



**AGREEMENT BETWEEN  
CITY OF SOUTH MIAMI  
AND  
AFSCME**

AGREEMENT FOR FISCAL YEARS

June 22, 2019 to June 21, 2022

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# South Miami

THE CITY OF PLEASANT LIVING

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## ARTICLE 1 AGREEMENT

Section 1: This Agreement is entered into by the City of South Miami, hereinafter referred to as the City, and the American Federation of State, County and Municipal Employees, AFL-CIO, City Employees Local 3294, hereinafter referred to as the Union.

Section 2: It is the purpose and intention of this Agreement to provide for salaries, fringe benefits and other terms and conditions of employment except as otherwise provided by Constitution, Statute, Charter, Ordinance, Administrative Order or Personnel Rules and Regulations. It is further the intention of this Agreement to prevent interruption of work and interference with the efficient operation of the City of South Miami and to provide an orderly, prompt, peaceful and equitable procedure for the resolution of grievances and the promotion of harmonious relations between the City of South Miami and the Union. Upon ratification, the provisions of this Agreement shall supersede Personnel Rules, Administrative Orders, and/or other rules and regulations in conflict herewith. All references to "employee" and all pronouns in this Agreement are intended to refer to both genders.

## ARTICLE 2 RECOGNITION

The City hereby recognizes the Union as the exclusive bargaining representative of all regular, full time employees employed as equipment operators, laborers, sanitation engineers and supervisors, custodial workers, parks and grounds workers and supervisors, maintenance workers and supervisors, paint and body workers, building maintenance workers and supervisors, maintenance mechanics and supervisors, carpenters, motor equipment operators, and code enforcement officers employed by the City of South Miami, but excluding all secretarial employees, professional employees, managerial employees, and confidential employees.

## ARTICLE 3 MANAGEMENT RIGHTS

Section 1: The Union recognizes that the City Manager (hereinafter referred to as Management") possesses the sole right, duty and responsibility to operate and manage the City and direct the work force; and the rights, authority, and discretion which the City deems necessary to carry out its responsibilities and missions shall be exercised consistently with these terms. Any term and condition of employment other than wages and benefits not specifically established or modified by this Agreement shall remain solely with the discretion of the employer to modify, establish or eliminate, provided such are exercised consistently with the provisions of the current Personnel Rules and Regulations.

Section 2: These rights and powers include, but are not limited to the authority to:

- a. determine the missions and objectives of the City;

- b. determine the methods, means and number of personnel needed to carry out departmental responsibilities;
- c. direct the work of the employees, determine the amount and type of work needed, and in accordance with such determination relieve from duty because of lack of funds or lack of work;
- d. discipline or discharge employees for cause;
- e. schedule operations and shifts;
- f. introduce new or improved methods, operations and facilities;
- g. hire, examine, classify, promote, train, transfer and assign employees;
- h. schedule and assign overtime work as required;
- i. determine the utilization of technology;
- j. merge, consolidate, expand, ~~or~~ curtail or discontinue temporarily or permanently, in whole or in part, operations whenever in the sole discretion of Management, good business judgment makes such action advisable;
- k. contract or subcontract any existing or future work;
- l. the Management will make every effort to notify the Union of the contracting out or privatization of service involving classes within the bargaining unit within 45 days before Management decides to contract out or privatize services
- m. reduce, assign, or cease any existing job authorized in the City's approved budget, including those covered in the current Personnel Manual
- n. determine whether and to what extent the work required in its operation shall be performed by the employees covered by this Agreement.
- o. have the sole discretion to determine the plan design for all medical and dental coverage that benefits employees covered under this Agreement. Management agrees to consider the recommendations of the Employees' Benefits Committee as may be established by the City Manager. The Union shall be entitled to have one seat on any such Employee Benefits Committee, said representative to be appointed by the Local's President.

#### ARTICLE 4 NON-DISCRIMINATION

Section 1: It is agreed that there shall be no discrimination against any employee covered by this Agreement, by either the Union or the City because of race, color, sex, age, national origin, religion, disability, sexual orientation, membership in the Union, or non-membership in the Union. The parties further agree that the City may take any and all action in order to fully comply with the Americans with Disabilities Act.

Section 2: All employees covered by this Agreement shall have the right to join the Union as well as the right not to join the Union. Neither the Union nor its members or agents shall interfere with, restrain, or coerce employees into membership in the Union. The Union and the

City shall not discriminate against any employee because of that employee's membership or lack of membership in the Union or by virtue of the employee holding office or not holding office in the Union.

#### ARTICLE 5 NO STRIKES OR LOCKOUTS

Section 1: There will be no strikes, work stoppages, picketing, slowdowns, boycotts, or concerted failure, or refusal to perform assigned work while working or while in City uniforms, by the employees covered under this Agreement for any reason whatsoever, and there will be no lockout by the City for the duration of this Agreement. The Union supports the City fully in maintaining efficient operations.

Section 2: It is recognized by the parties that the City is responsible for and engaged in activities that are the basis of the health and welfare of the citizens of the City and that any violation of this Article would give rise to irreparable damage to the City and the public at large. Accordingly, it is understood and agreed that in the event of any violation of this Article, the City shall be entitled to seek and obtain immediate injunctive relief.

Section 3: Informational picketing is that picketing permitted solely for the purpose of conveying to the general public the Unions position in the labor dispute.

Section 4: In the event of a strike, work stoppage or interference with the operation and/or accomplishment of the mission of the City, the Union shall promptly and publicly order the employees to return to work and attempt to bring about a prompt resumption of normal operations.

#### ARTICLE 6 DUES CHECK-OFF

Section 1: Upon receipt of a lawfully executed written authorization from an employee, the City agrees to deduct the regular Union dues of such employee from his regular pay and remit such deduction to the duly elected Treasurer of the Union within thirty (30) days from the date of deduction. The Union will notify the City in writing thirty (30) days prior to any change in the regular Union dues structure.

