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STATE EMPLOYMENT
RELATIONS BOARD

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COLLECTIVE BARGAINING AGREEMENT

between

THE CITY OF PAINESVILLE

and the

**FRATERNAL ORDER OF POLICE
OHIO LABOR COUNCIL AND LODGE #90
(SERGEANTS AND LIEUTENANTS)**

Effective: April 1, 2009
Expires: March 31, 2012

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POLICE SERGEANTS & LIEUTENANTS UNION

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ARTICLE I AGREEMENT

1.01 This Agreement is made and entered into by and between the City of Painesville, hereinafter referred to as the "Employer", and the Fraternal Order of Police, Ohio Labor Council, hereinafter referred to as the "Union".

ARTICLE II PREAMBLE

2.01 As evidence of their determination to secure mutually beneficial stabilized and harmonious employment relations, each of the parties acknowledges and accepts responsibility for the fulfillment of their respective obligations under this Agreement and pledges full cooperation in carrying out its provisions.

2.02 It is the general intent and purpose of the parties hereto that this Agreement shall set forth the rates of pay, hours of work and working conditions, and other matters set forth herein and contain the complete Agreement between the parties for the term of this Agreement.

2.03 It is further understood that this Agreement can only be added to, detracted from, altered, amended or modified by a document in writing signed on behalf of the parties hereto by their duly authorized officers and representatives.

ARTICLE III RECOGNITION

3.01 The Employer hereby recognizes the Union as the sole and exclusive bargaining agent with respect to wages, hours and other terms and conditions of employment, as provided by the State Employment Relations Act (O.R.C. 4117) for all full-time employees employed in the Police Division occupying the position of police officer, excluding all part-time, seasonal, and temporary employees. All other employees of the Employer are excluded from the bargaining unit. Said recognition shall continue for a term as provided by law.

ARTICLE IV MANAGEMENT RIGHTS

4.01 The management and direction of the work force are vested solely in the Employer and shall not in any way be abridges except by specific restrictions as are set forth by this Agreement.

4.02 The Union recognizes that the management of the Employer's business includes but is not limited to the assignment and direction of the working force, the determination of the number of shifts, hours of shifts, and qualifications of employees to be employed or retained by the Employer, the right to hire, suspend, discharge, discipline for just cause, promote, demote, layoff or transfer employees, to make operational improvements, and to maintain reasonable and proper discipline and work rules, and efficiency in accordance with the provisions of this Agreement.

4.03 The foregoing enumeration of management rights shall not be deemed to exclude other rights of management not specifically set forth, the Employer thereby retaining all rights not otherwise specifically covered by this Agreement, regardless of whether or not the same have been heretofore exercised. All of the rights, powers, and authority the Employer had, prior to the signing of this Agreement are retained by the Employer and remain the exclusive right of management without limitation.

ARTICLE V NON-DISCRIMINATION

5.01 Neither the Employer nor the Union shall unlawfully discriminate against any employee because of such employee's race, color, religion, sex, age, national origin or disability.

5.02 There shall be no discrimination by the Employer or any of its agents against any employee because of membership in the Union. Likewise, there shall be no discrimination by the Union or any of its agents against any employee because of non-membership in the Union.

ARTICLE VI CHECK-OFF

6.01 A new employee must elect to participate or not to participate in the Union after thirty (30) days of employment with the Employer, and must present to the Employer a signed authorization card indicating his decision.

6.02 The Employer agrees, upon receipt of the signed authorization card to deduct from the employee, a dues amount or a Fair Share fee on a monthly basis. This deduction shall be for the month in which the card becomes effective, and will be deducted from the second pay period of each month. There will be no deductions taken without a signed authorization card in effect.

6.03 The Employer shall, upon receipt of a detailed and itemized invoice from the Union remit the invoiced amount to the Union officer as designated by the Union.

6.04 Employees with valid objections to joining or supporting a Union based upon religious beliefs, shall be required to pay, in lieu of a monthly Union dues, equivalent sums to a non-religious charitable organization exempt from taxation under Sec. 501 (c)(3) of the IRS code. The validity of said religious exemption shall be determined solely by the Union, and all manner of deduction from the employee's pay will remain as with the rest of this Article.

6.05 The Union agrees that the Employer assumes no responsibility in connection with the deduction of monies as set forth in this Article, except as in the remittance of the billed amounts as presented by the Union. The Union further agrees to indemnify and save the Employer harmless against any suits, demands, claims, or other forms of liability which can and shall arise out of or by reason of action taken and/or not taken by the Employer in the execution, authorization, or assignment as set forth in this Article.

ARTICLE VII UNION REPRESENTATION AND VISITATION

7.01 The Employer recognizes the right of the Union to designate an associate or alternate from amongst the employees of the Employer at the location(s) covered hereunder, and the Union shall advise the Employer of such designation.

7.02 The associate shall obtain prior approval of his supervisor before leaving his work place for purposes of investigating a grievance or attending to Union business, and will report back to supervisor immediately upon completion of such duties. Any reasonable request shall be granted provided that it does not interfere with efficient operations. Excessive time consumed by associates handling Union matters shall not be subject to compensation by the Employer, and in no instance shall such investigative time be considered in the computation of overtime.

7.03 The Staff Representative of the Union shall be permitted to enter the Employer's premises during regular working hours. The supervisor shall be notified upon arrival and prior to any transaction of business. At no time shall such visitation interfere with the work requirement of any employee(s), or disrupt operations in any way unless expressly permitted by the Employer.

7.04 The Employer will permit the Union to place a reasonable number of bulletin boards, at Union expense, in non-public areas of the work place of the Bargaining Unit.

ARTICLE VIII PROBATIONARY PERIOD

8.01 The probationary period for all newly hired employees shall not exceed eighteen (18) months. The promotional probationary period shall not exceed six (6) months. Any employee demoted to a lower classification shall also be required to serve a six (6) month probationary period. Newly hired employees shall have no seniority during probationary period, however, upon completion of the probationary period, seniority shall start from date of hire.

8.02 The Employer shall have the sole discretion to discipline or discharge newly hired probationary employees or to reduce promotional probationary employee to their previous rank and any such action shall not be appealable through any Grievance or Arbitration Procedure herein contained, or any Civil Service procedure.

ARTICLE IX HEALTH AND WELFARE

9.01 An Employer Pick-up Plan is hereby established in accordance with the requirements as set forth in Section 414(h)(2) of the Internal Revenue Code, in which the Employer agrees to "pick-up" all or a portion of the employee contribution to the Police and Fireman's Disability and Pension Fund as may be determined by ordinance of Council for all eligible full-time employees covered by this Agreement, and to pay the amount picked up to the Fund as an Employer contribution in lieu of contributions by the employee. The Police and Fireman's Disability and Pension Fund meets the qualification requirements of Section 401(a) of the IRS Code.

9.02 Employees shall not have the option to receive the contributed amounts directly instead of having them paid by the Employer to Police and Firemen's Disability and Pension Fund.

9.03 All employees covered by this Agreement shall have their gross compensation, as established by the appropriate Compensation Schedules, reduced by the "picked-up" amounts, which is eight and one-half (8 ½%) percent, to arrive at an adjusted gross compensation amount for Federal and State income tax purposes.

9.04 For the purpose of this section, "retirement" shall mean termination of full-time employment, active service with the Employer to immediately accept pension benefits for which the employee is qualified at the retirement date, from either the PERS or the Police and Firemen's Pension and Disability Fund.

9.05 In the event of an "on duty" death of the employee still in the employ of the Employer, as determined by the respective State of Ohio pension fund, the Employer shall pay the employee's estate 100% of the current value of the accumulated unused sick leave credit.

9.06 Health Insurance includes benefit programs providing medical, hospital or surgical benefits, or any combination thereof, covering all full-time employees. The Union agrees to participate in the Joint Health Benefits Committee to evaluate options, select plans to be offered, and address cost sharing issues for insurance coverage during the period covered by this Agreement.

- a) ENROLLMENT – Enrollment in the City's health insurance program is limited to the following periods:
 - 1) Within thirty (30) days of initial employment with the City,
 - 2) During the open enrollment period each year, effective January 1 of each year.
 - 3) As changes occur in dependent status due to marriage, childbirth, divorce, etc., but only to add or delete dependents to the program as the result of a bonafide dependent status change.

- b) **PREMIUMS** – The City will pay such portion of the cost of health insurance as is authorized by the City Council. For the year beginning January 1, 2007, the City will increase its contribution to the insurance package up to 5% over the total cost in 2005, and up to \$100,000 to reserve. For the year beginning January 1, 2008, the City will increase its contribution to the insurance package up to 5% over the total cost in 2007, and up to \$100,000 in reserve. If there is a decrease in the cost of health insurance, the Committee will determine whether to increase reserves, decrease premiums or obtain better benefits. Thereafter, and after the reserve has been fully funded, increases in premium and the allocation of those increases will be between the City and the Healthcare Committee. The City needs to carry reserves to cover the funding of its claim obligations. Therefore, from time to time within a five (5) year period from the date of the contract, the City will add to the reserve until fully funded. Reserve funding will be determined through vendor lag tables, the City's consultant, and outside actuaries if necessary.
- c) **COVERAGE DURING LEAVES OF ABSENCE** – Coverage while on a leave of absence from the City is as follows:
 - 1.) All paid leaves of absence and employees approved for FMLA: Participation and coverage will continue as if the employee continued working.
 - 2.) All authorized unpaid leaves of absence: Participation and coverage will continue through the month in which authorized unpaid leave begins. To continue to participate thereafter, the employee must pay the appropriate monthly premium.

