

**LEAGUE OF MINNESOTA CITIES**  
**FAQ's relating to Model Contract Language – Police Unit**

Throughout this document there are endnotes (<sup>i</sup>), you can scroll over them for additional information relating to that section. You may click on the endnote to view the text in a larger font. To return to your original place in the document, click on the endnote again and it should bring you back.

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References in this key noted as Minn. Stat. are to the Minnesota Statutes. Headings are noted as articles. Areas under the headings are noted as sections.

Q: Why have a written collective bargaining agreement?

A: The public sector labor law (Minn. Stat. Sec. 179A) is generally known as the Public Employment Labor Relations Act (or PELRA for short). This law requires that a city and exclusive representative (union) execute a written contract or memorandum of contract containing the terms of the negotiated agreement or interest arbitration and any terms established by law. Minn. Stat. Sec. 179A.20.

Q: Are there any provisions other than the collective bargaining agreement (union contract) that will apply to the covered employees?

A: As a general matter, the employer and employee relationship is subject to many statutory requirements. PELRA, wage and hour laws, leave of absence laws, discrimination laws and veterans preference laws are examples of laws that impose duties on employers.

Q: Why does the model language use the term union? We have an association or federation.

A: The terms association or federation may be substituted in the model contract to most accurately reflect the legal status of the exclusive representative. The key also uses the phrase union contract as a more informal reference to a collective bargaining agreement.

**i MODEL CONTRACT LANGUAGE – POLICE OFFICERS**  
**(Produced by the League of Minnesota Cities in cooperation with**  
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**and special thanks to Flaherty & Hood for their review.**  
**The League also thanks Susan Hansen of Madden Galanter Hansen, LLP**  
**for providing health care reform model contract language.)**

**01/01/20-- THROUGH 12/31/20--**

**LABOR AGREEMENT**

**BETWEEN**

**THE CITY OF \_\_\_\_\_**

**AND**

**(NAME OF UNION)**

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### **iii Article 1. INTRODUCTION**

This Agreement, is made and entered into by and between the City of \_\_\_\_\_, hereinafter referred to as the Employer and \_\_\_\_\_, Local \_\_\_\_ hereinafter referred to as the Union.

### **iv Article 2. RECOGNITION**

Section 1. The Employer recognizes the Union as the exclusive bargaining representative, under Minnesota Statutes, Section 179A.03, Subdivision 8, as certified by the Bureau of Mediation Services on \_\_\_\_\_, BMS Case No. \_\_\_\_\_, and described as:

*Insert unit description from BMS unit certification*

This bargaining unit does not include individuals appointed or employed as part time peace officers.

Section 2. In the event that the Employer and the Union are unable to agree as to the inclusion or exclusion of a new or modified job class, the issue shall be submitted to the Bureau of Mediation for determination.

### **v Article 3. DEFINITIONS**

Section 1. Employee: A member of the exclusively recognized bargaining unit.

Section 2. Employer. The City of \_\_\_\_\_

Section 3. Bargaining unit employee: A regular employee in a classified bargaining unit position.

Section 4. Bargaining unit position: A job classification included in the bargaining unit pursuant to Article \_\_ (Recognition) and which is established as an on-going position. A bargaining unit position does not include a position which is created merely to address an overload or emergency situation or is otherwise intended to be limited in duration.

Section 5. Regular employee: An employee who is regularly scheduled for a set number of hours per week. The work the employee performs is of an on-going nature. However nothing in this definition grants a regular employee a vested right to a defined number of hours or continued employment.

Section 6. Part time peace officers. An employee meeting the definition of part time peace officer pursuant to state statute.

Section 7. Days. Except as indicated otherwise in the Agreement, all references to days are calendar days.

#### **vi Article 4. UNION SECURITY**

Section 1. The Union may designate certain employees from the bargaining unit to act as stewards and shall, within five (5) days of such designation, certify to the Employer, in writing, of such choice and the designation of successors to former stewards. The Union shall also certify to the Employer a current list of any non-employee business representative(s) representing the bargaining unit upon execution of this Agreement and thereafter promptly certify to the Employer any successor business representative(s) representing the bargaining unit.

- A. The Employer agrees to recognize stewards certified by the Union as provided in this section subject to the following stipulations:
  - 1. There shall be no more than \_\_\_\_\_ stewards.
  - 2. The Employer agrees to allow stewards a reasonable amount of time off for the purpose of bargaining and processing grievances on behalf of Employees with prior notice to the Employer and a determination by the Employer that work needs permit such interruption. The employer must approve the time off. The stewards shall notify the Employer upon resumption of their work.
- B. A non-employee business representative of the Union, previously certified to the Employer as provided herein, may, with prior notice to and approval of the Employer, come on the premises of the Employer for the purpose of bargaining and processing grievances.

Section 2. In recognition of the Union as the exclusive representative:

- A. The Employer shall deduct an amount sufficient to provide the payment of regular dues established by the Union from the wages of all employees authorizing, in writing, such deduction in a form mutually agreed upon by the Employer and Union; and
- B. The Employer shall remit such deduction to the appropriate designated officer of the Union with a list of the names of the employees from whose wages deductions were made; and
- C. The Union shall certify to the Employer, in writing, the current amount of regular dues to be withheld.
- D. Any “fair share” fee deducted shall be withheld in accordance with Minnesota law.

Section 3. The Union agrees to indemnify and hold the Employer harmless against any and all claims, suits, orders or judgments brought or issued against the Employer as a result of action taken by the Employer under all provisions of Section 2 of this Article.

## **vii Article 5. MANAGEMENT RIGHTS**

Section 1. The Union recognizes the right and authority of the Employer to operate and manage its affairs in all respects in accordance with its management rights, existing and future laws and regulations of the appropriate authorities. The rights or authority which the Employer has not officially abridged, delegated or modified by this Agreement are retained by the Employer.

Section 2. Except as limited by the specific provisions of this Agreement, the Employer shall retain whatever rights and authority are necessary for it to operate and direct the affairs of the Employer in all of its various aspects, including but not limited to the right to operate and manage all facilities and equipment; to establish or discontinue functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to schedule working hours and assign overtime; to select, direct and determine the number of personnel; to hire, promote, suspend, discipline or discharge personnel for just cause; to lay off or relieve Employees due to lack of work or other reasons; to make and enforce reasonable rules and regulations; to take whatever actions may be necessary to carry out the missions of the Employer in emergencies; to contract with vendors or others for goods and/or services including the right to discontinue or subcontract any or all functions performed by members of this bargaining unit during the contract term, to take any and all actions necessary to carry out the operations of the employer in situations involving a disaster or emergency consistent with the terms and conditions listed in this agreement to the extent practicable, to assign duties, tasks, and jobs, and to perform such other inherent managerial function as set forth in the Minnesota Public Employee Labor Relations Act.

