the City.