9.07 The City Manager shall in accordance with an authorizing resolution of Council, periodically contract with an insurance company authorized to do business in the State of Ohio, for the issuance of a policy or contract of group accident insurance benefits covering all full-time employees covered by this Agreement. This coverage shall be at the expense of the Employer, and shall be limited solely to the employee.

9.08 The insurance policy or contract shall provide that any such covered employee may elect to obtain either both of the following benefits, solely at the employee's expense, by means of an authorized payroll deduction.

- Coverage for himself in excess of the basic amount provided by the Employer.
- Coverage for his spouse.

9.09 Each employee covered by this Agreement shall be eligible to receive an annual flu shot, and shall also be eligible to receive a Hepatitis B series of injections during the life of this Agreement. The cost of these inoculations shall be borne by the Employer.

ARTICLE X SENIORITY

10.01 For employees hired on or after March 31, 2002, their seniority shall be the employee's uninterrupted length of continuous service with the Painesville Police Department commencing with the employees last date of full-time hire. An employee shall have no seniority for the initial probationary period provided in this Agreement but, upon completion of the probationary period, seniority shall be retroactive to the date of hire.

- a) Employees hired prior to March 31, 2002, shall not have their hiring date changed and shall continue to receive seniority credit for time granted by the Employer upon hiring.

10.02 An employee's seniority/employment shall be terminated when one or more of the following occur:

- a) He resigns;
- b) He is discharged for just cause;
- c) He is laid-off for a period of time exceeding one (1) year;
- d) He retires;
- e) He fails to report for work for more than two (2) consecutive working days without having given the Employer advance notice of his pending absence, unless he is physically unable to do so as certified by the appropriate authority;
- f) He becomes unable to perform the essential functions of the job due to illness or injury and is unable to return to work upon the expiration of any leave applicable to him. An employee reinstated due to no longer being disabled pursuant to a pension system findings shall, upon reinstatement, receive his previous seniority credit.
- g) He refuses to recall or fails to report to work within five (5) working days from the date the Employer sends the employee a recall notice.

10.03 If two (2) or more employees are hired or appointed on the same date, their relative seniority shall be determined by their Civil Service test score. The highest receives the greater seniority.

10.04 The Employer shall provide a current seniority list to the Union on an annual basis.

ARTICLE XI LAY-OFF AND RECALL

11.01 Where, because of lack of work, lack of funds, or abolishment of jobs or functions, the Employer determines it necessary to reduce the size of its workforce, the Employer shall give written notice to the Union president or his designee no less than fourteen (14) days in advance of any such lay-off, indicating how many employees will be affected and what department(s) are being reduced. Such reductions shall be made in accordance with the provisions hereinafter set forth.

11.02 Employees within affected job titles shall be laid off according to their relative departmental seniority with the least senior employee being laid off first, providing that all temporary, seasonal, casual, part-time and probationary employees within the affected job title(s) in the department are laid off first.

11.03 Employees who are laid off from one job title may only displace (bump) another employee with lesser seniority in a lower rated job title within the Police Division.

11.04 Employees who are bumped by a more senior employee shall be able to bump another employee with lesser seniority in a lower rated job title pursuant to the provisions of paragraph 11.03, above.

11.05 At the end of the bumping process, the employee who is bumped and unable to bump another employee pursuant to the above provisions, shall be laid off.

11.06 Employee(s) who are laid off, shall have the option of bumping another employee pursuant to the above provisions, or being directly laid off by the Employer. A more senior employee may voluntarily accept layoff.

11.07 In all cases where one employee is exercising his seniority to bump another employee, his right to bump into another department is subject to the conditions that he is qualified for the position and able to perform the functions and duties of the position into which he is attempting to bump, only within the Police Department.

11.08 Recalls shall be in the inverse order of lay-off and a laid off employee shall retain his right to recall for one (1) year from the date of his lay-off.

11.09 In recalls after a layoff, the Employer will offer re-employment to the extent possible, to which additional help is needed to former employees in the classifications involved in the inverse order in which the employee was laid-off provided that:

- 1) the employee is qualified in the opinion of the Employer to perform available work at the time the offer of employment is made; or
- 2) the period of layoff does not exceed one (1) year.

11.10 Notice of recall shall be sent to the employee's address listed on the Employer's records and shall be sent by certified mail. An employee who refuses recall or does not report for work within five (5) working days from the date the Employer mails the recall notice, shall be considered to have resigned his position and forfeits all rights to employment with the Employer.

11.11 Employee(s) scheduled for lay-off shall be given a minimum of fourteen (14) days advance notice of lay-off.

11.12 Each notice of lay-off shall contain the following information:

- 1) The reason for lay-off or displacement;
- 2) The date of lay-off or displacement becomes effective;
- 3) The employee's seniority date in the classification;
- 4) A statement advising the employee of the right to recall and re-employment.

11.13 In the event an employee refused recall to a classification other than that from which he was laid off, such employee shall lose recall rights for the original classification. If said refusal is for a recall to the employee's original classification, such employee shall be removed from the recall list.

11.14 In the event of extenuating circumstances such as illness, injury, or other good cause preventing the employee from returning within the time limit above, the Employer may grant a reasonable extension, not to exceed thirty (30) days. In the event such illness or injury precludes an employee from returning to work within the time limit above (including extension), such employee shall be by-passed for recall, but shall remain on the recall list, for the remainder of the term of the recall period. The denial of an extension shall not be made in an arbitrary manner.

11.15 A laid off employee will be recalled to the first available job position that they may be qualified to perform in accordance with their seniority. For the purpose of recall, it shall be the employee's responsibility to have a current address on file with the Employer.

11.16 Recall lists shall be kept current by the Employer and posted on the bulletin boards agreed to by the Union. The Union president shall be furnished and/or forwarded a copy of all recall lists as they are made current by the Employer.

ARTICLE XII OUTSIDE EMPLOYMENT

12.01 Members may engage in outside employment, including private security services, under appropriate circumstances provided the scope of employment does not result in a conflict of interest, subject the Employer to public criticism, or embarrassment, demean the image of the Painesville Police Department, conflict or interfere in any manner with the employees effective and impartial performance of the duties of his position and the total amount of employment does not interfere with the members ability to properly perform his duties. If such employment is disadvantageous to the Employer, it shall be terminated upon notification in writing to the member by the Chief of Police. Any member who engages in employment outside of his regular working hours shall be subject to call to perform his regular duties first.

12.02 Private security services shall mean outside police employment to include traffic control on City and State roads, within the City of Painesville, which is performed by members on time over and above their regular work schedule. Members engaged in private security services shall be subject to departmental procedures governing such services and shall be when appropriate as specified in such procedures under the supervisory control of the on-duty shift officer in charge.

ARTICLE XIII WORK WEEK

13.01 The normal work week shall consist of seven (7) consecutive twenty-four (24) hour periods during which an employee shall be assigned to any five (5) eight (8) hour work days. This applies to all full-time employees. This does not under any circumstance guarantee the number of hours an employee may be required to work, nor does it guarantee forty (40) hours of work in each week. This section is for definitional purposes only.

13.02 The hours of work in the normal work week for each occupational group shall apply to all classes of the group, except those classes where the normal work week upon which compensation is based is otherwise specifically indicated.

13.03 The Employer shall, whenever possible, give an employee seventy-two (72) hours notice before they make any changes in an employees normal work week schedule. In the event seventy-two (72) hours cannot be given, the employee will receive as much advance notice as possible.

13.04 For purposes of clarification for normal workweek, days off will be scheduled in the following manner: Regular days off take precedence over any combination of days (vacation, holidays, comp time, etc. in that order) less than forty (40) total, or singular or partial days. If after the scheduling of regular days off has been completed and the shift is above minimum staffing requirements, additional days off may be scheduled in the following order: singular or partial vacation days, singular or partial holidays, singular or partial comp time days.

ARTICLE XIV HOLIDAYS

14.01 All full-time employees in active pay status (receiving a pay check) covered by this Agreement shall receive their regular compensation for the following holidays. Any employee on military leave will remain on active pay status for four hundred eight (408) hours or, if called to a tour of active duty, shall receive a single extension up to one year for only the first call into service.

14.02 The following are the approved holidays:

- The first (1st) day of January (New Years Day)
- The third (3rd) Monday of January (Martin Luther King, Jr. Day)
- The third (3rd) Monday of February (President's Day)
- The last Monday of May (Memorial Day)
- The fourth (4th) day of July (Independence Day)
- The first (1st) Monday of September (Labor Day)
- The eleventh (11th) day of November (Veteran's Day)
- The fourth (4th) Thursday of November (Thanksgiving Day)
- The twenty-fifth (25th) day of December (Christmas Day)
- The employee's birthday, personal; and choice day shall be scheduled as follows: for the choice and personal day, the employee must notify supervisor no less than one (1) week nor more than one (1) month before. In the event of a birthday holiday, this day may be taken on or after the birthday, and all will be approved by the supervisor in advance, provided that said request does not bring shift strength below minimum manpower requirements, does not cause another officer's regularly scheduled day off to be canceled and rescheduled, nor does such request cause the expenditure of overtime.