Section 2: An employee may revoke his/her Union dues deduction in accordance with Section 447.303 Florida Statutes.

Section 3: The Union agrees to indemnify and hold the City and any of its agents or Commission members harmless against any and all claims, suits, orders or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Agreement.

## ARTICLE 7 UNION STEWARD

Section 1: The Union has the right to select an employee from within the Bargaining Unit, as herein defined, to act as Union Steward. The name of the Union Steward and alternate Steward shall be certified, in writing, to the City Manager by the Union. It is agreed and understood by the parties to this Agreement, that the Union Steward may, without loss of pay, with prior approval of his supervisor, process grievances. The supervisor's approval shall not be unreasonably withheld. It is agreed to and understood by the parties to this Agreement that there shall not be more than one (1) Steward and one (1) alternate Steward within the Bargaining Unit, as herein defined. It is agreed and understood by the Union that the Union Steward, or his/ her alternate, (hereinafter collectively referred to as "the Union Steward") shall process grievances and conduct his/her other Union duties in such a manner that does not disrupt normal City activities, work production and services.

Section 2: Every effort will be made, by both the City of South Miami and the Union, to allow the Union Steward to investigate grievances as rapidly as possible, preferably on the date that the grievance becomes known, and within at least twenty-four (24) hours. The investigation of a pending grievance or personal contact of the employee during work time by the Union Steward shall not be done without first receiving prior approval from both employees' supervisors. Approval shall not be unreasonably withheld.

Section 3: In no event shall the Management layoff, discharge, or discriminate against a Union Steward for action taken in the performance of his/her duty as a Steward.

## ARTICLE 8 MAINTENANCE OF DISCIPLINE

Section 1: The parties understand and agree that the maintenance of discipline is necessary to insure the efficient and safe operation of the City. Therefore, the City reserves the right to impose disciplinary actions (penalties) for work deficiencies and/or the failure to meet established standards of conduct. Disciplinary actions shall be taken in the most timely, judicious and consistent manner possible. The City will utilize the progressive discipline policy as set forth in the Personnel Manual, which shall take precedence in such matters.

Section 2: Whenever it is alleged that an employee has violated any rule, regulation or policy, or upon the discovery of the violation, the employee shall be notified by his/her supervisor of said violation as soon as practicable or upon the conclusion of the investigation if one is being conducted. Every effort shall be made to have an informal discussion with the employee prior to the issuance of any disciplinary action.

Section 3: There shall be no Performance Report, Evaluation Statement, or Reprimand placed in an employee's personnel folder unless the employee has been given a copy prior to or at the same time that it is placed in the file.

Section 4: All matters concerning discharge and discipline are to be resolved only in accordance with the procedures set forth below. It is specifically agreed and understood that probationary employees shall have no right to challenge disciplinary action.

Section 5: An employee may choose to appeal a disciplinary action, which has no loss of time, to the City Manager. An appeal to the City Manager must be done in writing within three business days from the time the disciplinary notice is issued to the employee. The appeal must present the facts dealing with the specific circumstance and explain why the City Manager should reconsider the discipline. The City Manager's decision is final and the employee does not have the right to appeal or grieve once this appeal process is selected. Alternatively, the employee may choose to appeal a disciplinary action through the grievance process as specified in Article (9) of this Agreement. The employee can only select one of the two procedures specified in this section.

#### ARTICLE 9 GRIEVANCE AND ARBITRATION PROCEDURE

Section 1: In a mutual effort to provide a harmonious working relationship between the parties to this Agreement, it is agreed and understood that there shall be a procedure for the resolution of grievances between the parties and that such procedure shall cover grievances involving the application or interpretation of this Agreement.

Section 2: Every effort will be made by the parties to settle any grievance as expeditiously as possible. Should the grieving party fail to observe the time limits as set out in the steps of this Article, his/her grievance shall be considered conclusively abandoned and the abandonment shall not be the subject of arbitration. Any grievance not answered by management within the prescribed time limits shall automatically advance to the next higher step.

Section 3: Grievances shall be presented in the following steps:

1. The employee shall first take up his/her grievance with his immediate supervisor, who is not a member of the Bargaining Unit, within ten (10) business days of the occurrence of the event(s) which gave rise to the grievance. This first step (between the employee and his immediate supervisor) shall be on an informal and oral basis, and may involve the employee's union representative or any other representative of the employee;

2. Any grievance, which cannot be satisfactorily settled with the immediate supervisor, shall be reduced to writing by the employee and deliver to the employee's Department Director by any means that provides some evidence of its delivery, such as e-mail or facsimile transmission, and if delivery is by hand, it shall be signed by the Department Director solely to establish date of



receipt.. Such grievance shall be presented to the Department Director within three business days from the immediate supervisor's decision being made under step 1 of this section, but in any event, the grievance shall be delivered to the Department Director no later than 21 days of the occurrence of the event(s) which gave rise to the grievance. The Department Director shall, within ten (10) business days after presentation of the grievance (or such longer period of time as is mutually agreed upon in writing and signed by both the employee (or employee union representative) and the Department Director), render his decision on the grievance in writing and deliver it to the employee, or the employee union representative, by any means that provides some evidence of its delivery, such as e-mail or facsimile transmission.

3. In the event the employee is not satisfied with the disposition of the grievance in Step (2), he shall have the right to appeal the Department Director's decision to the City Manager, or his designee, within ten (10) business days of the issuance of the Department Director's decision. Such appeal must be accompanied by the filing of a copy of the original written grievance together with a letter signed by the employee and deliver to the City Manager by any means that provides some evidence of its delivery, such as e-mail or facsimile transmission receipt, and if delivery is by hand, it shall be signed by the Department Director solely to establish date of receipt. The employee may also opt to have the employee's union representative to request that the Department Director's decision be reversed or modified. The City Manager, or his designee, shall within ten (10) business days of the appeal (or some longer period as is mutually agreed upon in writing and signed by both the employee (or employee union representative) and the Department Director)) render his decision in writing, and deliver a copy to the employee and to the employee's union organization or representative, both of which shall be deliver by any means that provides some evidence of its delivery, such as e-mail or facsimile transmission and if delivery is by hand, it shall be signed by the recipient solely to establish date of receipt.