Section 3. The Employer's failure to exercise any right, prerogative, or function hereby reserved to it, or the Employer's exercise of any such right, prerogative, or function in a particular way, shall not be considered a waiver of the Employer's right to exercise such right, prerogative, or function or preclude it from exercising the same in some other way not in conflict with the express provisions of this Agreement.

Section 4. The parties recognize that all employees covered by this Agreement shall perform the services and duties prescribed by the Employer and shall be governed by Employer rules, policies, regulations, directives and orders, provided that such rules, regulations and orders are not inconsistent with the provisions of this Agreement or state or federal laws. The Employer will provide the Union with notice of any proposed change in any policy applicable to the bargaining unit members at least thirty (30) days prior to implementation of the policy.

## **viii Article 6. INSURANCE**

### Section 1.

#### Option A:

All eligible full time employees shall participate in the Employer's insurance program. An eligible employee is defined as an individual who would be covered under the health insurance coverage provisions of both the City's personnel policies and insurance plan documents between the City and insurer. For the term of this agreement, the Employer will contribute toward the premium for health, \_\_\_\_\_ and \_\_\_\_\_ insurance on the same basis and subject to the same conditions and restrictions as the basic program for nonunion employees as it may be amended from time to time.

#### Option B:

All eligible full time employees shall participate in the Employer's insurance program. An eligible employee is defined as an individual who would be covered under the health insurance coverage provisions of both the City's personnel policies and insurance plan documents between the City and insurer. For the term of this agreement, the Employer will contribute up to the sum of \$\_\_\_\_\_ toward the premium for health insurance.

#### Option C:

Section 1. All eligible full time employees shall participate in the Employer's insurance program. An eligible employee is defined as an individual who would be covered under the health insurance coverage provisions of both the City's personnel policies and insurance plan documents between the City and insurer. For the term of this agreement, the Employer will contribute up to the sum of \$\_\_\_\_\_ toward the single premium for health insurance and up to the sum of \$\_\_\_\_\_ toward the family premium for health insurance.

#### Option D:

Section 1. All eligible full time employees shall participate in the Employer's cafeteria insurance program. An eligible employee is defined as an individual who would be covered under the health insurance coverage provisions of both the City's personnel policies and insurance plan documents. For the term of this agreement, the Employer will contribute toward the cafeteria insurance program on the same basis and subject to the same conditions and restrictions as the basic program for nonunion employees as it may be amended from time to time.

### **Health Care Reform Model Language:**

#### ***Initial Proposal***

The Employer reserves the right to modify the health insurance provisions of this Agreement in the event the Employer is subject to a penalty, tax, fine or increased costs as a result of the requirements of the Affordable Care Act or its related regulations.

***(Another Option :)***

In the event the health insurance provisions of this Agreement fail to meet the requirements of the Affordable Care Act and its related regulations or cause the Employer to be subject to a penalty, tax or fine, the Union and the Employer will meet immediately to bargain over alternative provisions so as comply with the Act and avoid any penalties, taxes or fines for the Employer.

***Model Language Proposal for Health Insurance Article To Address Bargaining Obligation Associated with Reduction in Aggregate Value of Benefits, Minn. Stat. § 471.6161:***

In the event the Employer modifies group health insurance benefits in order to avoid penalties, taxes, fines or increased costs to meet the requirements of the Affordable Care Act, the Union waives the right to bargain over any resulting reduction in the aggregate value of benefits.

Section 2. For the term of this agreement, the Employer will provide life insurance in the amount of \$\_\_\_\_\_ for full time eligible employees.

Section 3. All eligible employees may participate in the Employer's pretax premium payment program on the same basis and subject to the same conditions and restrictions as the basic program for nonunion employees as it may be amended from time to time.

**<sup>ix</sup>Article 7. PROBATION**

Section 1.

Option A:

Section 1. All employees who are original hires, or rehires following separation, shall serve a probationary period of twelve (12) consecutive months of active work (which does not include time spent on a leave of absence except as may be required by law). The Employer may extend this probation for a period not to exceed ninety (90) days upon notice to the employee and Union. At any time during the probationary period an employee may be terminated at the discretion of the Employer without such discharge being a violation of this Agreement and such termination is not a proper subject for Article \_\_\_\_ (Grievance Procedure).

Option B:

Section 1. All employees who are original hires, or rehires following separation, shall serve a probationary period of twelve (12) consecutive months of active work (which does not include time spent on a leave of absence except as may be required by law). Regular part time employees who are original hires, or rehires following separation, shall serve a

probationary period of 2,080 hours of compensated service excluding overtime. The Employer may extend this probation for a period not to exceed ninety (90) days upon notice to the employee and Union. At any time during the probationary period an employee may be terminated at the discretion of the Employer without such discharge being a violation of this Agreement and such termination is not a proper subject for Article \_\_\_\_ (Grievance Procedure).

Section 2. All employees promoted from a bargaining unit classification to a higher job classification within the bargaining unit shall serve a trial period of ninety (90) calendar days. At any time during the trial period, any promoted employee within or outside of the bargaining unit may be returned to the employee's previously held job classification in the bargaining unit, at the discretion of the Employer or the Employee.

Section 3. Employees shall, during the probationary period, accumulate paid leave as provided by Articles \_\_\_\_\_ and \_\_\_\_\_. Employees may take leaves of absence during the probationary period at the sole discretion of the Employer.

### **\*Article 8. GRIEVANCE PROCEDURE**

Section 1. Definition of a Grievance. A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms and conditions of this Agreement.

Section 2. Processing of a Grievance. It is recognized and accepted by the Union and the Employer that the processing of grievances as hereinafter provided is limited by the job duties and responsibilities of the steward and grievant employee(s) and shall therefore be accomplished during normal working hours only when consistent with such employee duties and responsibilities. The aggrieved employee(s) and the steward representative shall be allowed a reasonable amount of time without pay, for the investigation or presentation of grievances during normal working hours provided the aggrieved employee(s) and the steward have previously notified and received approval from their designated supervisor where the designated supervisor has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer. The designated supervisor will be notified when the steward or grievant employee(s) returns to the work station and resumes duties.

Section 3. Procedure.

Option A:

Grievances, as defined by Section 1, shall be resolved in conformance with the following procedure:

Step 1. An employee claiming a violation concerning the interpretation or application of this Agreement shall, within ten (10) calendar days

after the first occurrence of the event constituting such alleged violation, sign and present such grievance in writing to the employee's direct supervisor as designated by the Employer. The Employer designated Step 1 representative must receive the grievance. The Employer designated Step 1 representative will discuss the matter with the grievant and Union representative and give an answer to such Step 1 grievance to the Union representative within ten (10) calendar days after receipt.