14.03 An employee shall forfeit all rights to his holiday pay for any such holiday if he has an unexcused absence on his last regularly scheduled work day preceding such holiday, or on his first regularly scheduled work day immediately following such holiday.

14.04 In addition to the above, any day may be designated as a holiday by proclamation of the President of Council upon approval of the City Council

14.05 If an employee is required to work on any of the above numbered holidays, they shall be granted a choice of compensation at the rate of eight (8) hours holiday pay and time and one-half (1 ½) for all hours worked that day, or one and one-half (1 ½) time the regular hourly rate in lieu of their straight time rate and an additional compensating day off. If an employee is required to work additional hours on the above holiday, they shall be compensated at time and one-half (1 ½) for all additional hours worked in addition to one (1) hour of compensatory time, for each hour worked.

ARTICLE XV VACATION LEAVE

15.01 All full-time employees in active pay status (receiving a pay check) covered by this Agreement, except part-time and seasonal employees, shall earn and be granted, except as provided in Section 2, two (2) weeks of vacation leave with pay each calendar year to compensate for his full-time service performed with the Employer the previous full calendar year. Such vacation leave shall be exclusive of authorized holidays. Any employee on military leave will remain on active pay status for four hundred eight (408) hours or, if called to a tour of active duty, shall receive a single extension up to one year for only the first call into service.

- 15.02
- a) Employees who have completed five (5) years of continuous service with the Employer shall be granted three (3) weeks of vacation leave credit in lieu of the two (2) weeks provided for in Section 1.
 - b) Employees who have completed twelve (12) years of continuous service with the Employer shall be granted four (4) weeks of vacation leave credit in lieu of the two (2) weeks provided for in Section 1.
 - c) Employees who have completed eighteen (18) years of continuous service with the Employer shall be granted five (5) weeks of vacation leave credit in lieu of the two (2) weeks provided for in Section 1.

15.03 In the case of initial employment, employees shall be entitled to use vacation leave credit earned, only after the first anniversary date of their employment with the Employer.

15.04 Employees who have performed less than a full calendar year in the Employer service, as a result of initial employment, termination of employment, authorized leave of absence without pay, or a seasonal or temporary employment, shall earn vacation leave credit multiplied by one-twelfth (1/12) of the number of full calendar months worked during that calendar year.

15.05 An employee of the Employer earning vacation leave credit currently, is entitled to have his/her prior service with the State of Ohio, or any of its political subdivisions, including prior Employer service counted as service with the Employer for purposes of computing the amount of his vacation leave credit.

15.06 Notwithstanding provision to the contrary herein, in no case shall an initial employment or temporary employment, either of which is terminated within twelve (12) months of initial employment, for any reason, be granted any vacation leave.

15.07 Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes may, at the request of the employee, and within the discretion of the department head, be charged against vacation leave credit already earned.

15.08 Each Department Head shall keep necessary records of vacation leave credit allowance and shall schedule vacation leaves with particular regard to seniority of employees and to accord with operating requirements and insofar as possible, with the written requests of employees.

15.09 An employee may carry unused vacation from one year to the next, however the maximum amount that may be carried forward is three (3) weeks.

ARTICLE XVI SICK PAY

16.01 Each full-time employee shall be entitled, for each eighty (80) hours of regular time service per pay period, to sick leave credit of 4.6 hours with pay. Said unused sick leave shall accrue and be cumulative without limit.

16.02 An employee eligible for sick leave with pay may use such sick leave upon the approval of the City Manager, only for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees upon the discretion of the Department Head, authorized maternity leave/adoption leave, and illness of an immediate family member.

16.03 In the event of illness in the employee's immediate family, such use of sick leave will be restricted and governed by the following:

- a) The employee's immediate family shall mean: spouse, child or parent. For purposes of this article, father-in-law, mother-in-law, and step children who reside with the employee are considered immediate family. Such leave shall be limited to ten (10) days annually. However leave will not be exhausted if an immediate family member requires medical treatment or is hospitalized.
- b) In the event of a death in the employee's immediate family and upon extenuating circumstances, sick leave may be used to extend the authorized bereavement leave, however such extension may not exceed two (2).

16.04 When sick leave is used, it shall be deducted from the employee's accrual on the basis of one (1) hour for every one (1) hour or fraction thereof. There will be no fractional crediting of hours.

16.05 Employees with a sick leave balance in excess of three hundred (300) hours during a twelve (12) month rolling calendar will be paid at one hundred percent (100%) of their rate. Employees whose balance is below three hundred (300) hours, and has exceeded eighty (80) hours of sick leave in a rolling calendar year, will be paid at eighty percent (80%) of their regular rate. Sick leave balances will not automatically renew at the beginning of the regular calendar year. Employees' sick leave will be determined on a rolling calendar basis and sick leave accrues at the rate of 4.6 hours per 80 hours of work with the thirteenth month's use of sick leave dropping off and the new month added in. Sick leave prior to and subsequent to a hospitalization will be paid at one hundred percent (100%) the employee's regular rate. Any sick leave utilized in excess of eighty (80) hours in any one usage period shall be paid at one hundred percent (100%). An employee's inability to work may be verified by the employee's physician. New employees, years one through four, will have the sick leave paid at one hundred percent (100%). The rolling calendar will begin on May 1, 2009.

A rolling calendar year is calculated by looking back at the previous twelve (12) months. At the end of every month, the previous twelve (12) months are considered to be a new "year," and the total usage for the "year" is recalculated. For example, starting with the end of a calendar year, data from January through December are added to give a twelve (12) month (annual) total. However, at the end of the next month (January), there will be thirteen (13) months of data. You do not want to start a new year over from zero, and you do not want a thirteen (13) month total. You do want a twelve (12) month total at the end of this month and every future month. To keep a twelve (12) month total, take the "old" total (January through December), subtract last January's date and add this January's data to get a new total for February through January (still twelve (12) months). At the end of February, subtract last February's data and add this February's data to get the new total from March through February (still twelve (12) months). Continue this way at the end of every month. This procedure always leaves you with twelve (12) months in total, and allows you to check your "twelve (12) month rolling total" with your annual/yearly limit every month throughout the calendar year.

16.06 Before an absence may be charged against accumulated sick leave, the Department Head may require proof of illness, injury or death, or may require the employee to be examined by a physician designated by the Department Head and paid by the Employer. In any event, an employee absent for more than three (3) consecutive work days must supply a physician's report to be eligible for paid sick leave.

16.07 If an employee fails to submit adequate proof of illness, injury or death upon request, or in the event that upon such proof as is submitted or upon the report of medical examination, the Department Head finds there is not satisfactory evidence of illness, injury or death sufficient to justify the employee's absence, such leave may, at the Department Head's discretion, be considered an unauthorized leave and shall be without pay.

16.08 Any abuse, excessive or patterned use of sick leave shall be just and sufficient cause for disciplinary action.

16.09 Any employee fraudulently claiming sick leave allowance from work for other reasons shall be subject to disciplinary action up to and including termination.

16.10 An employee who is laid-off from employment with the Employer may, if reappointed, have available for his use any unused sick leave existing at the time of his lay-off. An employee who transfers from one position to another, or from one public agency to another in the State of Ohio, shall be credited with the unused balance of his sick leave accrual, but not to be in an amount in the excess of the accrual limit set forth and effective for the employees of the Employer.

16.11 Upon the retirement of the employee or disability retirement of the employee, and the employee has completed ten (10) years of service, such employee shall be entitled to receive a cash payment equal to his basic rate of pay at the time of the above listed condition multiplied by forty (40%) percent of the total number of accumulated unused sick hours earned by the employee up to fifteen hundred (1500) and thirty-three and one-third (33 1/3%) percent for all accumulated and unused sick hours earned by the employee in excess of fifteen hundred (1500) hours.

16.12 Members not using sick leave during each calendar quarter shall receive an incentive of eight (8) hours compensatory time credited to their compensatory time bank.

16.13 Time Donation

It is the intent of the City and Union to provide a sick leave/compensatory time donation program to allow employees to voluntarily assist their co-workers who have exhausted all their paid leave and are in critical need of leave due to serious illness or injury of the employee, a member of the employee's immediate family up to a total of one thousand forty (1,040) working hours.

On a voluntary basis, employees may donate leave to a fellow employee who is otherwise eligible to accrue and use sick leave. An employee may receive donated leave, per pay period, equal to the number of hours the employee is scheduled to work each pay period. Donated leave will be subject to the conditions in this article.

In no way may donated leave be converted into a cash benefit. Leave will be donated and used on an hour for hour basis and employees using donated leave will be considered on sick leave and will accrue leave and be entitled to any benefits to which they otherwise would be entitled.