4. Where a grievance is general in nature in that it applies to a number of employees rather than a single employee, or if the grievance is directly between the employee's(s) union organization and the City, such grievance shall be presented in writing directly to the Department Head within ten (10) business days of the occurrence of the event (s) which gave rise to the grievance. The grievance shall specify the names of the employees desiring to grieve. The class action grievance must be signed by the aggrieved employees or the President or representative of the employee union organization. Thereafter, the grievance shall be processed in accordance with the procedures set forth in Step (2) and Step (3), including the requirements for delivery of grievances/appeals and employer decisions.

5. In the event a grievance processed through the grievance procedure has not been resolved at Step (3), either party may request that the grievance be submitted to arbitration within fifteen (15) business days after the City Manager, or his designee, renders a written decision on the grievance. The arbitrator shall be any impartial person mutually agreed upon by and between the parties. However, in the event the parties are unable to agree upon said impartial arbitrator, the

parties shall jointly request the Federal Mediation Conciliation Service (FMCS) to furnish five(5) names from which each party shall have the option of striking two (2) names in alternating fashion, thus leaving the final arbitrator who shall hear the arbitration in accordance with the FMCS rules of procedure.

6. The arbitrator will confine his consideration and determination to the written statement of the grievance presented in Step (2) of the grievance procedure. The arbitrator shall have no authority to change, amend, add to, subtract from, or otherwise alter or supplement this Agreement, or any part thereof or amendment thereto nor to interpret any provision that is clear or unambiguous. The arbitrator shall have no authority to consider or rule upon any matter which is stated in this Agreement not to be subject to arbitration or which is not a grievance as defined in this Agreement; nor shall this collective bargaining agreement be construed by the arbitrator to supersede applicable laws in existence at the time of signing of this Agreement, except to the extent as specifically provided herein.

7. Consistent with the provision of the Florida Public Employees Relations Act, Chapter 447, et seg., it is mutually acknowledged and agreed that this collective bargaining agreement shall be administered within the amounts appropriated by the City Commission for funding of the collective bargaining agreement. Accordingly, and notwithstanding any other provisions of this collective bargaining agreement, the arbitrator shall have no authority, power, or jurisdiction to construe any provisions of law, statute, ordinance, resolution, rule or regulation, or provision of this collective bargaining agreement to result in, obligate, or cause the City to have to bear any expense, debt, cost or liability except for the expense of arbitration, by both parties, and the economic benefits provided by this Agreement, which result directly or indirectly, in the City exceeding the amounts appropriated and approved by the City Commission for the funding of this collective bargaining agreement as agreed upon by the parties. Any such award, which contravenes or is not in compliance with the provisions of this paragraph shall be null and void.

8. Each party shall bear the expense of its own witness(es) and of its own representatives for the purpose of the arbitration hearing. The impartial arbitrator's fee and related expenses and expenses of obtaining a hearing room, if any, shall be equally divided between the parties. Any party desiring a transcript of the hearing shall bear the cost of such transcript unless both parties mutually agree to share said cost.

9. The initial selection process for choosing an impartial arbitrator shall commence within ten (10) business days after the receipt of the panel from the Federal Mediation Conciliation Service and each party shall have three business days to strike a member of the panel. Copies of the arbitrator's award made in accordance with the jurisdiction and authority under this Agreement shall be furnished to both parties within thirty (30) days of the close of the arbitration hearing. The arbitrator's award shall be final and binding on the parties.

10. No probationary employee shall be entitled to utilize the grievance/arbitration procedure herein on any matter involving discharge, suspension, demotion or other disciplinary action.

#### ARTICLE 10 SICK LEAVE

Section 1: Sick leave is a benefit to be used by employees when needed for illness. Sick leave is not a benefit to be used at the employee's discretion as though it were annual leave; rather, sick leave is a privilege, which shall be allowed only in a case of illness. The employee must specifically request sick leave-use.

Section 2: Effective October 1, 1995, employees will be allowed to accrue sick leave in excess of the 600 hours cap. All sick leave will be governed by Section 4 of this Article.

Section 3: All employees who have attained a sick leave balance of a minimum of 36 days (288 hours) shall be eligible on their first anniversary date following that accumulation to convert up to 40 hours of their annual unused sick leave balance in excess of 288 hours to vacation leave. An employee who uses in excess of 32 hours of sick leave during a one-year period will not be eligible for this benefit during that year.

Section 4: Employees hired prior to October 1, 1995, who voluntarily terminate employment from the City, shall receive payment for 100% of leave deposited in their sick bank, up to 600 hours. Employees hired on or after October 1, 1995 who, upon voluntary termination from the City, have a minimum of 300 hours of leave deposited in their sick leave bank, shall be entitled to a termination payout of 150 sick leave hours. Employees hired on or after October 1, 1995 with less than 300 hours of sick leave will not be entitled to a sick leave payout upon termination.

#### ARTICLE 11 ANNUAL LEAVE

Section 1: Employees shall earn and receive annual leave at their respective classified rate of pay in accordance with the following schedule:

<u>Years of Uninterrupted Service</u>	<u>Amount of Vacation Leave</u>
One to five years inclusive	12 working days
Six to fourteen years inclusive	15 working days
Fifteen to nineteen years inclusive	18 working days
Twenty years and over	21 working days

Section 2: No vacation pay shall be allowed until an employee has worked at least one (1) continuous 12- month period. At the end of the 12-month period, the employee shall be entitled to twelve (12) working days.