A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Agreement allegedly violated, the remedy requested, shall be signed by the grievant and shall be appealed to Step 2 within ten (10) calendar days after the Employer-designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

Step 2. If appealed to Step 2, the written grievance shall be presented by the Union and discussed with the Employer designated Step 2 representative. The Employer designated Step 2 representative must receive the grievance. The Employer-designated representative shall give the Union representative the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance.

A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Employer-designated representative's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered waived.

Step 3. If appealed, the written grievance shall be presented by the Union and discussed with the Employer-designated Step 3 representative. The Employer designated Step 3 representative must receive the grievance. The Employer-designated representative shall give the Union representative the Employer's answer in writing within ten (10) calendar days following the Employer-designated representative's final answer in Step 3.

Any grievance not appealed in writing to Step 4 by the Union within ten (10) calendar days after receipt of such Step 3 grievance final answer shall be considered waived. A grievance not resolved in Step 3 may be appealed to Step 4 within ten (10) calendar days following the Employer-designated representative's final answer in Step 3.

Step 4. The Union shall notify the Employer of a grievance unresolved in Step 3 and appealed to Step 4 in writing within ten (10) calendar days following the Employer-designated representative's final answer in Step 3. The Union shall notify the Bureau of Mediation Services within ten (10) calendar days of the notice of appeal to the Employer that the Union is submitting the matter to arbitration and the Union shall request that the Bureau of Mediation Services provide the parties with a list of arbitrators. The selection of an arbitrator shall be made in accordance with the rules and regulations as established by the Bureau of Mediation Services. The Union must contact the Employer within ten (10) calendar days of the date that the Bureau of Mediation Services has mailed the parties a list of arbitrators in order to strike arbitrators or notify the Employer of an objection to the list of arbitrators. The Employer will have a similar obligation to the Union to be prepared to strike arbitrators or notify the Union of an objection to the list of arbitrators. The matter will be then be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act.

Option B:

Grievances, as defined by Section 1, shall be resolved in conformance with the following procedure:

Step 1. An employee claiming a violation concerning the interpretation or application of this Agreement shall, within ten (10) calendar days after the first occurrence of the event constituting such alleged violation, present such grievance to the police chief or designee. The police chief or designee will discuss the matter with the grievant and Union representative and give an answer to such Step 1 grievance to the Union representative within ten (10) calendar days after receipt.

A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Agreement allegedly violated, the remedy requested, and shall be appealed to Step 2 within ten (10) calendar days after the police chief or designee's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

Step 2. If appealed to Step 2, the written grievance shall be presented by the Union and discussed with the City Administrator or designee.

The City Administrator or designee shall give the Union representative the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance.

A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the City Administrator or designee's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered waived.

Step 3. The Union shall notify the Employer of a grievance unresolved in Step 2 and appealed to Step 3 in writing within ten (10) calendar days following the City Administrator or designee's final answer in Step 3. The Union shall notify the Bureau of Mediation Services within ten (10) calendar days of the notice of appeal to the Employer that the Union is submitting the matter to arbitration and the Union shall request that the Bureau of Mediation Services provide the parties with a list of arbitrators. The selection of an arbitrator shall be made in accordance with the rules and regulations as established by the Bureau of Mediation Services. The Union must contact the Employer within ten (10) calendar days of the date that the Bureau of Mediation Services has mailed the parties a list of arbitrators in order to strike arbitrators or notify the Employer of an objection to the list of arbitrators. The Employer will have a similar obligation to the Union to be prepared to strike arbitrators or notify the Union of an objection to the list of arbitrators. The matter will then be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act.

#### Section 4. Arbitrator's Authority.

- A. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this Agreement. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.
- B. The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) days following close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties agree to an extension. The decision shall be binding on both the Employer and the Union and shall be based solely on the arbitrator's interpretation or application of the express terms of this Agreement and to the facts of the grievance presented.

If the grievance is covered by law or statute, or not covered by the express provisions of this Agreement, the arbitrator shall refer the grievance back to the parties without decision or recommendation.

- C. The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the Employer and the Union provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings, the cost shall be shared equally.

Section 5. Waiver. If a grievance does not comply with any of the procedural requirements in Section 3, it shall be considered "waived." If a grievance is not appealed in conformance with any of the procedural requirements in Section 3 or any agreed waiver of the requirements thereof, it shall be considered settled on the basis of the Employer's last answer. If the Employer does not answer a grievance or an appeal thereof within the specified time limits, the Union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual written agreement of the Employer and the Union at each step. In addition, the Employer and Union may mutually agree to extend the time lines and mediate the grievance following the Step 3 final answer from the Employer prior to appealing the matter to Step 4.

Section 6. Class action grievances are not permitted pursuant to this collective bargaining agreement. Grievances must personally affect the named grievant(s).

Section 7. Choice of Remedy. It is specifically understood that any matters governed by statutory or regulatory provisions, except as expressly provided for in this Agreement, shall not be considered grievances under this agreement. In the event that more than one procedure is available for resolution of a dispute arising from any provisions covered by this Agreement, the aggrieved employee(s) shall be limited to one procedure through which remedy may be sought. If the aggrieved employee(s) utilizes a procedure other than the grievance procedure herein, then the employee is precluded from appealing under this procedure. If the employee utilizes this procedure, then the employee is precluded from appealing under another procedure. Employees may use both this grievance procedure and a statutory procedure to the extent that it is required by state or federal law.

## **<sup>xi</sup>Article 9. DISCIPLINE**

Section 1. For the purpose of this Article, an employee shall be any regular employee having successfully completed the employee's probationary period.

Section 2. The Employer will discipline employees for just cause only. Discipline does not need to be progressive.

Section 3. Suspensions, demotions, or discharges will be in written form.

Section 4. Written reprimands and notices of suspension shall be read and acknowledged by signature of the Employee.

Section 5. Grievances relating to a suspension or discharge shall be initiated by the Union at Step 2 of the grievance procedure.

Section 6. Oral reprimands are not subject to the grievance procedure.

### **xii Article 10. HOLIDAYS**

Section 1. The following will be recognized as paid holidays for full time regular employees:

New Years Day	January 1
Martin Luther King Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans' Day	November 11th
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25

Section 2. Regular full time employees in active status will receive payment for the holiday regardless of whether the holiday is worked. This payment will be based on the number of hours per day (exclusive of overtime) that the employee is scheduled to work during the pay period in question. Employees on a leave of absence (not in active status) other than vacation or sick leave on both the day prior to and following the holiday will not receive holiday pay except as required by law. This holiday payment will not be considered hours of work for purposes of overtime eligibility.

Section 3. Regular full time employees required to work on the holidays listed in Section 1 will receive regular pay for all hours actually worked in addition to the holiday pay listed in Section 2.

