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Contract between  
City of Westerville  
and  
United Steel, Paper & Forestry, Rubber, Manufacturing, Energy,  
Allied Industrial & Service Workers International Union  
AFL-CIO-CLC, District 1

October 1, 2009 - September 30, 2012

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## **ARTICLE 1 CONTRACT**

### Section 1.1 – Purpose

This Contract is made and entered into by and between the City of Westerville, Ohio (hereinafter referred to as the “City”), and the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union (USW), AFL-CIO-CLC, District 1 (hereinafter referred to as the “Union”) for the purpose of setting forth all covenants between the parties regarding wages, hours, terms and conditions of employment for those Members included in the Bargaining Unit identified herein.

### Section 1.2 – Severability

If a court of competent jurisdiction finds any provision of the Contract to be contrary to law, or if the parties mutually agree that any provisions if invalid by operation of law, such provision shall be of no further force and effect, but the remainder of the Contract shall remain in full force and effect. In the event of such invalidity, the parties will schedule a meeting at a mutually agreeable time, within thirty (30) days of one party’s written request to the other, to discuss alternative language on the subject matter held to be or agreed to be invalid.

### Section 1.3 – Amendment of Contract

No changes in this Contract shall be negotiated during its duration unless the parties agree in writing to amend the Contract.

### Section 1.4 – Good Faith Bargaining

The parties are obligated to bargain collectively with one another in a good faith effort to reach agreement. Good faith means that each party will deal with the chosen representatives of the other; will deal with the other honestly and in a bona fide effort to reach agreement; will meet at reasonable times and places to facilitate negotiations; will have the necessary authority to make proposals and counter proposals, to compromise, and to make agreements subject to further negotiations. Such good faith bargaining does not mean that either party is compelled to agree to a proposal or does it require the making of a concession.

### Section 1.5 – Information Furnished

The parties are obligated to provide each other with relevant financial and other information, as requested, which is necessary for each party to develop proposals and counter-proposals and to negotiate in good faith.

### Section 1.6 – Private Meetings

The parties agree to negotiate in private meeting pursuant to Section 4117.21 of the Ohio Revised Code. These meetings will be held at mutually agreeable times, during the period beginning one hundred twenty (120) days before the expiration of this Contract.

### Section 1.7 – Spokesperson

The Negotiations Committees will formally communicate with each other through a spokesman named by each party.

### Section 1.8 – Informal Minutes

Each party may informally keep its own minutes or written records of negotiations. No official transcript of the negotiations will be maintained.

### Section 1.9 – Caucus and Adjournment

Either party has the right to call a caucus at any time or to adjourn the negotiation session.

### Section 1.10 – Negotiations Committee

The City and the Union agree that four (4) Members from the Bargaining Unit will serve on the Union's Negotiations Committee. All meetings shall be conducted exclusively with said Committee, and the Union shall advise the City of the names of its Committee Members. For the purpose of negotiations with the City, Members on duty will be permitted to attend negotiation sessions in an on-duty status. But, in no case shall this time result in overtime. The Union, through the Committee, will notify the City of the names and normal shift of the Committee prior to the first scheduled negotiations date. No overtime obligation shall be incurred by the City as a result of any bargaining unit member attending work sessions or any other sessions related to negotiations. Four (4) members of the Union's negotiating team will each be granted 8 (eight) hours of release time within 2 (two) months of the contract's expiration to prepare for the successor agreement. Such release time shall only be granted after notifying supervisory personnel 48 (forty-eight) hours in advance.

The Union and the City have the right to select their own Negotiations Committee and to change Committee Members at will.

### Section 1.11 – Ratification by Council

The City shall submit to the City Council a request for approval of funds and for approval of any other matter requiring the approval of the City Council, necessary to implement the Contract reached by the Negotiations Committees within fourteen (14)

days of the date upon which the parties finalize an agreement. The City Council must approve or reject the submission as a whole.

#### Section 1.12 – Entire Agreement

The City and the Union acknowledge that during negotiations which preceded this Contract, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter within the scope 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 Contract.

Therefore, for the life of this Contract, the City and the Union each voluntarily waives the right, and each agrees that the other shall not be obligated to negotiate collectively with respect to any subject matter not specifically referred to or covered in this Contract, 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 Contract.