Section 3: It shall be mandatory for each employee to use all earned vacation time each year, on or before his next anniversary date. Everything over that will be cancelled. Under exceptional circumstances and upon written request within the year in which the vacation is due, and with the approval of the City manager, vacation time may be extended for one year only.

Section 4: Vacation leave may be taken to the extent that it is earned by an employee, only with the prior approval of the department head, upon written application by the employee in advance, and at the convenience of the City.

Section 5: Any earned and credited vacation leave to the credit of an employee when terminating employment with the city will be paid pro-rata at the employee's current rate of pay with the last paycheck received.

Section 6: Any employee covered by this Agreement who has over twenty years of uninterrupted service shall accumulate one additional day of annual leave per year of service.

#### ARTICLE 12 FUNERAL LEAVE

1. Employees covered by this Agreement shall be entitled to funeral leave with pay up to a maximum of four (4) work days in the event of a death in the employee's immediate family. Two (2) additional days of leave may be granted if travel is out of state.
2. The immediate family shall be defined as wife or husband, domestic partner, grandparents, parents, children, step children, grandchildren, step grandchildren, brothers, step brothers, sisters, step sisters, father-in-law, mothers-in-law, brother-in-law and sister-in-law.
3. Proof of death in the immediate family in the form of a death certificate or public obituary must be provided to the City Manager or their designee before compensation is approved.
4. Funeral leave shall not be charged to sick leave or annual leave.

#### ARTICLE 13 HOLIDAYS

The paid holidays listed below shall be granted under the following conditions:

- |                           |                               |
|---------------------------|-------------------------------|
| 1) January 1              | New Year's Day                |
| 2) 3rd Monday of January  | Martin Luther King's Birthday |
| 3) 3rd Monday of February | President's Day               |
| 4) 4th Monday of May      | Memorial Day                  |

5) July 4	Independence Day
6) 1st Monday of September	Labor Day
7) 2 <sup>nd</sup> Monday of October	Columbus Day Holiday
8) November 11	Veteran's Day
9) Last Thursday in November	Thanksgiving Day
10) Friday after Thanksgiving	
11) ½ day December 24	Christmas Eve
12) December 25	Christmas Day

When a holiday falls on a regularly assigned day off for an employee, such employee shall be compensated by another day off.

When a holiday falls on a Sunday, the following Monday shall be observed and when it falls on a Saturday, the proceeding Friday shall be observed.

Each employee shall be entitled to a day off, with pay, for his/her birthday each year, following one year of continuous employment. The day off is to be taken within a reasonable time and will be determined by the supervisor and employee. Approval/denial of the requested day off shall not be made in an arbitrary and capricious manner.

Each employee shall be entitled to two days off, with pay, as floating holidays each year, following one year of continuous employment. The supervisor must approve the day off.

In order to be eligible for holiday pay, the employee must work the scheduled workday before and the scheduled workday after the holiday.

ARTICLE 14 HEALTH INSURANCE

The City agrees to pay for HMO health insurance for all employees covered by this agreement. Employees wanting the optional POS or PPO health insurance will pay the difference between the two plans. The City will provide levels of dental coverage, as well as life and disability insurance. The employee agrees to pay for 100 % of dependent coverage for health and dental insurance. The City has the right to change the plan designs as a management right.

ARTICLE 15 HEALTH AND SAFETY

Section 1: The parties agree that it is in the best interests of the City and its employees to provide safe and sanitary working conditions. The City and the Union insist that all employees observe the safety rules and procedures established by the City. Failure of employees to comply may result in disciplinary action. If an employee believes he is being required to work under life threatening unsafe conditions or in a situation where a serious safety violation exists, he shall immediately notify his supervisor who will investigate the condition and take appropriate action, if necessary.

Section 2: Safe Driving Awards. Any employee covered by this Agreement who drives or operates motor equipment twenty-five percent of the time or greater in the performance of their duties shall be eligible to receive a safe driving certificate and a \$250 bonus in December if the employee has not had a preventable accidents/violations or chargeable accidents within that calendar year. Employees shall be held accountable for accidents that are found to be preventable. The City Manager or designee shall determine whether accidents were preventable.

Section 3: An employee shall receive a copy of the on the Job Injury Report after the report is provided to the employee and after the employee has signed the report. Neither the City, Union, nor any individual employee covered under this Agreement may refuse to report an injury nor prevent, hinder or otherwise discourage an employee from reporting an injury. Failure to promptly report a work-related accident or injury shall result in disciplinary action.

#### ARTICLE 16 UNIFORMS AND SAFETY EQUIPMENT

Section 1: Safety Equipment. Employees of the Public Works Department shall be issued two (2) pairs of safety shoes per employee for use at work each year. In addition to safety steel toe shoes, the following safety equipment shall also be used by unit employees as applicable: safety gloves, eye goggles, safety vests, life vests (boat), hard hats, safety harnesses, and safety belts (vehicle). Employees who sign for and receive safety equipment shall use it in a safe manner, as directed by the Director. Employees are responsible for using safety equipment properly. If an injury occurs because an employee did not use safety equipment properly, the employee may be disciplined.

Section 2: Uniforms: Each employee shall receive six (6) pair of pants and twelve (12) work shirts, per person each year.

Section 3: Gloves: Each employee shall receive two (2) pairs of gloves per year. In extreme circumstances, the Director will determine if the employee requires an additional pair during the year.

Section 4: The City shall issue to each employee covered by this Agreement a jacket of sufficient quality to meet the safety and/or uniform needs of the Department. Furthermore, safety shoes will be replaced as necessary to maintain safety standards of the Department.