### **xiii Article 11. VACATION**

Option A:

Section 1. All eligible employees shall be offered participation in the Employer's vacation benefit program as defined by the personnel policies as they may be amended from time to time.

Option B:

Section 1. All full time regular employees will accrue vacation according to the following schedule:

*Insert schedule from city personnel policies*

Section 2. Years of service shall mean consecutive employment as a full-time employee. The City, in its discretion, may credit rehired employees or newly hired but experienced employees with additional years of experience.

Section 3. Vacation time will be charged to the employee's vacation bank based on the employee's normal scheduled work day for that pay period exclusive of overtime.

Section 4. Vacations shall only be taken after the time has been earned.

Section 5. When a paid holiday falls during an employee's vacation period, the employee shall not be charged a day of paid vacation.

Section 6. Employees can carry over two (2) times their annual accrual. Employees at the maximum accrual will not accrue additional vacation.

Section 7. The Employer will consider vacation requests based on the needs of the City as determined by the police chief. Employees requesting vacation must provide at least one week advance notice for the City to consider the request. The City may waive this requirement at its discretion.

Section 8. Employees separating from employment in good standing shall be compensated at their regular rate of pay for all hours of accrued and unused vacation as of the date of separation. For purposes of this section, good standing means that an employee is resigning with two weeks advance notice and not in anticipation of discharge. The Employer may authorize exceptions to these requirements in its discretion.

Option C:

Section 7. The Employer will allow employees to sign up for requests for vacation times annually. In the event more than one employee requests the same date, the City will consider seniority as a deciding factor for up to two weeks of vacation (taken in blocks of at least one week). The Employer may limit vacations including limitation on the number of individuals who can be on vacation at any given time to meet the needs of the City.

**xiv Article 12. SICK LEAVE**

Option A:

Section 1. All eligible employees shall be offered participation in the Employer's sick leave program as defined by the personnel policies as they may be amended from time to time.

Option B:

Section 1. All full time regular employees will accrue sick leave at the rate of \_\_\_\_\_ per \_\_\_\_\_.

*Insert accrual from city personnel policies*

Section 2. Sick leave may only be used for absences due to illness, injury, disability, exposure to contagious disease (where such exposure would endanger the health of others the employee comes into contact with), or the necessity of medical or dental care of the employee, spouse or children under age 18 (or age 20 if still attending secondary school).

Section 3. The Employer may require a doctor's certificate for any absence of three (3) or more consecutive days, for absences that follow a pattern, are in excess of five (5) days per year, precede or follow a holiday or otherwise where the Employer suspects potential abuse.

Section 4. Use or claiming the need to use sick leave for a purpose not authorized in this Article will be cause for discipline.

Section 5. Employees can carry over two (2) times their annual accrual. Employees at the maximum accrual will not accrue additional sick leave.

Option C:

Section 6. Employees receiving compensation for a City work related injury will be permitted to use accrued and unused sick leave to make up the difference between the worker's compensation payments and the employee's normal net earnings. In no event may accrued sick leave be utilized to pay the employee more than normal net earnings.

**xv Article 13. HOURS OF WORK**

Section 1. This Article is intended only to define the normal hours of work and normal scheduling and to provide the basis for the calculation of overtime or other premium pay. Nothing herein shall be construed as a guarantee of hours of work per day or per week.

Section 2. The Employer shall establish schedules that recycle in not more than 28 days and 171 working hours. Work hours for scheduling purposes will consist of hours actually worked, vacation time used, sick leave used, holiday hours and Employer required training time.

Section 3. Employees will receive overtime compensation as required by the Fair Labor Standards Act for all hours actually worked.

Section 4. The assignment of overtime shall be at the discretion of the Employer. Employees must receive prior authorization from the employee's immediate supervisor before working any overtime, except in cases of emergency.

Section 5. Work shifts, work breaks, staffing schedules and the assignment of employees thereto shall be established by the Employer.

Section 6. Employees shall be required to work overtime or holidays when assigned unless excused by the Employer.

Section 7. Neither the base pay rate specified in Appendix A nor overtime pay shall be paid more than once for the same hours worked under any provisions of this agreement.

#### **xvi Article 14. WAGES**

Option A:

Section 1. Employees will be compensated as outlined in Appendix A. In the event that there is a rounding difference between the attached wage schedule and payroll, payroll shall govern.

Option B:

Section 1. Employees will be compensated according to a \_\_\_ step pay plan as outlined in Appendix A. Employees below the top step will move to the next step on the pay plan upon obtaining an overall satisfactory rating on their annual performance evaluation. This step increase will be effective on the beginning of the first full pay period following the employee's anniversary date. In the event that there is a rounding difference between the attached wage schedule and payroll, payroll shall govern. In no event may an employee move beyond the top step of the pay plan.

Option C:

Section 1. Employees will be compensated according to a \_\_\_ step pay plan as outlined in Appendix A. Effective the beginning of the first full pay period in \_\_\_\_\_, the existing wage plan will increase by \_\_\_ percent (\_\_%). Effective the beginning of the first full pay period in \_\_\_\_\_, the existing wage plan will increase by \_\_\_ percent (\_\_%).

Section 2. Employees below the top step will move to the next step on the pay plan upon obtaining an overall satisfactory rating on their annual performance evaluation. This step increase will be effective on the beginning of the first full pay period following the employee's anniversary date. In the event that there is a rounding difference between the attached wage

schedule and payroll, payroll shall govern. In no event may an employee move beyond the top step of the pay plan.

Option D:

Section 3. Employees required to appear in court on their scheduled day off will receive a minimum of two hours at time and one-half pay.

#### **xvii Article 15. SENIORITY**

Section 1. Seniority shall be defined as the length of continuous service with the Employer.

Section 2. The Employer shall maintain a seniority list of all employees covered by this Agreement.

Section 3. Seniority shall terminate when an employee is separated from employment as provided by Article \_\_\_\_\_ (Separation).

Section 4. Seniority shall not accrue under the following conditions:

- 1 During a period of layoff;
- 2 During a period of an unpaid leave of absence other than military leave or other applicable law; or
- 3 During a period in which the employee is not in employment status.

Section 5. Employees may be laid off by the Employer to meet the needs of the Employer. In the event a layoff is necessary the work force shall be reduced based on seniority, ability to perform available work and work performance within the department as determined by the Employer's review of performance evaluations, instances of counseling and discipline.

Section 7. An employee's right to recall shall exist for twelve (12) months after the employee's last date of layoff. Failure to return to work within ten (10) calendar days of notice of recall shall terminate all right to recall. Notice of recall shall be in the form of a registered letter sent to the employee's last address on file with the Employer. It shall be the employee's duty to notify the Employer of any address change. Recall shall be based on the same criteria as layoff and no new employee will be employed to fill a vacant position if an employee is available from the layoff list with the ability to perform the work of the position. Refusal or failure to accept recall for a position for which the employee on layoff is qualified shall terminate all right to recall.