If an employee exhausts all his time off, he may apply to the Union for the number of hours needed to cover the employee's upcoming payroll period, and the estimated date he will be able to return to work. The Union will then verify with the Chief that the employee is eligible for sick leave but for the fact that he is out of paid time off. If any members wish to voluntarily donate leave, the Union will supply the Chief or his designee with a schedule, in a form agreed to by the donating individuals and their number of hours to be applied as donated sick leave.

Employees desiring to donate leave will certify the name of the employee for whom the donated leave is intended, the number of hours to be donated and that the leave is donated voluntarily with no provision that the leave will be returned.

Neither donating employees, receiving employees, nor the Union, shall have the right to grieve/arbitrate any or all issues regarding the application of this article/section. Further, the Union releases the City of any and all liability that may arise from the application and utilization of this Article.

ARTICLE XVII BEREAVEMENT LEAVE

17.01 In the event of death in the employee's immediate family, the employee shall be granted bereavement leave of three (3) working days, not to effect the employee's sick leave credit balance. The three (3) days must include the day of the funeral. To be eligible the employee must attend, or make a bona fide effort to attend the funeral. Bereavement leave is not compensable when the employee is on special leave of absence, Family Medical Leave of Absence, maternity or adoption leave, or workers' compensation. This three (3) days may be extended as set forth in paragraph 16.03 (b) of the Sick Leave provisions of this Agreement, Article XVI.

17.02 For the purposes of bereavement leave, immediate family shall mean: spouse, child, grandchild, mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, daughter-in-law, son-in-law, grandparents, grandparents-in-law, legal guardian, or any person who stands in the place of a parent (loco parentis).

17.03 The Department Head may at his discretion require verification of attendance from the funeral director, prior to granting/authorizing such leave.

ARTICLE XVIII SPECIAL LEAVE

18.01 The City Manager may authorize special leaves of absence without pay or with pay for any periods not to exceed three (3) calendar months in any one (1) calendar year for the following purposes:

- Attendance at college, university, or business school for the purpose of training in subjects related to the work of the employee and the Employer service;
- Urgent personal business requiring the employee's attention for an extended period of time such as settling of an estate, liquidating of a business, serving on jury duty and attending court as a witness; and,
- For purposes other than the above which are deemed beneficial to the Employer service.

18.02 Employees of the Employer who become pregnant, or who are adopting a child, and who desire to return to work at a future date, shall be granted maternity or adoption leave. Said leave shall be for a period of up three (3) months, which may be extended upon agreement by both parties. A maternity or adoption leave shall be with pay, as deducted from the employee's available sick leave credit balance.

18.03 Application for maternity or adoption leave shall be in writing and shall contain a statement of the expected birthdate, or in the case of adoption, the date of obtaining custody, the date the leave is to commence, and the anticipated date of return to service. Said written request shall be submitted sixty (60) days in advance of the beginning of the leave.

18.04 Upon return from approved maternity/adoption leave at the time set forth in the application for leave, the employee shall be entitled to reinstatement at the same position which was held prior to the leave, or to an equivalent position.

18.05 The Employer recognizes that pregnancy can contribute to a disability, the extent or duration of which can be determined and shall be declared in writing by the individual's attending physician, usually no later than the normal six (6) week check-up after birth. Disability due to pregnancy or childbirth shall be considered on the same terms and conditions as applied to other temporary disabilities.

18.06 An employee, who because of a miscarriage, or other unforeseen circumstances or a personal desire to return to service and who is physically able to resume her duties as before the stated "intended return" may present a medical certificate from the attending physician indicating the employee's ability to return at a date earlier than specified. If a position for which said employee is qualified is or becomes available, the employee will be granted said position.

18.07 The Employer requires certification from a medical doctor that an employee is physically able to perform all normal duties and obligations upon the intended date of return from a maternity leave.

18.08 Employees may request and be granted time off without pay pursuant to the Family Medical Leave Act of 1993 (FMLA). Such time off without pay shall not exceed twelve (12) weeks in any twelve (12) month period. Leave under this provision shall be computed from when first approved. During such leave, the employee shall continue to receive health care insurance, but shall not receive any other monetary benefit.

18.09 The Employer may require an employee to use accrued vacation, holiday or sick leave which shall be inclusive of the twelve (12) weeks of FMLA leave. Employees may designate forty (40) hours of accrued sick leave and forty (40) hours of accrued vacation leave not to be deducted as FMLA leave at their option. Such sick leave and vacation "banks" under this Article shall be separate.

ARTICLE XIX MILITARY LEAVE

The employer and employee agree to follow USERRA and state law.

ARTICLE XX COMPENSATION PLAN

20.01 Should an employee within a position requiring specific licensure/certification within a specific time frame be unable to obtain said licensure/certification, the above mentioned provision of "bumping-down" will not apply. That employee will be terminated.

20.02 In any case where an employee is qualified for and required to serve in a supervisory capacity, with permission, or to accept responsibilities for work in a higher classification and/or position, and if said employee shall perform these services for four (4) or more continuous hours regardless of shift, such employee shall be paid the higher of:

- a) The entrance rate of the higher assigned position/classification,
- b) A rate in a higher assigned classification which is equal to or the first/next rate in the new classification which is higher than the employee's current classification.

Provided however, the above provisions shall not apply if the class specifications specifically provide that it is part of the employee's normal duties to assume the responsibilities of the higher classification position in the absence of the employee holding the position. Normal duties shall include coverage for days off: sick leave; vacation; workers' compensation; and training for periods up to twenty-eight (28) calendar days.

20.03 When an employee is required to work overtime, either in a supervisory capacity and/or for work in a higher classification, such overtime shall be paid at the higher rate for each hour(s) or portions thereof worked in that capacity.

20.04 In the event the employee is required to be in charge of one (1) or more employees in positions of the same classification, such employee shall be paid at the same step in the next higher grade, provided, however, the assignment is for a period of four (4) or more continuous hours.

20.05 An employee may be temporarily assigned to work at any position in the same or lower classification without a change in pay rate.

20.06 The rate of compensation on a promotion, unless otherwise specifically authorized, in any case where an employee is promoted to a classification with a higher compensation level, the employee shall be paid on the basis of the higher of the following:

- a) The entrance rate for the new position, or,
- b) A rate in the grade for the new position which is equal to, or the first rate higher than the same step in the next highest grade above the employee's previous grade. Subsequent advancement through the compensation schedule shall be as determined by the compensation schedule.

For overtime purposes, the longevity payment shall be divided by 2080 and added to the employee's base rate of pay.

20.07 All employees shall be paid in accordance with the following schedule effective April 1, 2009. It is understood all step increases are based on satisfactory performance. Satisfactory performance requires that an employee has not received a loss of pay or benefits within a six (6) month period prior to the review period. All members covered by this agreement shall have their paychecks direct deposited.

SERGEANT & LIEUTENANT HOURLY RATES - 04-01-2009 2%

<u>GRADE</u>	<u>STEP 1</u>	<u>STEP 2</u>
18	29.4558	30.9285
20	32.4752	34.0984

SERGEANT & LIEUTENANT HOURLY RATES - 04-01-2010 2%

<u>GRADE</u>	<u>STEP 1</u>	<u>STEP 2</u>
18	30.0449	31.5470
20	33.1247	34.7804

SERGEANT & LIEUTENANT HOURLY RATES - 04-01-2011 2%

<u>GRADE</u>	<u>STEP 1</u>	<u>STEP 2</u>
18	30.6458	32.1780
20	33.7872	35.4760

When an employee covered by this Agreement returns to work in the same class of position after a separation of service from the Employer of not more than one (1) year, which separation was not due to discreditable circumstance, the employee shall receive the rate in which corresponding compensation schedule step received at the time of separation and shall subsequently serve thereat for at least such period as is normally required for advancement to the next higher step.

ARTICLE XXI LONGEVITY

- 21.01 Effective April 1, 1999, the below listed longevity schedule shall apply:
- a) All employees who have ten (10) years of service with the Employer shall annually receive a two and one half (2 ½%) percent increase if they have at least six (6) months of satisfactory service.
 - b) All employees who have fifteen (15) years service with the Employer shall annually receive a five (5%) percent increase if they have at least six (6) months of satisfactory service.
 - c) All employees who have twenty (20) years service with the Employer shall annually receive a seven and one half (7 ½%) percent increase if they have at least six (6) months of satisfactory service.
 - d) All employees who have twenty-five (25) years of service with the Employer shall annually receive a ten (10%) percent increase if they have at least six (6) months of satisfactory service.

21.02 It is understood all that longevity payments are based on satisfactory performance. Satisfactory performance requires that an employee has not received a loss of pay or benefits within a six (6) month period prior to the review period.

ARTICLE XXII OVERTIME WORK and PAY TYPES

22.01 A Department Head may prescribe, with the approval of the City Manager, reasonable periods of overtime work to meet operational needs. Such overtime must be reported and justified as required by the City Manager.

22.02 Employees paid on an hourly basis, and covered by this Agreement shall be paid at one and one-half (1 ½) times their regular hourly rate for any hours actually worked in excess of forty (40) hours in one (1) week.

22.03 Overtime opportunity will be distributed as equally as is practicable (at various job locations) amongst those employees regularly performing work on which overtime is necessary.