The provisions of this Contract shall constitute the entire agreement between the parties and all prior negotiated agreements not contained herein, and all rules, or regulations not contained herein shall not be binding upon the parties to the Contract. This Contract may be altered, changed, added to or deleted from or modified only through the voluntary consent of the parties in written and signed amendment.

#### Section 1.13 – Contract Copies

As soon as possible, following the signing of this Contract, the City and the Union shall have printed a minimum of sixty (60) copies of this Contract. Cost to print this contract shall be borne by the City.

#### Section 1.14 – Duration

All of the provisions of this Contract shall be effective from October 1, 2009, unless otherwise specified. This Contract shall continue in full force and effect until midnight September 30, 2012.

#### Section 1.15 – Successor Negotiations

At least one hundred twenty (120) days prior to the expiration date of the Contract, negotiations shall commence for a successor agreement.

## **ARTICLE 2 RECOGNITION**

### Section 2.1 – Recognition

The City recognizes the Union as the sole and exclusive representative of Members included in the Bargaining Unit described in Section 2 of this Article in any and all matters relating to wages, hours, terms and other conditions of employment, and the continuation, modification, or deletion of an existing provision of the Contract and for the administration of the current Contract between the parties.

### Section 2.2 – Bargaining Unit

The Bargaining Unit covered by this Contract consists of all full-time maintenance employees, including street maintenance, water/sanitary sewer maintenance, storm sewer maintenance, cemetery maintenance, custodial, garage maintenance, and park maintenance. Excluded from the Bargaining Unit, and thereby from coverage within this Contract, are all clerical and seasonal employees, part-time employees, supervisors, water treatment plant employees and other employees excluded under O.R.C. §4117.01(c). Reference throughout this Contract to Bargaining Members or Members means employees within the Bargaining Units unless specified otherwise.

All provisions of this contract shall apply to Members in their initial probationary period of 365 calendar days, except that neither the Union nor a Member in his or her initial probationary period of 365 calendar days, shall have the right or the ability to proceed to arbitration challenging the decision of the City to terminate the Member's employment within his or her initial probationary period of 365 calendar days.

## **ARTICLE 3 UNION SECURITY**

### Section 3.1 – Dues Deduction

The City agrees to deduct monthly Union Membership dues as certified to the City by the Union. Each Member shall present a written authorization on the appropriate form. Further, the City agrees to deduct an initiation fee from the Member's first paycheck following the Union's presentation of a signed Union card for said Member to the City.

### Section 3.2 – Fair Share Fee

- A. Members who are not Members of the Union shall as condition of employment pay to the Union a fair share fee. The amount of the fair share fee shall be determined by the Union, but shall not exceed the dues uniformly required of the Members of the Union who are in the Bargaining Unit. Such fair share fee shall be certified by the Union to the City as necessary. Such payment is subject to

internal Union rebate procedure and the Union hereby represents that its internal rebate procedure is in compliance with all requirements of State and Federal Law.

- B. For the duration of this Contract, such fair share fee shall be automatically deducted by the City from the payroll check of each Member who is not a Member of the Union. The automatic deduction shall be made in the first pay period of each month. The City agrees to furnish the Financial Secretary of the Union once each calendar month, a warrant in the aggregate amount of the fair share fees deducted for that calendar month, together with a listing of the Members for who said deductions are made. The automatic deduction shall be initiated by the City, whenever a Member, who is not a Member of the Union, has completed his or her first thirty (30) days of employment.

### Section 3.3 – Union Responsibility

The parties agree that the City assumes no obligation, financial or otherwise, arising out of the provisions of the Contract regarding the deduction of Union dues or fair share fee. The Union hereby agrees that it will indemnify and hold the City harmless from any claims, actions or proceedings including the defense thereof, by any Member arising from deductions made by the City pursuant to this Article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

### Section 3.4 – City Responsibility

The City shall be relieved from making individual dues deduction payments or fair share fee payments to the Union when a Member: (1) resigns or is separated from City employment; (2) is laid off from City employment; (3) provides written revocation of dues deduction authorization to the City and the Union; (4) is on an unpaid leave of absence when the dues deduction would otherwise be due; or (5) at any time when dues are otherwise due, fails to earn sufficient wages to permit all legally required deductions in addition to the deduction of Union dues. The City agrees to notify the Union why such deduction was not made and further agrees to make such deduction at a future date after notice from the Union of the amount still owed.