#### **xviii Article 16. UNIFORMS**

Option A:

Section 1. The Employer will provide an initial set of uniforms for new employees and employees who have not previously been issued uniforms. For all other current employees and subsequent to initial issue, uniform replacement will be made by the Employer on a "needs" basis as determined by the Employer. Members of the unit will be required to have appropriate uniforms available at all times. Personnel authorized to work in plain clothes will be required to provide suitable civilian attire at their own expense. Personnel authorized to work in plain clothes will be given an initial issue uniform which must be kept in suitable usable form at all times. The Employer will replace necessary clothing (uniform and non-uniform) if damaged in the line of duty. This will not apply to personal jewelry items or accessories.

Option B:

Section 1. The Employer will provide an initial set of uniforms for new employees. Thereafter, each employee shall have a uniform allowance up to \$\_\_\_\_\_ annually to replace worn or damaged items in the uniform issue. In order to use this amount, the employee must submit a request for the article of replacement clothing or accessory on a form prepared the by City. The Police Chief or designee will then make a determination of whether the request is reasonable and, if so, order the article and charge the amount against the Employee's uniform allowance. Employees terminating from the Employer for any reason must return their entire uniform, including accessories, that were part of their initial issue or purchased with the uniform allowance.

**~~xix~~Article 17. SAVINGS CLAUSE**

This agreement is subject to the laws of the United States, the State of Minnesota, and the City. In the event any provisions of this agreement shall be held to be contrary to law by a court of competent jurisdiction, or administrative ruling or is in violation of legislation or administrative regulations, such provisions shall be void. All other provisions shall continue in full force and effect. The parties agree to immediately meet and negotiate a substitute for the invalidated provision.

**~~xx~~Article 18. COMPLETE AGREEMENT**

Section 1. This Agreement shall represent the complete agreement between the Union and the Employer.

Section 2. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make requests and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the complete understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the

Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to or covered in this Agreement or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated or signed this Agreement.

Section 3. Any and all prior agreements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment are hereby superseded.

**xxi Article 19. MUTUAL CONSENT**

This Agreement may be amended any time during its life upon the mutual consent of the employer and the union. Such amendment, to be enforceable, must be in writing and attached to all executed copies of this Agreement.

**xxii Article 20. DURATION**

This agreement shall be in full force and effect from January 1, \_\_\_\_\_ through December 31, \_\_\_\_\_, and shall be automatically renewed from year to year thereafter unless either party shall notify the other, in writing, by October 1, \_\_\_\_\_, or by October 1 prior to any subsequent anniversary date, that it desires to modify or terminate this agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on the dates noted below:

FOR: Union

FOR: Employer

\_\_\_\_\_

\_\_\_\_\_

Dated:

Dated:

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**LEAGUE OF MINNESOTA CITIES  
MODEL CONTRACT LANGUAGE – POLICE UNIT  
KEY TO ENDNOTES**

**<sup>i</sup> COVER PAGE**

Q: Why have a cover page?

A: A cover page makes it administratively easier to locate and refer to the appropriate contract. In addition, establishing a uniform cover page is a clear indication to bargaining units that the employer desires to have uniformity in their collective bargaining agreements.

**<sup>ii</sup> TABLE OF CONTENTS**

Q: Why have a table of contents?

A: A table of contents make is administratively easier to locate applicable contract provisions.

**<sup>iii</sup> Article 1. INTRODUCTION**

Q: Why have this article?

A: Historically, a city's purpose in this section is to identify the parties in an easy to locate area. This is particularly helpful in the event that the agreement does not have a cover page.

Given the fact that the cover page and often definition section identifies the parties, the introductory paragraph may be unnecessary. The union will often seek to have additional language included that lists the intent of the parties. The danger with such language is that the union may use this language to file a grievance when it feels that the city has done something to disrupt the labor management relationship but is not able to point to a specific contractual section to establish a violation. More importantly, an arbitrator may use this language as a factor to consider when reviewing a grievance involving ambiguous contract language. In the event that the contract language is ambiguous, the arbitrator may interpret the language in a manner that will best promote the intent of the parties as noted in this area.

**<sup>iv</sup> Article 2. RECOGNITION**

Q: Why have this article?

A: The recognition article is included in an agreement to identify the bargaining unit covered by the union contract. This should be drafted as accurately as possible because it will establish which individuals are covered in the bargaining unit.

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The best practice for this section is to reproduce the bargaining unit description certified by the Bureau of Mediation Services (BMS) along with the date that BMS certified the unit and the file number. In the event that the original certification is amended, the amended unit along with the appropriate reference number should be included in this area. This provides a historical reference for the parties.

Q: What should a city do if the parties specifically agree to exclude positions from the bargaining unit?

A: In the event that the parties specifically agree to exclude positions from the bargaining unit, this section should also list those positions as excluded. The BMS unit description usually will do this in general terms. PELRA provides a broad list of “public employees” that the union and the employer may want to restrict by agreement. Because of the licensure requirements for police officers, and the special statutory definition and rules related to part time police officers, these exclusions are normally less important than for other bargaining units.

Q: Why have language on amending the bargaining unit?

A: In order to allow ease of procedure when new positions are developed or an existing position is modified, it is beneficial to have specific language permitting this review. There is also a statutory process for the BMS to conduct this review.

### **^ Article 3. DEFINITIONS**

Q: Why have this article?

A: This article is an important part of a collective bargaining agreement (union contract) because it defines the terms commonly used in the balance of the union contract. In the event that a term is not defined in this section, it must be defined elsewhere in the agreement or there will be an ambiguity. The more terms that are defined and the more specific the definition, the less likely there is to be a dispute about whether a term is ambiguous. Definitions can limit the individuals in the bargaining unit, define who is eligible for benefits and identify the parties. Conversely, imprecise definitions may create an ambiguity that will create rather than deter grievances.

Q: Are there any special issues involving police officers?

A: The issues associated with seasonal or temporary employees in bargaining units involving city hall or public works typically do not apply to police officers. There is a limited license applicable to part time peace officers (which differ from individuals who are not operating under a limited license). These limited license officers are noted in Minn. Stat. Sec. 626.8461 to 626.8465. The model language excludes the limited part time peace officers from the bargaining unit. The model language does not address peace officers who are not operating under a limited license. Whether these individuals should be included in the bargaining unit should be addressed in the certification process.

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**vi Article 4. UNION SECURITY**

Q: Why have this article?

A: This article typically addresses two areas: designation of representatives and dues payment. The first issue is to identify and limit the number of stewards, address their duties relative to the workplace and detail access of nonemployee business agents. The dues issue relates to a city handling employee dues. Where a city is performing this duty for the union, it is vital that the union agree to hold the city legally harmless from performing this function. A city may ask in negotiations for the union to pay an administrative fee for the city's role in performing this function.