#### ARTICLE 17 WAGES

1. Effective October 1, 2016, and each year thereafter, bargaining unit members shall receive a cost of living increase, based on the Consumer Price Index - All Urban Consumers 12-Month Percent Change for the Miami-Ft. Lauderdale FL area (CPI) which shall have the effect of increasing the pay for each employee, unless the CPI is zero or is negative, which shall then have

no decreasing effect on the employee's pay unless the CPI for the previous year or an average of the last 2 years exceeded 3%. The CPI increase shall never exceed 3% each year

#### ARTICLE 18 LONGEVITY BONUS

Employees covered by this Agreement with 10 years of continuous satisfactory full-time service shall receive a longevity bonus of 3% of the employee's base salary on their anniversary date (Longevity 1). After 15 years of continuous satisfactory full-time service an additional 3% longevity bonus will be compounded (Longevity 2). After 20 years of continuous satisfactory full-time service an additional 3% longevity bonus will be compounded (Longevity 3). After 25 years of continuous service with the City, all bargaining unit employees who are employed in positions covered by this Agreement shall receive an additional longevity bonus, which is 3% of their salary compounded (Longevity 4).

#### ARTICLE 19 PERFORMANCE EVALUATION

During the term of this Agreement, all employees shall be evaluated on their anniversary date (or as close thereto as possible). All newly hired employees will have a one-year probationary period. Should an employee covered hereunder reach the top of the salary range in his job classification, he shall be "red-lined" and shall not be eligible for any increases. Any employee receiving an overall evaluation of improvement needed or unsatisfactory shall be reevaluated within no more than ninety (90) days from the first evaluation. The anniversary date for future evaluations shall continue being the employee's anniversary hired, or rehired, date.

In the event that the employee remains unsatisfactory after the second evaluation, the City Manager may take such further action, as he deems appropriate to improve the performance and a third reevaluation shall be conducted within no more than ninety (90) days from the issuance of the second evaluation.

If the employee remains unsatisfactory after the third evaluation, the City Manager may terminate the employee.

In the event that an employee is dissatisfied with a less than satisfactory evaluation, the employee may, within five (5) working days of receiving his evaluation, file a written appeal to the City Manager or his/her designee. The City Manager or his/her designee shall hold a meeting with the employee and a Union representative if desired and shall thereafter issue his/her decision. The City Manager's decision regarding the contents of the performance evaluation and the employee's employment status shall be final and binding and shall not be subject to review, grievance, or any legal action within a court of competent authority.

All newly hired employees will be given an interim evaluation after six (6) months.

## ARTICLE 20 CLASSIFICATION APPEAL

Section 1: Whenever an employee has reason to believe that he/she is misclassified, he/she may apply for a review of his/her classification by submitting such a request in writing to his/her Department Director. The request shall include proposed job description. Within 20 calendar days of receipt of the request, the Department Director shall forward the request, with any comments that the Department Director wishes to make, to the City Manager.

Section 2: Within 30 days of receipt of the request for reclassification, the City Manager or his/her designee, shall meet with the employee (and, if the employee requests, a representative of his/her choosing). At the meeting, the employee may produce any documents to support his/her request for reclassification. Within 30 calendar days of such meeting, the City Manager shall render his decision in writing.

Section 3: If the City Manager or designee determines that an employee is misclassified, the employee shall be placed in a current appropriate classification (as determined by the City Manager or designee), unless the City Manager or designee determines that there is no existing appropriate classification. In such cases, the City Manager may recommend to the City Commission that a new classification, job description, and pay range be adopted. Failure of the City Commission to approve the City Manager's recommendation shall not bind the City to any further action. In the event that a request for reclassification is granted, the employee shall receive the new compensation beginning with the date of the City Manager's or designee's decision.

Section 4: The City Manager's or designee's decision regarding the classification determination shall be final and is not grievable.

Section 5: Employees may not submit a request for reclassification more than once every twelve (12) months.

## ARTICLE 21 SERVICES TO THE UNION

Section 1: The City agrees to furnish the Union, once a year, one copy of the following regarding employees in the bargaining unit, provided the employee delivers to the City a written consent to the dissemination of the information described in section 1.a., below, to the Union:

- a) A list of their names, addresses, and classifications; and
- b) A list of employees by occupation.

Section 2: The City will furnish the Union with sufficient bulletin board space for up to four (4) Union notices, size 8-1/2 X 14 at the following two (2) locations: Public Works and the employee lounge. It is intended for the purpose of interpretation that the bulletin boards shall be provided primarily for employee information and internal communications and not for the primary purpose



of communicating with the general public. The Department Director must first approve anything that the Union wishes to post on the bulletin board.

Section 3: During group orientations of new employees within the AFSCME bargaining unit, the Union shall be given an opportunity, in the presence of the Personnel Manager, and if available the applicable Department Director, to introduce (or have introduced) one of its Local Representatives who may speak briefly to describe the Union, participation in negotiations and general interest in representing employees.

#### ARTICLE 22 CALL BACK

Employees called back to work after one hour from their normal tour of duty shall be guaranteed a minimum of - four (4) hours pay, which shall be considered hours worked for the purpose of determining overtime compensation, provided such work does not immediately precede or immediately extend the employees regularly assigned work shift.

#### ARTICLE 23 SEVERABILITY CLAUSE

Should any provision of this collective bargaining agreement, or any part thereof be rendered or declared invalid by reason of any existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction, all other Articles and Sections, and parts thereof, of this Agreement shall remain in full force and effect for the duration of this Agreement.

#### ARTICLE 24 PERSONNEL RULES AND REGULATIONS

The Personnel Rules and Regulations of the City of South Miami as published in the City's Personnel Manual also known as the Employee Policies and Procedures Manual are hereby incorporated into this Agreement in its entirety.

#### ARTICLE 25 COMPLETE AGREEMENT AND WAIVER OF BARGAINING

Section 1: It is agreed and understood that this Agreement constitutes the complete understanding between the parties, concluding all collective bargaining during its term, except as may otherwise be specifically provided herein. The entire Agreement may be reopened for negotiations in the event any portion of it is not approved by the City Commission of South Miami, or funds are not available for its implementation.