### Section 3.5 – Errors in Processing

It is agreed that neither the Members nor the Union shall have a claim against the City for errors in the processing of deductions unless a claim of error is made to the City in writing within sixty (60) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that the Union dues or fee deduction will normally be made, by deducting the proper amount. Payroll collection of dues shall be authorized for the exclusive bargaining agent only, and for no other organization attempting to represent the Members within the Bargaining Unit as herein determined.

### Section 3.6 – Bulletin Board

The Union shall be permitted to maintain a separate Union bulletin board at 350 and 370 Park Meadow Road and 350 N. Cleveland Avenue. If the City transfers the operations from any of these listed locations to a new location, said Union bulletin board shall likewise be transferred to the new location. Union bulletins, Union material, and communications of interest to Members only shall be permitted to be posted on this board. No derogatory material shall be posted on the Union bulletin board and the Union agrees to keep material neat and current.

### Section 3.7 – Ballot Boxes

The Union shall be permitted, upon prior notification to the City Manager, to place a ballot box at 350 Park Meadow Road and 350 N. Cleveland Avenue for purposes of collecting Members ballots on all Union issues subject to ballot. Such box shall be the property of the Union and neither the ballot box nor its contents shall be subject to the City's review.

### Section 3.8 – Use of Intra-Department Mail System

The Union shall be permitted reasonable use of the intra-department mail system, i.e. access to the Members' mail slots (*mail box*), for the direct distribution of materials pertaining to collective bargaining, contract administration, or other similar business germane to the Union's role as exclusive representative of the Bargaining Unit. The Union shall observe established City procedure for the distribution of all such materials; however, the material, when placed in a sealed envelope clearly marked as a Union communication, shall not be subject to review by the City and/or Department.

### Section 3.9 – Bargaining Unit Meeting at City Facilities

The Union and Members will be permitted access to any City facility as available for the conduct of business or meetings relating to issues of the bargaining unit and its Members. No member shall be denied the right to attend Union meetings within the City limits. The Union agrees to provide notice to the City and work on a space available basis when scheduling its meetings within the City guidelines relating to obtaining such places for meetings.

The union meetings will be held after the completion of first shift and any members attending while on duty will be available for and shall respond to all calls for service. Such meetings shall not exceed 90 minutes for on duty members.

## **ARTICLE 4 NO STRIKE/NO LOCKOUT**

### Section 4.1 – City Pledge

The City agrees not to cause, permit, or engage in any lockout of its employees during the term of this Agreement.

### Section 4.2 – Union Pledge

The Union agrees that neither it, its agents, representatives, nor any of its Members or any Employees covered by this Agreement, individually or collectively during the term of this Agreement, shall for any reason, cause, permit, or engage in picketing, a sit down, a strike, a boycott, a stand in, a slowdown, a work stoppage, curtailment or restriction of production or interference or interruption of work or other interference with the Employer's business or operation, including but not limited to, a general strike, a sympathy strike, a slow down or other interference or interruption of work of the Employer's business or operation.

### Section 4.3 – Applicability of Grievance Procedure

The City and Union agree that the Grievance Procedure of this Agreement is adequate to provide a fair and final determination of all grievances, arising under the terms of this Agreement. The Union and the Employer desire to avoid strikes and work stoppages and any and all other conduct set forth above in Section 4.2 of this Article.

### Section 4.4 – City's Right to Discipline

In the event that any Member or group of Members engages in any of the conduct described above in Section 4.2 during the terms of this Agreement, the Employer has the exclusive right to discipline, up to and including discharge, any Member who engages or participates in such activities.

### Section 4.5 – Union Responsibility

The Union and its officers, agents, and Members shall not authorize, condone, ratify, permit, sanction or acquiesce in any of the activities described above in Section 4.2 of this Article and, should any such activities occur, the Union, by its officers, agents, and Members, shall be obligated to take affirmative steps to terminate such activities including but not limited to promptly ordering its Members to resume their normal work duties, notwithstanding the existence of any picket line. Should the City experience any economic loss as a consequence of any Union representative or Member engaging in any activity prohibited in Section 4.2 of this Article, the Union shall indemnify the City for its economic loss.

## **ARTICLE 5 NONDISCRIMINATION**

### Section 5.1 – Gender

All references to Members in this Contract designate both sexes, and wherever the male gender is used it shall be construed to include male and female Members.