At times, the union will seek to insert language in this section on unit members' rights to jobs, posting, bulletin boards, meeting space, use of employer premises and compensation for time spent in labor negotiations. A city should discourage this language. A city's obligation to provide time off to attend to union business is provided for in PELRA at Minn. Stat. §179A.07, subd. 6. Therefore this issue should not be expanded upon in the agreement except as it relates to pay during this time.

**vii Article 5. MANAGEMENT RIGHTS**

Q: Why have this article?

A: Management right clauses are the most important portion of the union contract. While PELRA defines management rights (areas of exclusive management authority), a city may voluntarily give up these rights. The key in this area is to make sure that a city has not voluntarily given up rights where it has exclusive authority. In addition, in instances where an arbitrator is deciding a contract language grievance involving an ambiguous term, a broad management rights article can be used to interpret it in a manner most consistent with the management rights statements or offset the philosophy language in the introduction section. The management rights article should reserve as much right to management as not specifically limited in the other areas of the collective bargaining agreement. Specifically, any rights not granted should be reserved to the city.

Q: Why are section 1 and section 2 both beneficial?

A: Section 1 details a broad statement of management rights. It is intended to be the broad grant of authority. Section 2 provides a more detailed statement of management rights. A tool that arbitrators may use in interpreting language in the union contract is to give priority or emphasis on specific language over general language. In order to address that contract interpretation device in favor of a city, Section 2 specifically references a number of the more important management rights. A number of these are also listed in PELRA.

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Q: Is there any authority that a city should seek to specifically include that is not already outlined in PELRA?

A: The right to subcontract should be specifically addressed in the union contract. Subcontracting rights and limitations are initially determined by the union contract. If the agreement does not specifically allow subcontracting, the general rule is that the contracting out decision is an inherent managerial right but that the employer must negotiate over the effects of its decision and may not unilaterally contract out the work until impasse.

Q: Why have language on whether a city may waive its management rights by inaction?

A: The agreement should contain a “no waiver” clause so that earlier inaction does not later haunt a city. This is consistent with the goal of not limiting any management rights in the agreement except as they are specifically noted.

Q: Should this section reference a city’s personnel policies?

A: Some agreements include a provision that states that unless otherwise superseded by an express term of the collective bargaining agreement, the terms of the city’s personnel policies will apply. The benefit to placing this language in the union contract is that a city can then point out to the union that many of the subjects covered in the personnel policy apply to the union and therefore, they do not have to be addressed in the actual body of the union contract. It generally gives a city a short contract if the union agrees. Unless there is some additional language placed into the management rights clause, the general reference to personnel policies remain a flexible document that a city can change. The danger in entering into a personnel policy document is primarily where personnel policies are poorly drafted and give broad interpretations of certain provisions or where the management rights clause provides that the personnel policies are in effect as of the beginning date of the contract will continue to apply to all members through the term of this agreement. In that instance, the city no longer has a “living document” that management can change to fit changing circumstances or to address specific instances in which the personnel policies are deemed deficient.

#### **viii Article 6. INSURANCE**

Q: What are the most important elements to consider in negotiating this article?

A: Good language in insurance is a “me too” in which the union members are covered by the same insurance plan and subject to the same conditions and requirements and contributions as nonunion employees. This is beneficial because it keeps all eligible employees on a single citywide program and is particularly beneficial when a city has a cafeteria plan. Aside from the ability to provide uniformity, the proposed language also allows flexibility. A city also has the authority to establish the premium contributions pursuant to this language. In the event the unions will not agree to the “me too” language, the next preferable language is to provide a set dollar amount as the city’s contribution toward the insurance premium. The model language references health insurance and has blanks for any other forms of insurance (such as life insurance or dental insurance) that a city may provide.

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Q: What is language to be avoided in the insurance article?

A: Language to be avoided provides too much detail into benefit levels, eligibility and coverage issues. Language establishing the maximum amount that an employee will pay shifts the balance of any increase to the city.

Q: What about retiree insurance?

A: Because of the concerns about the cost of retiree health insurance plans, these programs are becoming increasingly rare and are generally discouraged as specific benefits in a union contract. References to post retirement health savings accounts and similar programs should follow the “me too” format of the health insurance language noted in Section 1.

Q: What are the key differences between the options?

A: Option A retains the most flexibility for a city. Accordingly, it is the preferred language for the city. Option A is most likely to receive great objection from the union because it provides such wide discretion for a city.

Option B provides less discretion for a city but also specifies the dollar amount maximum that the city will contribute. The use of the phrase “up to” is included to provide that this amount will not exceed the actual premium amount. Option B also provides for separate treatment for life insurance. Typically, cities that provide life insurance coverage do so at no cost to an employee and provide a designated amount. Option B also provides a typical clause that applies a city’s policy allowing employee contributions to be withheld on a pretax basis. The language in this suggested section 3 references a uniform citywide policy on this benefit.

Option C mirrors Option B with the exception that it provides for a differing city contribution toward the premium for single and family coverage. A city may also provide options such as single plus one as a benefit option. In this case a city may designate a contribution toward premium amount toward this special coverage but should be aware that it may be limiting its right (or making it more difficult) to drop such an option without union agreement in later negotiations. The life insurance and pretax benefits of Option B can also be applied to Option C.

Option D utilizes a simply cafeteria style flexible benefits program rather than separate insurance provisions.

*NOTE: Under Minn. Stat. Sec. 471.6161, subd.5, an exclusive representative must agree to any reduction in the “aggregate value of benefits provided by a group insurance contract” for employees it represents. The ideal contract language on health insurance (i.e., language that would give a city the most flexibility in changing health insurance provisions) is as follows: “The Union agrees to any changes in the health insurance benefits, including a reduction in such benefits.” This language would expressly provide employers with flexibility to reduce benefits. The reason this language is not included in the model union contract is that it is unlikely that most unions would agree to such language.*

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**ix Article 7. PROBATION**

**Q:** Why is this article important?

**A:** This section is sometimes included in the general article on seniority. Probationary periods are important to include because they provide a city with a “free initial look” unless the individual is entitled to a statutory protection such as veteran’s preference. PELRA provides that “after the probationary period of employment, any disciplinary action is subject to the grievance procedure and compulsory binding arbitration.” Minn. Stat. §179A.20, subd. 4(b). A city should avoid any efforts to provide protections against discharge to probationary employees. It is more common for probationary employees to be permitted to use the grievance procedure in order to contest denial of benefits or other contractual terms and conditions but not to contest a termination.

**Q:** Why is one year probation important?

**A:** Police officers are provided a great deal of authority. In recognition of this authority, police officers receive a considerable amount of on-the-job training and skill development. Part time employees, to the extent that they are included in the bargaining unit, would be subject to the 2,080 hour requirement.