Section 2: It is understood and agreed that if any part of this Agreement is in conflict with mandatory Federal or State Laws or mandatory provisions of the City Charter or Ordinances, such parts shall be re-negotiated and the appropriate mandatory provisions shall prevail.

## ARTICLE 26 PROHIBITION AGAINST REOPENING OF NEGOTIATIONS

Except as specifically provided herein, neither party hereto shall be permitted to reopen or renegotiate this Agreement or any part of this Agreement unless the City declares a state of financial urgency. This Agreement contains the entire agreement of the parties on all matters relative to wages, hours, working conditions, and all other matters, which have been, or could have been negotiated by and between the parties prior to the execution of this Agreement.

## ARTICLE 27 RULES AND REGULATIONS

Section 1: It is agreed and understood that the City has Rules and Regulations governing employment. Said Rules and Regulations shall be formulated, amended, revised and implemented in the sole and exclusive discretion of Management, provided, however, that said new, amended, revised, and implemented rules or regulations will be neither arbitrary nor capricious.

Section 2: The City shall provide a copy of any new rule or regulation, as well as any amendment or revision to a rule or regulation to the Union. Said rules or regulations will be provided prior to their effective date, if possible. As provided in Section 1, the Rules and Regulations will be formulated, amended, revised and implemented in the sole and exclusive discretion of Management. However, the Union may submit a written request to bargain over the impact of the new and/or revised rule or regulation within fourteen (14) calendar days from receipt of the rule or regulation. The City agrees that it will immediately participate in requested impact bargaining, provided that the effective date of the revised rule or regulation will not be delayed by the impact bargaining.

## ARTICLE 28 EMPLOYEE AND UNION COOPERATION

The Union agrees that it and all of the members of the bargaining unit will, at all times, work in the best interests of the City and further, will perform efficient work and put forth their best efforts toward obtaining lowest possible operating costs to protect the properties and serve the best interests of the City and its residents.

### 1. Accretion:

The employer shall notify the Union within fifteen (15) days of its decision to implement any new job classifications that possess job duties similar in nature to those performed by employees in the bargaining unit. If the new classification is a successor title to a classification covered by this Agreement and the job duties are not significantly altered or changed, the new classification shall automatically become part of the bargaining unit and subject to the terms of this Agreement. If a new classification contains a significant part of the work now being done by any of the classifications covered by this Agreement, or whose duties are similar to other bargaining unit employees, the new

classification shall automatically become a part of the bargaining unit and subject to the terms of this Agreement. If the City believes that the new classification does not share duties that are similar to those currently held by a classification in the bargaining unit, the City shall so advise the Union. If the Union disagrees with the City's position as to the new classification, the parties shall jointly petition PERC for a determination as to whether the position belongs in the Unit. Until such time as PERC determines the position belongs in the unit, the position shall not be covered by the Agreement.

2. Information Provided to the Union:

The Employer shall provide, upon written request of the Union, for each employee in the bargaining unit represented by the Union, in Excel format:

1. Name
2. Home address (unless exempt from a public records request)
3. Home phone number (unless exempt from a public records request)
4. Department
5. Position Classification
6. Starting Date
7. Hourly wage

The Union may present a written request for employee information twice every calendar year.

3. PEOPLE Deduction:

The Employer agrees to deduct from the wages of any employee who is a member of the Union a PEOPLE deduction as provided for in a written authorization. Such authorization must be executed by the employee and may be revoked by the employee at any time by giving written notice to both the employer and the Union. The Employer agrees to remit any deductions made pursuant to this provision promptly to the Union together with an itemized statement showing the name of each employee from whose pay such deductions have been made and the amount deducted during the period covered by the remittance.

ARTICLE 29 VEHICLE AND EQUIPMENT ABUSE

If an employee abuses vehicles or equipment, the employee will be subject to discipline in accordance with the Discipline policy set forth in the Employee Policies and Procedures Manual (Personnel Manual).

## ARTICLE 30 OFF DUTY EMPLOYMENT

Employees shall be permitted to work off duty jobs with the prior approval of the City Manager. Off duty jobs that have hours that conflict with the employee's regular shift, that present conflicts of interest, etc. shall not be approved. However, approval of off-duty employment shall not be unreasonably withheld.

## ARTICLE 31 DRUG AND ALCOHOL TESTING

Section 1: The City and the Union recognize that employee substance and alcohol abuse has an adverse impact on City government, the image of City employees, the general health, welfare and safety of employees, and to the general public at large.

Section 2: Using, selling, possessing or being under the influence of drugs or controlled substances while at work is prohibited. Employees are further prohibited from consuming alcohol and drugs (other than drugs/narcotics prescribed by a Florida licensed doctor) while on duty and/or using alcohol and/or drugs off duty to the extent that such use and/or abuse tends to have an effect upon the performance of their job functions.

Section 3: The City may require any employee to submit to a blood analysis, urine analysis, and/or intoxilyzer, when it has a reasonable suspicion that an employee is under the influence of or using alcohol or drugs (other than drugs/narcotics prescribed by a Florida licensed doctor) and/or when an employee is involved in an accident (i.e., automobile or an incident that causes injury to persons or property damage).

Section 4: All bargaining unit employees covered by this Agreement have agreed to submit to random drug/alcohol tests. Employees will be selected at random and without prior notification for alcohol and drug testing. Random drug/alcohol testing may occur not more than twice per employee per year.

Section 5: The parties agree that an employee's refusal to submit to drug or alcohol testing in accordance with the provision of this Article may result in disciplinary action being taken against the employee up to and including dismissal.

Section 6: At the conclusion of the drug and/or alcohol testing, the City may take whatever action, if any, it deems appropriate. In the event that said action is in the form of discipline, the employee may grieve said disciplinary action through the contractual grievance/arbitration procedure.