### Section 5.2 – City Pledge

The City agrees to not interfere with the rights of Members to become Members of the Union, and the City shall not discriminate, interfere, intimidate, or coerce any Member because of Union Membership or because of or regarding his activities as an officer or other representative of the Union.

### Section 5.3 – Union Pledge

The Union, within the terms of its Constitution and By-Laws, agrees not to interfere with the rights of a Member to refrain from or resign from Membership in the Union, and the Union shall not discriminate, interfere, restrain, intimidate, or coerce any Member for exercising the right to abstain from Membership in the Union.

### Section 5.4 – Joint Pledge

The City and the Union shall comply with all applicable federal, state and local laws prohibiting discrimination against any Member of the Bargaining Unit on the basis of the Member's age, race, color, gender, creed, religion, ancestry, national origin, political affiliation, disability or any other classification protected by said laws.

## **ARTICLE 6 GRIEVANCE PROCEDURES**

### Section 6.1 – Grievance Defined

A grievance is defined as an allegation that there has been a breach, misinterpretation or improper application of any part or term of this Contract.

### Section 6.2 – Qualifications & Representation

A grievance may be filed by a Member(s) or by the Union as exclusive representative to enforce its rights under the Contract or on behalf of a group of Members who are affected by the act or condition, giving rise to the grievance in the same or similar manner. The Union shall not process a grievance on behalf of any Member without the Member's knowledge and consent. A Member has the right to present grievances and have them adjusted, without intervention of the Union, as long as the adjustment is

consistent with the terms of this Contract and as long as the Union is present at the adjustment.

The Union shall designate one (1) Member from each department to serve as Grievance Representative. In addition, one (1) Member shall be designated by the Union to be Grievance Chairman. The names of such representatives shall be furnished to the City.

### Section 6.3 – Jurisdiction

This Grievance Procedure does not deny Members the opportunity to appeal to and/or exercise their legal right to appear before any judicial or administrative forum. However, if a Member elects to pursue a remedy under the Grievance Procedure, he is precluded from seeking a remedy under an administrative tribunal or court. On the other hand, if a Member elects to pursue a judicial or administrative remedy, and such administrative tribunal or court takes jurisdiction, a Member is thereafter precluded from seeking a remedy under the Grievance Procedure.

In that this Grievance Procedure culminates in final and binding arbitration, the City shall have no jurisdiction to receive and determine any appeals relating to matters that are a proper subject under this Grievance Procedure except where otherwise provided by law.

### Section 6.4 – Grievance Procedure

The following implementation steps and procedures apply in processing grievances:

#### A. Introduction

1. A grievance signed by two (2) or more Members shall automatically begin at Step Two of the Grievance Procedure.
2. A grievance/appeal of a disciplinary decision made by a Department Head or his designee under Section 10.3 shall proceed directly to Step Three.
3. A grievance/appeal of a disciplinary decision made by the City Manager or his designee under Section 10.3 shall proceed directly to Arbitration.

#### B. Step One

1. Members having an individual grievance must first attempt to resolve it with their supervisor by providing their supervisor a written and signed grievance form during normal working hours from 7:00 a.m. to 5:00 p.m. within seven (7) calendar days of the event(s) or circumstance giving rise to the grievance. Any grievance not submitted within the seven (7) calendar days following the date of the events or circumstances giving rise

to the grievance shall not be considered unless a time extension, as provided in Section 6.6 applies. Such grievance must be signed by the grievant and a union representative and shall provide an adequate description of the reasoning for the grievance including a reference to the specific contract language and section that the Member alleges has been violated.

The Division Supervisor having date stamped and received such a grievance must, with fourteen (14) calendar days, meet with the grievant and grievant representative and provide a response in writing.

If the grievant is not satisfied with the Supervisor's response, the Union may pursue the grievance to Step Two.