**Q:** Should language be included stating that probations are subject to extension?

**A:** Language allowing a city to extend an employee’s probation is generally suggested as additional authority for a city in a union contract. As a matter of practice, where an employee on a one year probation period has not performed in a manner allowing a city to make a determination after this period of time, a city is generally better off terminating the employee than extending the probationary period.

**Q:** How should a city treat a probation period for an existing employee who changes jobs?

**A:** The primary issue in this instance is whether a city will allow “bumping” back by the employee into the employee’s prior job and what will occur if the employee does not satisfactorily perform in the new classification. This is usually permitted where the new position is a promotion or transfer for a short period of time – typically tied to the amount of time it takes to fill the vacancy created by the employee initially moving into the new position. It is not available to allow an employee to return to their old position from a demoted position. The model language also addresses returning from probation outside of the bargaining unit. The model language does not address demotions. Accordingly, a demoted employee would not serve a probationary period.

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Q: What is the difference between Option A and Option B:

A: Option B is used only in instances in which a city utilizes or plans to utilize part time police officers.

### **x Article 8. GRIEVANCE PROCEDURE**

Q: Why is this article important?

A: This is a statutorily mandated section of the union contract. Minn. Stat. §179A.20, subd. 4 requires that all contracts include a grievance procedure providing for compulsory binding arbitration of grievances including all written disciplinary actions. If the parties cannot agree on the grievance procedure, the BMS has a grievance procedure that will control.

Q: What is the most important element of a grievance procedure?

A: Aside from the statutorily required elements of this grievance procedure, the most important element of a grievance procedure is to define what is considered a grievance. Good practice is to limit its application to a claimed violation of a specific contract provision. Language that allows the grievance procedure to be used for any employment dispute is too broad in that it allows grievances based on the personnel policies, employment laws and other areas not addressed in the body of the contract.

Q: How steps should be put in the grievance procedure?

A: Steps may be freely added or removed from the model language. Since the supervisor is the initial management person with the best knowledge of the facts, the supervisor is the logical first step in the grievance process. This helps a city define its position. Arbitration is the required last step. The final decision making authority, such as city manager or city council, is usually the last step prior to arbitration. Other steps in the process should be added or substituted based on the size and organizational structure of a city. Cities of medium size will typically have three steps: the police chief will be the step 1 city representative, the city administrator will be the step 2 city representative and the city council will be the step 3 city representative. In cities using the city manager form of government, the city manager will substitute for the city administrator and there will not be a step 3 to the city council. Following these steps, the final step will be arbitration.

Q: What is the primary difference in Option A and Option B?

A: Option A provides the greatest latitude in city selection of the grievance representatives. Option B provides the greatest simplicity.

Q: Will the Union object to the time lines related to selection of an arbitrator?

A: The language related to selection of an arbitrator often will be opposed by the police unions as unduly restrictive. The proposed language was added to the model language based on a

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recurring problem with a police union not processing arbitrations in a reasonable time after notifying a city that the matter was going to be appealed to arbitration. This language may be viewed as desirable in an existing contract where this has proven to be a problem rather than in the initial union contract.

Q: What is an election of remedies clause and why is it important?

A: Election of remedies provisions are designed to prevent an employee from using more than one procedure to contest the same employment issue except in those instances where a specific law permits multiple appeal rights. For example, an employee who is over age 40 and is covered under a union contract is fired. The employee can file a grievance, appeal under the city personnel policies and file a charge with the federal equal employment opportunity commission or state human rights department. An election of remedies clause basically states that the employee has to choose one and forego the other means of contesting the matter. In this particular example, cities may not limit an employee's ability to access the equal employment opportunity commission or human rights department on the discrimination charge but could preclude the employee from utilizing the nonunion appeal procedure.

#### **<sup>xi</sup> Article 9. DISCIPLINE**

The general provisions in any discipline article establishes that discipline should be for just cause. A city's objective in drafting this section is to have the discipline language drawn to allow it the broadest authority to determine the nature of the punishment based on any number of factors including prior history and the nature of the offense. The union will seek to have punishment be progressive. The union will also commonly seek to have discipline of a certain age removed from the employee's personnel file. A city should be reluctant to include language on this issue based on its duty to retain discipline under the government data practices act and as a matter of its record retention policies.

#### **<sup>xii</sup> Article 10. HOLIDAYS**

Q: Why is this article important?

A: Typically model language on fringe benefits simply references a city's personnel policies. Because police officers work during holidays and city hall employees may not, separate treatment of this issue is common in union contracts.

Q: What holidays should be included?

A: The holidays listed in the model contract are common holidays. In negotiating a union contract, the likely list of covered holidays will begin with a review of a city's observed holidays.

Q: How much pay is actually paid to an employee who works a holiday under the model language?

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A: The employee who works the holiday will receive two times pay for working the holiday (their regular pay plus the holiday pay). Unions typically will ask that the actual pay be at time and one-half the regular pay in addition to the holiday pay.

Q: What are the overtime issues associated with holidays?

A: The model language does not consider hours not worked (including holiday hours not worked) as hours that count toward eligibility for overtime. The Fair Labor Standards Act (FLSA) only requires that actual hours worked be counted toward overtime eligibility.

Q: Are there any other payment options for holidays?

A: Some departments seek to provide an alternate paid day off or “bank” the day as compensatory time off when an employee works on a holiday. These may create scheduling issues in departments of a limited size.

### **xiii Article 11. VACATION**

Q: This language significantly differs from the personnel policies in our city but the union will not agree to the general references in Option A. Should I follow this model language closely?

A: Specific fringe benefit policies such as vacation (or flexible time off) are difficult to standardize other than to outline a general reference to city personnel policies as noted in Option A. As noted in the management rights discussion, the primary benefit to Option A, which places the reference to the city personnel policies in the union contract is that it generally gives the city a short contract. In addition, unless there is some additional language placed into the document, the personnel policies remain a flexible document that management can change. The danger in entering into a personnel policy referenced union contract is primarily where the personnel policies are poorly drafted. Another option to consider carefully before agreeing is to provide that the personnel policies which are in effect as of the beginning date of the contract will continue to apply to all members through the term of this agreement. In that instance, a city no longer has a “living document” that management can change to fit changing circumstances or to address specific instances in which the personnel policies are deemed deficient.

A more likely negotiation will result in the placement of specific language addressing vacation into the body of the union contract. In these instances, the language should address which employees are eligible (for example only full time regular employees) and define the benefit accrual rate and note any limitations or utilization rules in the following sections.

Q: What are the primary difficulties in accruals for police officers?