22.04 Except in emergency situations, no employee shall be required to work more than two (2) consecutive shifts, (his own and one other).

22.05 For the purposes of determining hours worked to qualify for the overtime payment calculation, the following shall apply:

- a) The normal work week schedule will not be the determinate, rather it is when the employee goes beyond forty (40) hours in a week. (For these purposes there will be no duplicating, pyramiding, or doubling of hours).
- b) Holidays: A holiday shall be considered a day worked for purposes of determining eligibility for overtime hours worked beyond forty (40) hours per week. Pay for overtime hours worked and or work on a holiday shall not be duplicated, pyramided, or counted again for the purpose of computing overtime pay.
- c) Vacation: Vacation time shall be considered as time worked for purposes of determining eligibility for overtime pay for hours worked beyond forty (40) hours per week. Pay for overtime hours worked and or work on a vacation day shall not be duplicated, pyramided, or counted again for purposes of computing overtime pay.
- d) Sick Leave: Sick leave hours taken shall be considered as time worked for the purpose of determining eligibility for overtime pay hours worked beyond forty (40) hours per week.
- e) Absence: Any other absence not provided for above shall not be construed as time worked for purposes of determining eligibility for overtime pay hours beyond forty (40) hours per week.

22.06 Employees who are required to work in excess of sixteen (16) hours within a twenty-four (24) hour period as defined above, shall be entitled to an eight (8) hour rest period before returning to work on their regularly scheduled shift on a regularly scheduled work day. In the event this rest period extends into the next regularly scheduled shift on the regularly scheduled work day within the normal work week, employees shall lose no time thereby. Other duty time such as court time or range time where officers are paid a premium rate for a predetermined amount of hours per contract will not be considered, in total, towards the total hours (16) in a twenty-four (24) hour period. The actual hours worked during "other duty time" will count toward the total hours worked in the 24-hour period. The 24-hour period begins at the beginning of the employee's scheduled shift.

22.07 In the event the employee is required to work during the rest period as set forth in Section 6 above, such employee shall be paid at a double-time rate for all succeeding hours until relieved from further duty.

22.08 When an employee is required to work overtime for a period of four (4) or more continuous hours beyond his normal shift, the employee shall be entitled to an overtime meal as authorized by his immediate supervisor. The cost of such meal shall be:

Breakfast	\$5.00
Lunch	\$6.00
Dinner	\$8.00

In order to be eligible for this allotment, the employee must present to his supervisor, a receipt for the meal in question.

22.09 Employees covered by this Agreement who report to work on their regularly scheduled work day shall be paid eight (8) hours at straight time for that day in the event scheduled work is not available.

22.10 Employees covered by this Agreement who are scheduled to work on their normally scheduled day off and who report to work at the scheduled time shall be paid three (3) hours at straight time in the event scheduled work is not available, unless notified not to report for the scheduled work by starting time on the shift immediately prior to the normally scheduled day off.

22.11 Employees who are assigned any duties on their regular shift or contiguous therewith will receive their regular pay for their normal shift and compensatory time or appropriate pay for all hours in excess of their shift.

Call-in pay: Any bargaining unit member called into work during their normal off-duty hours shall be guaranteed a minimum of four (4) hours compensatory time or pay at the appropriate rate.

Stand-by: Any bargaining unit member who is ordered to stand-by for a possible call-out shall be paid two (2) hours at time and one-half (1 ½) for each eight (8) hour stand-by. This time is not subject to overtime pay or calculation.

Range: Any bargaining unit member attending range not contiguous with his shift required by the Employer shall receive compensation at time and one-half (1 ½) the appropriate rate with the minimum guarantee of three (3) hours.

Court Time: Any bargaining unit member who is subpoenaed to be present at a court hearing other than on his regular shift will be guaranteed four (4) hours at time and one-half (1 ½).

22.12 An overtime slip requesting compensatory time must be submitted to the payroll officer which will include: dates the compensatory time was earned, and the equivalent number of compensatory time hours requested.

22.13 At the end of each calendar year, all employees covered by this Agreement shall be given the opportunity to sell back to the Employer all unused compensatory hours earned during that calendar year to the maximum of 120 hours. At termination, any unused compensatory time earned that calendar year to a maximum of 120 hours, shall be paid to the employee at straight time rate.

22.14 Each Field Training Officer shall receive one (1) additional hour per day, at time and one-half (1 ½) rate for each eight (8) hours shift in which he is assigned the duties of a Field Training Officer.

22.15 Upon retirement from the Employer as defined in the Health and Welfare Article IX, paragraph 9.04, the employee shall be able to sell back to the Employer all unused compensatory time earned to the maximum of 120 hours.

22.16 Compensatory time may be earned by department personnel for volunteer school time, department related meetings, in lieu of overtime. A maximum unit of eighty (80) overtime hours (equivalent to one hundred-twenty (120) compensatory time hours) may be earned.

22.17 Double Back pay: Employees who have a schedule change requiring them to double back to another shift or work a double shift shall be paid time and one half (1 ½) for the shift worked. This does not apply to voluntary compensatory time worked for another employee or overtime due to shift shortage or emergency where the employee is already receiving overtime pay or compensatory pay.

ARTICLE XXIII PAY FOR MEETINGS DURING REGULAR WORKING HOURS

23.01 All employees shall be paid at their established straight time rates for the time spent during regular working hours at all meetings which the Employer requires them to attend.

23.02 Employees (not to exceed two [2], the grievant and the associate), representing a Union shall be paid at their established straight time rates for time spent during regular working hours at any meetings held with the Employer pursuant to the grievance process.

23.03 Employees (not to exceed three [3]) representing the Union shall be paid at their established straight time rates for time spent during their regular working hours at any meetings held with the Employer for the negotiation of the Collective Bargaining Agreements.

23.04 The Fraternal Order of Police, Lodge No. 90, shall have three (3) union days totaling 24 man hours per contract year (April to April) to be used for continuing education or the conducting of necessary Union business. A member may be granted leave from duty with pay when using union days, upon reasonable advance notice. Such requests shall not be unreasonably denied.

ARTICLE XXIV EDUCATIONAL REIMBURSEMENT

24.01 The Employer shall reimburse the employee for the cost of tuition, books, and appropriate fees associated with an approved course of study pertaining to the employee's job, in accordance with the following provisions:

- The course of study must relate to the employee's current position or to prepare the employee for promotion within his present area of work.
- The course of study must be approved prior to beginning course work by the Department Head and City Manager.
- Reimbursement will be made for tuition, books, and appropriate fees associated with an approved course, and will only be made after the Finance Department has received notice of official grade, indicating satisfactory completion of the course of study, along with receipt for the tuition, books, and such appropriate fees associated with the approved course of study. Such reimbursement shall not exceed one thousand (\$1,000) dollars per calendar year.

24.02 The Employer will reimburse the employee for costs associated with the taking of license and certification exams provided the employee receives a passing grade. The employee will pay all license and certification renewal fees.

24.03 Effective April 1, 1999, any employee who has received an Associate Degree from an accredited University of College, shall receive additional pay in the amount of Six Hundred Dollars (\$600.00) annually, payable on the first pay period in May of each year by separate check.

24.04 Effective April 1, 1999, any employee who has received a Bachelor's Degree from an accredited University of College, shall receive additional pay in the amount of One Thousand Two Hundred Dollars (\$1,200.00) annually, payable on the first pay period in May of each year by separate check.

24.05 EDUCATIONAL REIMBURSEMENT

- a) Upon presentation of an appropriate letter from a range or training officer authorized by the Chief of Police evidencing satisfactory completion and compliance with the approved Firearms Proficiency Program, each qualifying member of the bargaining unit shall be entitled to the following payment:
 - 2009 – Seven Hundred Dollar Payment (\$700.00)
 - 2010 – Seven Hundred Dollar Payment (\$700.00)
 - 2011 – Seven Hundred Dollar Payment (\$700.00)
- b) Payments to qualifying members shall be on a lump sum basis payable on the first pay date in December. Such payments, when due, shall be included in the employee's regular paycheck.

24.06

- a) Upon satisfactory completion of one hundred twenty (120) hours of training or instruction in Police Management, Leadership Concepts and/or other Police Administration courses as certified by the Chief of Police, each qualifying member of the bargaining unit shall be entitled to the following payment:
 - 2009 – Seven Hundred Dollar Payment (\$700.00)
 - 2010 – Seven Hundred Dollar Payment (\$700.00)
 - 2011 – Seven Hundred Dollar Payment (\$700.00)
- b) Payments to qualifying members shall be on a lump sum basis payable on the 1st pay date in July. Such payments, when due, shall be included in the employee's regular paycheck.

ARTICLE XXV UNIFORMS AND EQUIPMENT

25.01 The Employer will provide the initial uniform for newly appointed police officers. In the event that employment is terminated for any reason within the first year of employment, said employee shall return the initial uniform to the Chief of Police.

25.02 Each employee covered by this Agreement, is required to wear a regulation uniform while on duty, and said employees will be paid a uniform allowance subject to the following Articles. The uniform maintenance allowance for Police Officers is one thousand dollars \$1,000 in 2009, one thousand dollars \$1,000 in 2010 and one thousand dollars \$1,000 in 2011. Said payment shall appear on the employees W-2, unless otherwise required by law. In the event that an employee covered by this Article damages such uniform in the line of duty, such damaged uniform shall be replaced by the Employer at no cost to the employee, upon certification to the Chief of Police that such damage was accidental and in the line of duty.