C. Step Two

1. When a grievant determines that the Division Supervisor's response in Step One is unsatisfactory or when a grievance is signed by two or more members, the grievant(s) may submit the grievance in writing to the Department Head on the Grievance Form agreed upon by the parties. The Grievance Form must be submitted to the Department Head during normal working hours from 7:00 a.m. to 5:00 p.m. within seven (7) calendar days following either the Division Supervisor's response at Step One or the event(s) or circumstance giving rise to the grievance signed by two or more members. Any grievance submitted after the seven (7) calendar day time limit shall not be considered unless a time extension as provided in Section 6.6 applies. The Department Head will provide for the date stamping of the grievance.
2. Within fourteen (14) calendar days of receipt of the grievance, the Department Head must conduct a meeting with the grievant. The Department Head shall provide the grievant with a decision in writing within fourteen (14) calendar days of the meeting unless a time extension as provided in Section 6.6 applies. The Department Head shall date and sign the response, returning one copy of it to the grievant and the grievance representative. The Department Head shall fully investigate the concerns of the grievant. If the grievant does not appeal the grievance to Step Three of the Grievance Procedure within seven (7) calendar days after receipt of the Step Two response, the grievance shall be considered to be satisfactorily resolved. The grievant may have a grievance representative at this hearing, but the grievant may not call witnesses nor disrupt the meeting in any way.

D. Step Three – City Manager

1. If the grievant is not satisfied with the Step Two response or when a grievance is based on a disciplinary decision made by a Department Head or his designee under Section 10.3, the grievant may appeal the grievance response or disciplinary decision to Step Three. To initiate a Step Three hearing, the grievant must submit a Grievance Form to the Office of the City Manager along with the written response at the prior Steps, the disciplinary decision and any other pertinent documents within seven (7) calendar days of the grievant's receipt of the Step Two response or the Department Head's disciplinary decision. The City Manager shall stamp the Grievance Form to accurately reflect the date of receipt. The City Manager or his designee will also coordinate the scheduling of this meeting with the union's staff representatives.
2. Within seven (7) days of receipt of the Grievance Form, the City Manager or his designee shall provide written notice to the union's staff representatives to schedule a meeting to discuss the grievance with the grievant and appropriate representatives from the Union. If the Union staff representative does not respond within ten (10) days of receipt of the written notice, the grievance shall be considered satisfactorily resolved. The City Manager or designee may be joined in the meeting by the Department Head or other representative. The parties intend that the Step Three meeting be scheduled as soon as possible, and no later than twenty-one (21) days from the City Manager's receipt of the Grievance Form unless a time extension as provided in Section 6.6 applies.
3. In the Step Three meeting, the grievant or appropriate representative may provide the City Manager or his designee a full explanation of the grievance and the material facts relating thereto. The City may also question the grievant in this meeting and shall retain the right to fully investigate all related facts. The grievant or the union may provide to the City Manager or his designee a list of possible witnesses who may speak on the grievant or union's behalf. The City Manager or his designee will schedule such witnesses to appear at this hearing as necessary. All witnesses identified by the grievant or the union need not be scheduled by City if their testimony would be repetitive.
4. Unless a time extension as provided in Section 6.6 applies, the City Manager or designee shall respond to the grievant in writing within fourteen (14) calendar days of the Step Three meeting.
5. Should the grievant not be satisfied with the City Manager or his designee's Step Three response, he shall notify a Grievance Representative of his desire to proceed to arbitration. The Grievance Representative will present the grievant's request for arbitration to the

Union. Should the Union determine to proceed to arbitration with grievant, the Union shall so notify the City in writing. This written notification shall be delivered by hand or received by the City Manager within seven (7) calendar days after the grievant's receipt of the Step Three response.

#### Section 6.5 – Time Off for Presenting Grievances

A Member and Grievance Representative shall be allowed time off from regular duties with pay for attendance at scheduled meetings under the Grievance Procedure with prior approval of their respective supervisors and such approval shall not be unreasonably withheld. If approval is withheld, any applicable time limit shall thereby be extended for the period of time necessary to allow the Grievant and/or Grievance Representative time off to attend such meetings. A grievant or grievance representative shall not be compensated for time spent in a grievance meeting that is not held during their scheduled shift hours. At no time shall attendance at a grievance meeting by a Grievance Representative result in overtime pay.

#### Section 6.6 – Time Limits

The City and Union intend that all time limits in the above Grievance Procedure be met. However, to the end of encouraging thoughtful responses at each Step, the parties' designated representatives may mutually agree, at any Step, to a time extension, but any such agreement must be in writing and signed by the parties. In the absence of an extension, the grievant may, at any Step where a response is not forthcoming within the specified time limits, presume the grievance to have been advanced to the next Step in the Procedure on the day following the expiration of the time limit. Any step in the Grievance Procedure may be waived by mutual consent. "Day" for purposes of this section shall mean a calendar day. Any grievance not filed or appealed within the time limits set forth in this section shall be waived and forfeited.