A: The accruals for police officers are not typically at issue provided that the officers work the same hours per shift as other city employees. The difficulty arises when the officers work different lengths of shifts than city employees. The issue is illustrated by this example: a city employee works 8 hour days Monday through Friday. A police officer for the city works 10 hour days Monday through Sunday that average out to 40 hours per week. The city employee

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and the officer may accrue vacation the same rate if it is accrued monthly but will be required to utilize it in different blocks – 8 hours for the city employee and 10 hours for the police officer.

**<sup>xiv</sup> Article 12. SICK LEAVE**

Q: Our city uses flexible time off. How should we address this benefit?

A: Cities that utilize flexible time off programs should seek to utilize this program in place of sick and vacation policies in this model contract. Utilizing Option A with a reference to flexible time off rather than sick or vacation is the best option. In the alternative, a city should seek to include the key provisions of the policy into the union contract related to accrual, notice related to use and any restrictions on the benefit.

Q: When should sick leave be permitted?

A: Use of sick leave should apply to the employee. Pursuant to state law, it also must apply to sick or injured children. Minn. Stat. Sec. 181.9413. Children is defined as an individual under age 18 or an individual under age 20 who is still attending secondary school. Sick leave provisions also commonly apply to a spouse. Additional covered family groups are a frequent subject to negotiations.

Q: What is the option related to workers compensation?

A: Police officer bargaining units often argue that, due to the nature of their work, they are more likely to suffer a disabling work related injury. The unions will often seek special compensation such as injury on duty pay that is not tied to sick leave. The option provided is to utilize sick leave to supplement workers compensation. Because of issues related to non taxation of workers compensation benefits in Minnesota, the model language utilizes the difference as between net pay and the workers compensation amount.

**<sup>xv</sup> Article 13. HOURS OF WORK**

Q: Why is this article important?

A: Issues related to scheduling are among the most important management rights for cities. Retention of this management right is detailed throughout the model language.

Q: What is the scope of the overtime language?

A: The federal Fair Labor Standards Act recognizes that police employees work schedules that do not easily fit within the standard Monday through Friday day time work week. Accordingly, this law permits overtime payments to be made based on a broader schedule. The model language mirrors this regulation as it applies to police officers.

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<sup>xvi</sup> **Article 14. WAGES**

Q: Why is there limited model language in this area?

A: This area will be subject to wide variations in negotiations. The simpler the better is the general rule for pay plans. Suggested language provides that employees shall be paid as provided in Appendix A. Appendix A can then show the pay ranges and (if practical) actual wages of individuals for the length of the contract. A city should understand that this listing of individual wages is impossible in many instances, particularly where there is a merit based program or other system in which the exact pay cannot be determined at the time the agreement is signed.

Q: What are the key differences in the options?

A: Option A is very basic. Option B provides more detail. The benefit to Option B is that there is less room for controversy where this detail is included. Option C provides even more detail. When a city is drafting a pay plan, particularly for essential employee groups like police officers, a city should consider that its audience may include an interest arbitrator who has to understand what is going on at a later date. Therefore outlining percentage increases as noted in Option C and other explanations of the numbers on the appendix may be advisable.

Q: What are key considerations in negotiating wages for police officers?

A: Beyond consideration of city finances and responsibility to its citizens, a city must consider a number of factors. A city must be aware of its statutory obligations pursuant to the Minnesota pay equity act when negotiating pay plans and general increases. This includes a serious consideration of internal equity. A city should also be aware that police officers have a statutory right to utilize a binding interest arbitration process to resolve wage disputes. This interest arbitration process has historically considered external wage comparables as a key factor in fashioning a wage award. Consideration of inflation rates and data such as the change in the consumer price index are also commonly considered. Finally, many cities consider whether they need to adjust rates to retain and attract quality employees.

<sup>xvii</sup> **Article 15. SENIORITY**

Q: Why is this article important?

A: A city will typically take the position that merit and qualifications, rather than seniority, should prevail in job related settings. The model language does not provide beneficial treatment based on seniority in promotions or other assignment preferences.

Q: How are layoffs treated?

A: Unions will typically argue that layoffs should be addressed by seniority. Because police officer bargaining units are typically limited to a single classification of police officer or police officers and sergeants, the general discussions on limiting layoff by classification has less of an

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effect. One issue for a city in those instances in which there are multiple classifications is whether a senior employee (for example a sergeant) can “bump” into a previously held classification (for example a police officer). The model language does not permit this to occur but rather focuses on a number of areas within a city’s discretion.

Layoffs that have recall rights longer than twelve months typically result in significant retraining issues upon recall.

#### **xviii Article 16. UNIFORMS**

Q: Why are there options on this article?

A: There are a number of approaches taken to uniform policies. The model contract notes the option that retains the most control for a city – the police chief’s right to determine whether an item needs to be replaced. The second option is an “account” method that retains city control but recognizes that there is a tangible account that exists for the employee. The third option, not reproduced in the model contract, simply provides for a payment to an employee along with an expectation that the employee will utilize these funds toward uniform purposes. Providing significant amounts under this third option raises an obligation on the part of a city to perform withholding on this amount and also limits a city’s ability to ensure that the amounts are utilized for uniform purposes.

#### **xix Article 17. SAVINGS CLAUSE**

Q: Why is this article important?

A: The savings clause is included to provide that any illegal provision will be severed from the agreement (as opposed to having the entire contract declared to be illegal) and to note that the parties will address the situation. PELRA provides that an agreement cannot be in conflict with state law or “rules promulgated under law, or municipal charters, ordinances, or resolutions, provided that the rules, charters, ordinances, and resolutions are consistent with” PELRA.

#### **xx Article 18. COMPLETE AGREEMENT**

Q: Why is this article important?

A: This article is also sometimes called the zipper or waiver clause. These articles are very important in union contracts because they provide that once the union has signed off on the contract, it can’t keep coming back and seeking to negotiate more issues with the city during the contract term. Broadly drafted these articles also operate to waive any matters that are not listed within the collective bargaining agreement.

#### **xxi Article 19. MUTUAL CONSENT**

Q: Why is this article important?

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A: This is the clause that allows the parties to mutually escape the restrictions of the waiver clause if they both choose to address the issue. The major requirements should be that both parties want to address the issue and that any amendment must be in writing and signed.

**xxii Article 20. DURATION**

Q: Why is this article important?

A: This article provides that the contract continues from a designated start date to an end date and provides a date by which the union must notify the city of a desire to negotiate a successor agreement. Contracts for cities cannot exceed three years. The provision related to notification of intent to negotiate a successor contract typically provides that notice must be given 60-90 days prior to the end of the contract term. PELRA provides that at least a 60 day notice must be given or the party requesting the negotiations may be subject to a fine. PELRA also provides that after the expiration of an old contract and prior to the time when the parties agree to a new contract, the terms of the prior contract continue in full force and effect. Minn. Stat. §179A.20, subd. 6.