Section 7: It is further understood and agreed that all issues pertaining to Drug and Alcohol Testing shall be governed by City of South Miami Drug and Alcohol Free Workplace Policy and Personnel Rules and Regulations set forth in the Employee Policies and Procedures Manual.

#### ARTICLE 32 COURT TIME

Any employee who is subpoenaed to testify at a court trial in a matter arising out of the performance of his/her official job duties, or who is required to serve on a State of Florida or federal court jury, will be paid his/her straight time rate for each scheduled work day lost, minus any compensation received from the court or witness fees. Employees released by the court shall report back to work, unless they are relieved within two (2) hours of the end of the employee's shift. Upon return to work, employees shall furnish evidence of time release to the Personnel Office.

#### ARTICLE 33 LAYOFF AND RECALL

Section 1: A layoff shall be deemed to have occurred when the City, within its sole discretion, announces that it is laying off employees for lack of work or lack of allocated funds.

Section 2: The City agrees to notify the Union of the names of employees being laid-off at the same time notice is provided to the affected employees or immediately thereafter.

Section 3: The City Manager or his designee shall designate the job classifications in which the layoffs shall occur and the number of employees within each classification to be laid off. Employees covered under this Agreement shall be laid off by job classification and, within each classification, by City employment seniority. However, no regular full-time employee shall be separated from his/her classification while there are emergency, provisional, probationary, part-time, or temporary employees in the classification in which the layoff(s) is occurring and who have not been laid off.

Section 4: Any employee covered by this Agreement who is affected by a layoff may be considered to displace any employee with less City employment seniority in any lower rated classification covered by this Agreement, provided that said employee is immediately qualified to perform the necessary services to be performed in that lower rated classification. The City manager and/or the Personnel Manager shall determine lower rated classifications and whether the affected employee is immediately qualified to perform the necessary services to be performed in that lower rated classification. Such determinations shall be made in the sole discretion of the City Manager and/or the Personnel Manager and shall be final and binding. When an employee elects to "bump" into a lower rated classification, said employee will be paid the rate of pay of that lower rated classification.

Section 5: Employees who have been laid off will have the recall rights for a period of time not to exceed twenty-four (24) months to the position they held when they were laid off or into a lower rated classification covered by this Agreement, provided that the employee is immediately qualified to perform the necessary services under the employee classification or in the lower rated classification, should the position become available. All employees who are recalled shall be required to pass a physical examination and a drug test prior to being authorized to return to work.

Section 6. Employees on layoff shall be responsible to keep on file with the City Manager's office the employee's current address. If an employee on layoff fails to keep his/her current address on file as provided herein, the employee shall forfeit all recall rights. Employees entitled to recall shall be notified of a vacancy by certified mail not less than seven (7) calendar days prior to the date the employee is to report to work. A copy of the recall notice shall be sent to the Union. A recalled employee shall be considered to have voluntarily resigned if he/she fails to accept employment within fourteen (14) calendar days after the notification is mailed by the City or fails to report to work as instructed. Thereafter, the provisions of this Agreement notwithstanding, the City will owe no further obligation to the employee.

Section 7: An employee on layoff status does not accrue seniority but does retain his/her accumulated seniority until recall. If recalled, the employee again begins to accrue seniority.

#### ARTICLE 34 REPRESENTATION DURING NEGOTIATIONS

Section 1: The bargaining team for each party shall consist of not more than four (4) persons. The Union will furnish the City with a written list of its bargaining team prior to the first negotiation meeting.

Section 2: Prior to the first negotiation meeting, the Union shall designate up to two (2) unit employees who will be paid their regular rate of pay for attending negotiations during work hours. Such pay shall not exceed twenty (20) hours in each fiscal year.

#### ARTICLE 35 EMERGENCIES

Section 1: The City Manager shall have the right, in his sole and exclusive discretion, to determine if and to what extent an emergency situation exists with respect to City property and/or to the citizens of the City. Immediately after making such determination, the City Manager's office shall notify the Union of the decision, and, to the extent possible, the length of time the emergency condition is expected to continue.

Section 2: During the declared emergency, all provisions of this Agreement may be suspended. Any provision so suspended will be reinstated upon order of the City Manager after the emergency has ended.

Section 3: Disputes concerning the Agreement arising during the declared emergency shall not be subject to the grievance and arbitration procedure except disputes concerning salary and wages.

#### ARTICLE 36 LABOR-MANAGEMENT COMMITTEE

There shall be a Labor-Management Committee consisting of no more than two management representatives designated by the City Manager and no more than two bargaining unit employees appointed by the President of the Union. The Labor-Management Committee shall meet as mutually agreed upon by the participants.

The sole function of the Committee shall be to discuss general matters pertaining to employee relations (e.g., safety issues). Thus, the parties agree that the purpose of the Committee shall not be to discuss grievances or matters which have been the subject of collective bargaining. Each bargaining unit Committee member shall be paid his or her regular salary for attendance at Committee meetings during the bargaining unit member's regular work hours not to exceed two (2) hours.

#### ARTICLE 37 RETIREMENT BENEFITS

Section 1. The City shall provide the employees hired on or after October 1, 2016, with two retirement plan options: Option 1: South Miami Pension Plan - Second-Tier Membership and Option 2: Deferred Contribution Plan.

(a) Option 1: Second-Tier member in the South Miami Pension Plan shall contain the following essential provisions:

1. An irrevocable election to participate
2. Full vesting upon completion of ten (10) years of credited service.
3. Future service benefit multiplier of 1.60%.
4. Final Average Compensation must be based on the average of the highest eight (8) years of compensation.
5. Normal Retirement Date must be the earlier of (a) age 65 and completion of ten (10) years of credited service; or (b) completion of thirty-three (33) years of credited service.
6. The employee contribution must be three percent (3%) of compensation.