If an office specified for receipt of a grievance, grievance appeal, or grievance response is closed for an entire day, which day is the last day of the time period prescribed for the filing of or response to a grievance or grievance appeal, then a grievance, grievance appeal, or response may be filed on the next day on which such office is open. Dates for this process shall be established by the dates the required written responses are delivered to and signed by the Member or the Member's Union representatives.

#### Section 6.7 – Representatives in Meetings

The Article 6 Grievance Procedures provide for the attendance of certain specific representatives at each step. Usually, these will be the only representatives in attendance, however, the parties understand that, in the interest of resolving grievances at the earliest possible step, other representatives, not specifically designated, may be in attendance, subject to the parties' mutual agreement.

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#### Section 6.8 – Grievance Forms

The City and the Union shall agree on a Grievance Form. Such form will be supplied by the Union and made available to Grievance Representatives. The Grievance Form shall include sections for the listing of the specific Articles and Section of the Contract at issue, the events and facts leading to the grievance, and the remedy sought.

#### Section 6.9 – Appeal from a Disciplinary Decision

As provided in Section 10.4, the Union may appeal a disciplinary decision made by a Department Head or his designee directly to Step Three in the grievance procedure set forth in Section 6.4. Further, as provided in Section 10.4, the Union may appeal a disciplinary decision made by the City Manager or his designee directly to arbitration without resorting to the steps in the grievance procedure set forth in Section 6.4. Such appeal to arbitration must be made with the approval of the International Staff Representative within fourteen (14) calendar days of the Member's receipt of the disciplinary decision of the City Manager. In order to invoke the arbitration process, the appeal must be postmarked or hand-delivered to the City Manager within the fourteen (14) calendars day period.

#### Section 6.10 – Non-Discrimination

No Member shall be removed, disciplined, harassed or discriminated against because he has filed or pursued a grievance under this procedure.

## **ARTICLE 7 ARBITRATION**

#### Section 7.1 – Selection of Arbitrator

Within fourteen (14) calendar days following the receipt of the International Staff Representative's written notification of the Union's intention to proceed to arbitration, the City Manager or his designee and the International Staff Representative or his designee, will consult and attempt to select an impartial arbitrator by mutual agreement. In the event these representatives cannot reach agreement on an arbitrator, by joint letter the parties will request the American Arbitration Association, or the Federal Mediation Conciliation Services, to submit a panel of seven (7) arbitrators from which the City and the Union shall select by mutual agreement. If an agreement cannot be reached as to one mutually acceptable arbitrator from the panel, an arbitrator will then

be selected by the representatives from the parties by alternatively striking names and selecting the final remaining name. Either party shall have the option to completely reject the list of names and request another list only once.

### Section 7.2 – Authority of Arbitrator

The arbitrator shall conduct a fair and impartial hearing on the grievance taking testimony and evidence from both parties unless the parties mutually agree to submit their dispute in written stipulations. The arbitrator shall not have authority to add to, subtract from, modify, change or alter any provision of this Contract. The arbitrator shall expressly confine himself to the precise issue(s) submitted for arbitration and shall, absent mutual agreement of the parties, have no authority to determine any other issue not so submitted to him. The arbitrator shall not issue observations or declarations of opinion, which are not directly essential in reaching a decision on the issue(s) in question. The arbitrator shall not establish any new or different wage rates not negotiated as part of this Contract. In disciplinary cases, the arbitrator shall have the authority to affirm, disaffirm or modify said discipline. Members who are subpoenaed by the arbitrator to testify at an arbitration hearing shall be compensated.

The question of arbitrability of a grievance may be raised by either party before the arbitrator hears the merits of the grievance. If a question of arbitrability is raised, the arbitrator may either rule on this issue or reserve ruling on the same, or hear the merits of the grievance before issuing a ruling on this question.

The decision of the arbitrator shall be final and binding upon the Union, the grievant, and the City.