25.03 Each officer covered by this Agreement will accrue a monthly allowance towards the uniform maintenance for each full month service after the first anniversary year of employment. This accrued allowance will be payable at the end of December following said anniversary year.

25.04 Each officer covered by this Agreement will be paid the annual rate as indicated in Section 2 at the end of each December for each full calendar month of employment during the year. For this purpose, leave of absence shall not be included in determining a full month of employment.

25.05 In the event that employment is terminated thereafter for any reason except for just cause, the cumulative uniform maintenance allowance as accrued in Section 3, shall be paid on the last pay date immediately following the payment of earnings for the last regularly scheduled pay period .

25.06 All employees covered by this Agreement wishing to purchase a bullet proof vest, shall be reimbursed by the Employer for seventy five percent (75%) of the cost of the vest to a maximum reimbursement of seven hundred (\$700.00) dollars. Said reimbursement shall appear on the employee's W-2 form as an employee reimbursed expense for the year that the vest was purchased, provided the manufacturer's recommendation is not less than five (5) years.

25.07 Employees will operate City vehicles in a safe manner. Any accident which occurs as the result of careless or negligent operation and or behavior of the employee will result in disciplinary action up to and including termination.

25.08 The willful destruction of the Employer's, citizens, or public property will result in disciplinary action up to and including termination.

25.09 The use of Employer owned or operated vehicles and/or equipment for personal use, and/or non-Employer related matters will result in disciplinary action up to and including termination.

25.10 The Employer will reimburse the employee for authorized use of their personal vehicle at the rate established by City Council.

ARTICLE XXVI REQUIREMENTS AS TO CONTINUITY OF SERVICE

26.01 Service requirements for advancement within the compensation schedules and for other purposes as specified in this Agreement shall have the implication of continuous service, which means employment within the Employer service without break or interruption. Leave of absence with or without pay of not to exceed thirty-one (31) days shall not interrupt continuous service nor be deducted therefrom. Leave of absence without pay in excess of thirty-one (31) days, except for extended service with the Armed Forces of the United States, shall be deducted in computing total service, but shall not serve to interrupt continuous service.

26.02 All absences without leave in excess of one (1) day shall be deducted from, and all absences without leave in excess of three (3) days shall interrupt continuity of service. In the case of repeated absences without leave, the City Manager may consider the service of the employee interrupted and shall have the record of the employee to show the same.

26.03 Where the services of an employee have been terminated by the Employer for economic reasons and said employee continues to perform services for the Employer although paid under a State or Federal program, and said employee is subsequently rehired by the Employer during or immediately after the expiration of said State or Federal program shall be included as a part of length of service with the Employer and shall not constitute an interruption of Employer service for any purpose within this Article.

ARTICLE XXVII TERMINATION BENEFITS

27.01 The payment of termination pay, consisting of eligible unused but current year's vacation, accrued vacation during the current year, and unused sick leave, pursuant to Article XVI, paragraph 16.11, shall be made on the pay date immediately following the payment of earnings for the last regularly scheduled pay period. Such payment shall not extend the date of termination, and shall be computed on a forty (40) hour per week basis.

27.02 Each employee covered by this Agreement shall be presented with his/her service side arm upon retirement from the City of Painesville Police Department with twenty (20) or more years of service.

27.03 An employee retiring or terminating from the Employer may elect to receive unused current years earned vacation (earned during previous years) not to exceed eight (8) weeks, as termination pay, rather than scheduling such vacation leave during the period prior to the date of retirement or termination.

27.04 The employee may have the option to have their sick and vacation leave payment split over December of the year prior to retirement and the 1st month of the year of retirement. To qualify for said split payment, the employee must notify Human Resources two (2) months in advance of the December payment. The balance shall be paid no later than January in the year in which the employee retires. An irrevocable letter of resignation/retirement that will become effective no later than January 31st of the year of resignation/retirement will be required.

ARTICLE XXVIII WORKERS' COMPENSATION

28.01 An employee receiving a job related injury will be eligible to file a Workers' Compensation claim, and will receive continuation of salary for up to and including seven (7) months. The claim will be filed so as to allow for the payment of medical bills.

After seven (7) months, the claim will be filed as a lost time claim, and wages paid to the employee will then be offset by the Employer against monies received by the employee from the Workers' Compensation Bureau. This wage offset will continue, and be in conjunction with the previous wage continuation for up to one (1) year, twelve (12) calendar months, from the date of injury. After one (1) year, the employee will then be eligible to use sick and or vacation leave in accordance with their available sick and or vacation balance.

28.02 Payment for lost time of one (1) to seven (7) days due to service connected injury or illness, shall not be taken from accumulated sick leave if it is determined that the lost time would have been covered under Workers' Compensation laws if it had extended beyond seven (7) days. To qualify for payment under this provision, the employee must require medical attention and a signed certificate from a licensed physician must be submitted along with a sick leave form weekly, to the Employer. Claims for treatment and medicine approved by the Bureau of Workers' Compensation also will be accepted as evidence of service connected illness or injury.

28.03 Subsequent medical attention after an employee returns to work from a service connected injury or illness requiring time away from work will be charged to the employee's sick leave until such time the Workers' Compensation Bureau approves the claim for such medical treatment, and notice thereof is provided to the Employer. At that point, the time taken from sick leave accrual of the employee will be credited back to the employee as appropriate, provided the following conditions are met:

The sick leave request submitted was accompanied by a certificate signed by the attending physician and indicating the date of treatment; and a copy of the Workers' Compensation form submitted by the physician to the Bureau for payment to the physician is also attached. Should subsequent medical attention be required after six (6) months from the most recent medical treatment, an application to reactivate the claim must be filed through the Personnel Office.

28.04 Claims that are certified by the Bureau of Workers' Compensation as an aggravation of a preexisting injury and assigned the corresponding previous claim number will be treated likewise by the Employer when determining whether the injury is new for purposes of wage continuation for one (1) year from date of injury. Employees in a Bureau of Workers' Compensation Rehabilitation Plan will have their wages offset by the Employer for the duration of the plan.

28.05 Modified Work

- a) The Employer may establish a voluntary modified work program designed to provide temporary opportunity to those employees who are unable to perform their normal work assignments due to an on-the-job injury. Implementation of the modified work program shall be at the Employers option and shall be in strict compliance with applicable federal and state workers' compensation statutes. Employees on modified work will receive wage continuation. The modified work assignment will be included in the calculation of lost time for the purpose of determining the filing date for lost time claims with the Bureau of Workers Compensation seven (7) months from the date of injury.
- b) The voluntary modified work shall be offered on a nondiscriminatory basis to those employees who have sustained an on-the-job injury and who have received a medical release from the attending physician setting forth the limitations under which the employee may perform such modified work, within the Police Department.
- c) The Voluntary modified work shall be restricted to the type of work that is not expected to result in a re-injury and which can be performed within the medical limitations set forth by the attending physician. It is understood and agreed those employees who, consistent with professional medical evaluations and opinions, may never be expected to receive an unrestricted medical release, shall not be eligible to participate in a modified program.

ARTICLE XXIX TOTAL AGREEMENT

29.01 This Agreement represents the entire agreement between the Employer and the Union and unless specifically and expressly set forth in the express written provisions of this Agreement, all rules, regulations, benefits and practices previously and presently in effect may be modified or discontinued at the sole discretion of the Employer.

ARTICLE XXX GENDER AND PLURAL

30.01 Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular, and words whether in the masculine, feminine or neuter gender shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

ARTICLE XXXI HEADINGS

31.01 It is understood and agreed that the use of headings before articles or sections is for convenience and identification only and that no heading shall be used in the interpretation of said article or section nor effect any interpretation of any article or section.

ARTICLE XXXII OBLIGATION TO NEGOTIATE

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

32.02 Therefore, for the life of this Agreement, the Employer and the Union each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to negotiate 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 subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated and signed this Agreement.

32.03 Only upon mutual agreement of the parties may any provision of this Agreement be renegotiated during its term.

ARTICLE XXXIII CONFORMITY TO LAW

33.01 This Agreement shall be subject to and subordinated to any applicable present and future federal and state laws, and the invalidity of any provision(s) of this Agreement by reason of any such existing or future law shall not effect the validity of the surviving provisions.

In the enactment of legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties but controlling by the reason of facts) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not effect the validity of the surviving provisions of this Agreement, which shall remain in full force and effect as if such invalid provision(s) therefore had not been included herein.

In the event a portion of this Agreement is rendered invalid, as set forth above, upon written notification of either party, the parties shall meet within thirty (30) days to negotiate a lawful alternative.

ARTICLE XXXIV INTERNAL REVIEW PROCEDURES

34.01 At the time any employee covered by this Agreement is notified or is contacted by any supervisor in reference to any third party complaint that is likely to result in suspension or dismissal, that employee shall have the right to request the presence of his bargaining unit representative, and said bargaining unit representative shall have the right to accompany the employee during all interview sessions.