7. Members shall receive supplemental benefit similar to a Cost of Living Adjustment (COLA) which is an adjustment based on the change in the average Consumer Price Index (CPI) measured as of September 1 each year, up to a maximum annual increase of no more than 3%, compounded annually from the normal retirement date. In case of a negative CPI, the benefit can adjust down provided that a member will never receive less than the monthly benefit amount calculated at retirement.

(b) Option 2: Defined Contribution Plan shall contain the following essential provisions:

1. An irrevocable election to participate.
2. Employees are required to contribute 3% of compensation.
3. City will contribute 7% of compensation.
4. Employees will be fully vested after one year of service.

All new employees and employees hired by the City of South Miami on or after October 1, 2016, must make an election to participate in either Option 1: Second-Tier member in the South Miami Pension Plan, or Option 2: The Defined Contribution Plan.

Section 2: The City shall hold, on an annual basis, an open enrollment period for the Second Tier membership in the South Miami Pension Plan during which time any employee who is currently a member of the City of South Miami Defined Contribution Plan shall be given an opportunity to make an irrevocable election to join the South Miami Pension Plan, as a Second-Tier member by opting-out of the Defined Contribution Plan.

All AFSCME bargaining unit members who make the irrevocable election to join the South Miami Pension Plan, as a Second-Tier member, will be given an opportunity to buy-back any and all years of service, up-to the number of years they have worked at the City at any time while employed at the City in a position eligible for participation as a Second-Tier member in the South Miami Pension Plan. Employees must pay the full actuarial cost of the service they buy back, as calculated by the South Miami Pension Plan's actuary, and such buy-back will be at the employee's sole expense.

Section 3: A First-Tier member in the South Miami Pension Plan is defined as an employee who became a member of the South Miami Pension Plan prior to October 1, 2011. The following is a list of the historical changes in the South Miami Pension Plan that apply to First-Tier Members:

- (a) Effective October 1, 1995, the benefit accrual rate (multiplier) shall be increased from 1.6 to 1.8 %.
- (b) Effective October 1, 1996, the benefit accrual rate (multiplier) shall be increased from 1.8 to 2.0 % (historical data).



- (c) Effective October 1, 1997, the benefit accrual rate (multiplier) shall be increased from 2.0 to 2.25% (historical data).
- (d) Effective October 1, 1998, the benefit accrual rate (multiplier) shall be increased from 2.25 to 2.5% (historical data).
- (e) Effective October 1, 1999, the benefit accrual rate (multiplier) shall be increased from 2.5 to 2.75% (historical data).
- (f) Effective October 1, 2011, the benefit accrual rate (multiplier) shall be reduced from 2.75% to 2.25%

Section 4: The following pension provisions are applicable to all covered First-Tier members in the South Miami Pensions Plan:

- (a) The definition of Final Monthly Compensation (FMC) for future benefit accruals is the average of the final sixty (60) months of basic compensation but not less than current Final Monthly Compensation as of September 30, 2011. Basic compensation excludes commissions, overtime pay, bonuses and any other forms of additional compensation outside of base wages.
- (b) The current accrued benefits of First-Tier members are frozen and payable under the current terms of the Plan at the currently defined normal retirement date which is the attainment of age fifty-five (55) and completion of ten (10) years of credited service. Existing employees will continue to be eligible to retire at the age of 55 and obtain their respective full pension benefits accumulated up-to the date of the newly approved pension Ordinance revising the normal retirement age as set forth below. Future benefit accruals, including increases due to increases in FMC, will be payable at the proposed new normal retirement date – the later of attainment of age sixty (60) and completion of ten (10) years of credited service.
- (c) Members receive supplemental benefit similar to a Cost of Living Adjustment (COLA) which is an adjustment based on the change in the average Consumer Price Index (CPI) measured as of September 1 each year, up to a maximum annual increase of no more than 3%, compounded annually from the normal retirement date. In case of a negative CPI, the benefit can adjust down provided that a member will never receive less than the monthly benefit amount calculated for the retirement year.
- (d) The employee contribution for employees who are participating in the South Miami Pension Plan as a First-Tier member will be capped at 10% of compensation.

Section 5: Union employees who are eligible to retire with full benefits, as provided for in Chapter 16, Article II of the City of South Miami Code of Ordinances, without penalty will be allowed to enter the City's 5-Year Deferred Retirement Option Program (DROP). The member's DROP account

shall be credited with interest in an amount equal to fifty (50) percent of the net (gross return minus investment expense) yearly interest earned by the retirement system for the preceding fiscal year, up to a maximum of five (5) percent. If the net yearly interest earned by the retirement system is zero (0) percent or less, the member's DROP account will not be credited with interest, nor will it be debited with any investment losses.

ARTICLE 38 WORK IN HIGHER CLASSIFICATION

An employee who is authorized by the Department Head to temporarily assume the duties of a higher pay status classification will receive a five percent (5%) increase of the base for the actual time worked in the higher classification.

ARTICLE 39 RELEASE TIME

The President of the Local shall be granted 8 hours full release time once every 3 months from his or her regular scheduled work week with full pay, in order to conduct Union business.

ARTICLE 40 TERM OF AGREEMENT

Section 1: This Agreement, having been ratified by the City Commission of the City of South Miami and Local 3294, American Federation of State, County, and Municipal Employees, AFL-CIO, shall be operative and effective as of its date of execution, and shall continue until June 21, 2022.

THIS AGREEMENT signed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF SOUTH MIAMI

By: \_\_\_\_\_  
Steven Alexander, City Manager

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
Thomas F. Pepe, Esq.  
City Attorney

Date: \_\_\_\_\_

American Federation of State, County and Municipal Employees.  
AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES  
LOCAL 3294

By: \_\_\_\_\_  
Randolph Brown, AFSCME President

Date: \_\_\_\_\_

By: Stacy Wein Esq., AFSCME In-House Counsel

Date: \_\_\_\_\_