34.02 Members shall be informed of the nature of the incident prior to any questioning and shall be informed, to the extent known at the time, whether the investigation is focused on the member for a potential charge. Members shall be given a written summary of the nature of the incident or complaint prior to any questioning. If a member requests it, he shall be given a brief time prior to any questioning to locate and review any written documents he possesses regarding the event(s) being investigated in order to fully prepare himself to accurately and completely respond to the questioning. An investigating officer may accompany the member during his brief search and review of such documents.

34.03 When a member is to be interviewed in an investigation of any other member, such interview shall be conducted in accordance with procedures established herein.

34.04 Any interrogation, questioning, or interviewing of a member will be conducted, insofar as possible, at hours reasonably related to the shifts of both the interrogator and the member being interrogated, but preferably during working hours. Interrogation sessions shall be for reasonable periods of time, and time shall be allowed during such questioning for attendance to physical necessities.

34.05 All interrogations and or interviews of members shall be tape-recorded by the Division of Police at the request of either party. The member and bargaining unit representative will be afforded the opportunity, upon written request, directly to the Chief of Police or his designate, to listen to and make personal notes or verify the accuracy of a tape made of his interview subsequent to that interview,. If a transcript of a tape is made by the Division of Police, the member will be provided a copy of such transcript upon written request to the Chief of Police or his designate.

34.06 Before a member may be charged with insubordination or like offense for refusing to answer questions or participate in an investigation, he shall be advised that such conduct if continued may be made the basis for such charge.

34.07 No polygraph examination may be given without advance approval by the Chief of Police.

34.08 Any citizen alleging a wrongdoing on the part of a member of the bargaining unit will be asked to sign a complaint form. When an anonymous or unsigned complaint is made against a member and there is no corroborative evidence, then the complaint shall be classified as unfounded and the accused member shall not be required to submit a written report. Complaints designated to be unfounded shall not be included in the personnel file of the member and may not be used in any subsequent disciplinary proceeding.

34.09 A member who is charged with violating Division of Police Rules and Regulations, and his bargaining unit representative when one is involved, shall be provided access to transcripts, records, written statements, video-tapes, and results of any polygraph examinations being submitted at the hearing as evidence. Such access shall be provided reasonably in advance of said hearing. The Division of Police shall be provided access reasonably in advance to the Departmental Hearing, to transcripts, records, written statements, video-tapes, and the results of any polygraph examinations being submitted at the hearing as evidence.

34.10 Any member who has been under investigation by the Division of Police and has been interviewed shall be informed in writing of the outcome of the case at the conclusion of the investigation.

34.11 If any of these procedures are alleged to be violated, such allegations shall be subject to the grievance procedure beginning at Step 3 of the Grievance Procedure.

34.12 Classification of complaints:

- **SUSTAINED:** When the facts obtained support the complaint, the case is classified as Sustained.
- **EXONERATED:** When the evidence indicates that the act complained of did in fact occur but was legal, proper, and necessary, the case is classified as Exonerated.
- **UNFOUNDED:** The act complained of did not occur and that the complaint was false, the case is classified as Unfounded.
- **NOT SUSTAINED:** Those cases which cannot be resolved by investigation, either because sufficient evidence is not available or because of material conflicts in the evidence, are resolved in favor of the accused employee and are classified as Not Sustained.
- **MISCONDUCT NOT BASED ON THE COMPLAINT:** Should investigation reveal that the employee was guilty of misconduct not part of the original complaint, the case might be classified Misconduct Not Based on the Complaint.

ARTICLE XXXV DISCIPLINARY PROCEDURE

35.01 This procedure shall only apply to all non-probationary employees covered by this Agreement.

35.02 All employees shall have the following rights:

- a) An employee shall be entitled to representation by a Union representative at each step of the disciplinary procedure.
- b) No recording device or stenographic or other record shall be used during questioning unless the employee is advised in advance that a transcript is being made and is thereafter supplied a copy of the record, at least seven (7) calendar days prior to the date of arbitration. The cost of the transcript will be borne by the party requesting the copy of the transcript.
- c) An employee shall not be coerced, intimidated, or suffer any reprisals either directly or indirectly that may adversely affect his hours, wages, or working conditions as the result of the exercise of his rights under this procedure.

35.03 An employee may resign following the service of a Notice of Discipline. Any such resignation will be processed in accordance with the terms of this Agreement and the employee's employment shall be terminated.

35.04 Discipline shall be imposed only for just cause. The specific acts for which discipline is being imposed and the penalty proposed shall be specified in the Notice of Discipline. The Notice served on the employee shall contain a reference to dates, times and places, if possible. The Employer shall follow the concepts of progressive discipline, unless the offense(s) are of such a serious nature so that progressive discipline is not appropriate.

35.05 Where the appointing authority seeks as a penalty the imposition of a suspension without pay, a demotion or removal from service, notice of such discipline shall be made in writing and served on the employee personally or by registered or certified mail, return receipt requested.

35.06 Discipline shall not be implemented until either:

- 1) the matter is settled, or
- 2) the employee fails to file a grievance within the time frame provided by this procedure, or
- 3) the penalty is upheld at Step 4 of the grievance procedure.

35.07 The Notice of Discipline served on the employee shall be accompanied by written statement that:

- 1) the employee has a right to object by filing a grievance within seven (7) calendar days of receipt of the Notice of Discipline;
- 2) the Grievance Procedure provides for a hearing by an independent arbitrator as its final step;
- 3) the employee is entitled to representation by a Union representative at every step of the proceeding;
- 4) Only employees who have been disciplined in a manner that results in a loss of pay or benefits may appeal such disciplinary action through the grievance procedure. Verbal and written reprimands are not grievable. However, the employee may write a letter of rebuttal within ten (10) days that will be attached to the discipline.

35.08 If a grievance is filed and pursued within the time frames provided below, no penalty can be implemented, except as provided in paragraph .12, until the matter is settled or a Step 4 determination has been reached.

35.09 The following administrative procedures shall apply to disciplinary actions:

- a) The appointing authority, the employee involved, and the Union are encouraged to settle disciplinary matters informally. All parties shall extend a good faith effort to settle the matter at the earliest possible time. The appointing authority is encouraged to hold an informal meeting with the employee for the purpose of discussing the matter prior to the formal presentation of written charges. The specific nature of the matter will be addressed, and the appointing authority may offer a proposed disciplinary penalty. The employee must be advised before meeting that she/he is entitled to representation by the Union during the initial discussion.
- b) If a mutually agreeable settlement is not reached at this informal meeting the appointing authority will, within seven (7) calendar days, prepare a formal Notice of Discipline and present it to the employee and the Union. If no informal meeting is held, the appointing authority may just prepare a Notice of Discipline and present it to the employee. The Notice of Discipline will include advice as to the employee's rights in the procedure, and the right of representation.
- c) Upon receipt of the Notice of Discipline, the employee may choose to accept the proposed discipline or to appeal by filing a grievance with the appointing authority, pursuant to Step 3 of the Grievance Procedure. The appeal must be filed at Step 3 within seven (7) calendar days from receipt of the Notice of Discipline.

35.10 A failure to submit an appeal within the above time limit shall be construed as an agreement to the disciplinary action by the effected employee and Union. All subsequent appeal rights shall be deemed waived.

35.11 A disciplinary matter may be settled at any time. The terms of the settlement shall be agreed to in writing. An employee executing a settlement shall be notified of the right to have a Union representative or to decline any such representation. In the event any employee declines Union representation, the Union shall have a right to be present. A settlement entered into by an employee or the Union on his behalf, shall be final and binding on all parties. The Union shall be notified of all settlements.

35.12 An employee may be suspended with pay at any time during the process if the appointing authority, at its sole discretion, determines the employee's continued presence on the job represents a potential danger to persons or property, or would interfere with the Employer's operations. A suspension without pay may be imposed concurrent with or subsequent to the decision at Step 3 of the Grievance Procedure.

35.13 The Union on behalf of all the employees covered by this Agreement and its own behalf, hereby waives any and all rights previously possessed by such employees to appeal any form of disciplinary action (e.g. suspensions, demotion or discharge) to any Civil Service Commission.

35.14 In the administration of a discipline, the City will not take into account or consideration any prior infractions which occurred more than twelve (12) months previously for a counseling, verbal reprimand, or written reprimand; more than eighteen (18) months previously for any suspensions, provided that the employee is or has not been subjected to a reprimand or suspension during this twelve (12) or eighteen (18) month period.

ARTICLE XXXVI GRIEVANCE PROCEDURE

36.01 It is agreed that neither the Employer, its representatives and supervisors, nor the Union, will attempt to bring about the settlement of any contractual issue by means other than the grievance procedure.

36.02 A grievance is a dispute or difference between the Employer and the employee covered by this Bargaining Agreement, concerning the interpretation and/or application of this contract. The following procedures shall apply to the administration of all grievances filed under this Agreement, and shall be presented in accordance with the steps outlined below:

Step 1

An employee who believes he may have a grievance shall notify his immediate supervisor(s) of the possible grievance within seven (7) calendar days of the occurrence of the facts giving rise to the grievance. This notification shall be in writing, and shall state the aggrieved employee's name, position, date of alleged grievance, and the portion of the Agreement in question giving rise to this grievance. The presentation of this grievance shall be in the employee's own hand. The supervisor will schedule an informal meeting within seven (7) calendar days after the receipt of the grievance, with the employee, and his associate if requested by the employee, to discuss the issues in dispute with the objective of resolving the matter informally, with a written reply of the meeting to be given to the employee, the Union steward, and the Employer.

Step 2

If no satisfactory settlement is reached at the step 1, the grievance may be appealed to the Division Head, or other Employer designate, and the Local Union Staff Representative within seven (7) calendar days after receiving the reply of the step 1. The appeal shall restate the grievance, and shall include proposed remedy sought by the aggrieved party. A step 2 answer, reduced to writing, will be given to the aggrieved party within seven (7) calendar days of receiving the written appeal.

Step 3

If no satisfactory answer is reached at step 2, the grievance may be appealed to the City Manager and the Union Staff Representative or their designated alternates within seven (7) calendar days after the reply is rendered in step 2.

The appeal shall be reduced to writing, shall contain the original grievance and all subsequent answers/decisions, and be in the employee's own hand. A meeting will be held within 14 calendar days after the receipt of the Step 2 reply. A written reply will be issued as a result of this meeting within fourteen (14) calendar days following the hearing of the grievance. If no agreement can be reached by the parties as the result of such meeting, the grievance may be submitted to arbitration at the option of the Union or the Employer upon written notice of either party to the other within seven (7) calendar days after the receipt of the step 3 meeting.

36.03 The time limits set forth in the Grievance Procedure shall, unless extended by mutual written agreement of the Employer and the Union, be binding, and any grievance not timely presented, or timely processed hereafter, shall not be considered a grievance under this contract, and shall not be arbitrable. A failure by the Employer to respond in the above outlined procedure within the times stipulated, will result in the grievance being moved to the next step in this procedure.

36.04 Nothing in this Agreement prohibits an employee from personally bringing matters of a personal nature or concern to the attention of the appropriate officials of the Employer.

ARTICLE XXXVII ARBITRATION PROCEDURE

37.01 In the event a grievance is unresolved after being processed through all of the steps of the Grievance Procedure, unless mutually waived or having passed through the various steps by timely default of the Employer, then within ten (10) days after the rendering of the decision at Step 3 or a timely default by the Employer at Step 3, the Union may submit the grievance to arbitration. Within this ten (10) day period, the parties will meet to attempt to mutually agree upon an arbitrator selected from the permanent panel created by this procedure

37.02 The arbitrator shall have no power or authority to add to, subtract from, or in any manner alter the specific terms of this Agreement or to make any award requiring the commission of any act prohibited by law or to make any award that itself is contrary to law or violates any of the terms and conditions of this Agreement.

37.03 The arbitrator shall not decide more than one (1) grievance on the same hearing day or series of hearing days except by the mutual written agreement of the parties.

37.04 The hearing or hearings shall be conducted pursuant to the Rules of Voluntary Arbitration of the American Arbitration Association.

37.05 The fees and expenses of the arbitrator and the cost of the hearing room, if any, shall be divided equally by the parties. Neither party shall be responsible for any of the expenses incurred by the other party.

37.06 The arbitrator's decision and award will be in writing and delivered within thirty (30) days from the date the record is closed. The decision of the arbitrator shall be final and binding upon the Employer, Union and Grievant.

37.07 The parties shall jointly request the Federal Mediation and conciliation Service to provide a list of seven (7) impartial arbitrators. The employer shall strike one (1) name from the list, after the Union shall strike one (1) name. The above process shall be repeated until one (1) person remains on said list. The person remaining on said list shall serve as arbitrator.

37.08 The Union agrees to indemnify and hold the Employer harmless against any and all claims, demands, suits or other forms of liability that may arise out of any determination that the Union failed to fairly represent a member of the bargaining unit during the exercise of his rights as provided by the Grievance and Arbitration Procedures herein contained.

ARTICLE XXXVIII PROMOTIONAL TESTING

38.01 All promotions in rank which result in an increase in pay, or assignment to a higher pay range, shall be based upon merit and fitness as determined by a uniform examination process. It shall be the sole right and responsibility of the Employer to administer and evaluate all promotional examinations, assessments, and testing procedures. If the procedure known as an "assessment center" is used for any part of the score, the examiners administering the test shall come from outside the department. One (1) month prior to the administration of any examination, the Employer shall post on department bulletin boards, with a copy to the FOP, the structure of the examination with the weight to be granted for each factor of part of the examinations. Upon request from the FOP, the Employer agrees to meet and discuss the structure and weight factors of an examination prior to the examination being administered. Failure to request a meeting to discuss the structure and weight factors of the examination within two weeks of posting this information shall constitute a waiver of any objections to this issue. In order to be eligible for a promotional examination, an applicant must have or will have completed one year of prior service as of the date of the examination in the immediately preceding rank. The test given shall be based upon factors, references and authorities posted.

ARTICLE XXXIX DURATION OF AGREEMENT

39.01 This Agreement shall be effective as of the first day of April 1, 2009, and shall remain in full force and effect until and including the thirty-first (31st) day of March 2012. The parties agree that this Agreement shall continue to remain in force and effect until a succeeding Agreement has been negotiated. Both parties agree to commence negotiations at least sixty (60) days but not more than ninety (90) days prior to the termination date of this Agreement, in accordance with O.R.C. 4117.

ARTICLE XL EXECUTION

40.01 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed this _____ day of _____, 2009.

FOR THE UNION:

FOR THE EMPLOYER:

D. W. Kline, Capt.

Rita C. McMahon
Rita C. McMahon, City Manager

Troy Hagler, Lt.

Robert [Signature]

NOTICE OF DISCIPLINARY ACTION

TO:

FROM:

DATE:

SUBJECT: Proposed Disciplinary Action

You are hereby notified that your Appointing Authority (Employer) proposes to take the following disciplinary action against you:

You have certain rights regarding the appeal of the above proposed disciplinary action. Please read the attached information regarding these rights.

APPOINTING AUTHORITY

EMPLOYEE RIGHTS

You have been served with a Notice of Discipline. Under the labor contract you have rights as listed below. PLEASE READ THESE RIGHTS THOROUGHLY BEFORE YOU AGREE OR DISAGREE WITH ANY PROPOSED DISCIPLINARY ACTION.

If, after reading your rights and discussing the matter with your Union representative, you agree to the proposed discipline, you may simply sign this form at the bottom to note your agreement, and return it to your Appointing Authority.

If you disagree with the discipline, you should state your reasons in writing in the space provided below, and return this form to your Appointing Authority within seven (7) calendar days of receipt of the Notice of Discipline

RIGHTS

1. You are entitled to representation by the Union, to represent you at each step of this procedure.
2. You have the right to object to the proposed discipline by filing a disciplinary grievance within seven (7) calendar days of receipt of the proposed discipline with your Appointing Authority.
3. If you file your objections, the Appointing Authority will hold a formal meeting within fourteen (14) calendar days of receipt of this form to discuss the matter. You may have representation at this meeting.
4. The Appointing Authority will report his/her decision within seven (7) calendar days following the close of the hearing.
5. You will have ten (10) calendar days after receipt of the Appointing Authority's decision in which to appeal the decision pursuant to the Arbitration Procedure.
6. No recording will be made of discussions or questioning unless you are informed and are provided a copy of the transcript or record within at least seven (7) calendar days prior to the date of the arbitration. Cost of the record or transcript shall be paid by the party requesting the copy of the transcript.
7. The cost of the arbitrator will be divided equally by the parties.

APPEAL OR ACCEPTANCE OF DISCIPLINARY ACTION

To the Employee:

This form must be returned within seven (7) days to the Appointing Authority.

_____ I AGREE WITH AND ACCEPT THE PROPOSED DISCIPLINE

_____ I WISH TO APPEAL THE PROPOSED DISCIPLINE FOR THE FOLLOWING REASONS: _____

(If more space is needed, attach extra sheets of paper)

Signature: _____

Date: _____

Approved: _____

Date: _____

Appointing Authority Signature: _____

HAND DELIVERED

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2009 JUL -1 P 1:50

IN THE MATTER OF:

FRATERNAL ORDER OF POLICE,
OHIO LABOR COUNCIL, INC.,
EMPLOYEE ORGANIZATION,

}
}
}
}
}
}
}
}

Case No(s): 09-MED-01-0012
(Sergeants and above)

and,

CITY OF PAINESVILLE,
EMPLOYER.

FILING OF THE COLLECTIVE BARGAINING AGREEMENT

Pursuant to Board Rule 4117-09-07, the F.O.P. Ohio Labor Council Inc. hereby files a copy of the Collective Bargaining Agreement executed between the parties in the above captioned case(s).

Respectfully Submitted,



Tara M. Crawford
Paralegal
F.O.P., O.L.C.I.
222 East Town Street
Columbus, Ohio 43215
614-224-5700

cc: Mr. Gerald B. Chattman
Buckingham, Doolittle & Burroughs
1375 East Ninth Street, Suite 1700
Cleveland, Ohio 44114