### Section 7.3 – Arbitration Costs

The costs of any proof produced at the direction of the arbitrator, and the rent, if any, for the hearing room shall be borne equally by each party. The expenses of any non-Member witnesses shall be borne, if at all, by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. Any affected Member in attendance for such hearing shall not lose pay or any benefits to the extent such hearing hours are during his normally scheduled working hours on the day of the hearing. All costs directly related to the services of the arbitrator shall be paid by the losing party.

If there is a dispute as to who is the losing party, the arbitrator shall make such determination. If the arbitrator upholds the position of each party in part, the arbitrator shall allocate which fees shall be borne by each party. Nothing herein precludes the parties' ability to reach a settlement wherein the arbitrator's fees are allocated by mutual agreement of the parties.

#### Section 7.4 – Arbitrator’s Award

The arbitrator’s decision will be in writing and should be mailed to the Union and the City within thirty (30) days from the date of the hearing record is closed.

### **ARTICLE 8 MANAGEMENT RIGHTS**

#### Section 8.1 – Management Rights and Responsibilities

To the extent provided by law, the City retains the exclusive right and authority to administer the business of the City of Westerville, and other functions and responsibilities which are required by law, and the full right and responsibility to direct the operations of the department, to promulgate rules and regulations and to otherwise exercise the prerogatives of management, which more particularly include but are not limited to the following:

- A. Determine matters of inherent managerial policy which include but are not limited to, areas of discretion or policy such as the functions and programs of the public employer, standards of service, its over-all budget, utilization of technology, and organizational structure.
- B. Direct, supervise, evaluate or hire Members.
- C. Maintain and improve the efficiency and effectiveness of governmental operations.
- D. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted.
- E. Suspend, discipline, demote, or discharge for just cause, or layoff, transfer, assign, schedule, promote, or retain Members.
- F. Determine the adequacy of the work force.
- G. Determine the overall mission of the City as a unit of government.
- H. Effectively manage the work force.
- I. Take action to carry out the mission of the public employer as a government unit.

#### Section 8.2 – Matters Bargained and Not Bargained

The exercise of the foregoing powers, rights, authority, duties and responsibilities, the adoption of reasonable policies, rules and regulations and practices in furtherance

thereof, and the use of judgment and discretion in connection therewith shall be limited only by the express terms of this Contract. In the event the City takes action on a subject which is mandatory subject of bargaining, the Labor Relations Committee shall be notified and shall have the right to discuss such action first with the Department Head and, if not satisfied, with the City Manager or designee.

## **ARTICLE 9 WORK RULES AND DIRECTIVES**

### Section 9.1 – Work Rules

The City agrees that to the extent reasonable, work rules, and any changes thereto, shall be reduced to writing, provided to all Members 14 calendar days in advance of enforcement, to the extent practicable.

### Section 9.2 – Effect of Work Rules

Any charge by a Member that a work rule is in violation of this Contract shall be the proper subject of a grievance, as is a charge that a work rule had not been applied or interpreted uniformly to all affected Members. No Member shall be disciplined for an alleged violation of a work rule that has not been promulgated as set forth in Section 9.1 of the Article.

## **ARTICLE 10 DISCIPLINARY ACTION AND RECORDS**

### Section 10.1 – Disciplinary Action for Cause

No Member, who has successfully completed his probationary period, shall be disciplined without cause. "Cause" may include, but is not limited to:

Incompetency; inefficiency; dishonesty; immoral conduct; insubordination; neglect of duty; refusal to obey an order of proper authority; possession of alcohol or illegal substances on City property; reporting for duty or work under the influence of alcohol or drugs; being intoxicated or using drugs while on duty; being intoxicated or on drugs while on City property, violating the City's drug free work place policies; the failure to take a required drug or alcohol test; the use of illegal substance or the misuse of legal drugs; being habitually tardy or absent; falsification of any records and/or records of employment data; leaving one's post without notifying Division Supervisor; sexual harassment; exhibiting harassment of a citizen or fellow employee; the illegal destruction or removal of private or City property; failure to immediately report absences, accidents, personal injury or the incurrance of infectious disease; giving, taking or accepting a bribe; conviction of a crime; conviction of driving a motor vehicle while intoxicated; conviction of a violation of Ohio Revised Code Section 4511.19 or similar municipal ordinances relating to operating a motor vehicle while under the influence or with a prohibited

concentration of alcohol; failure to take proper care of, or abuse of, City property, improper use of City's information systems, excessive motor vehicle violations which may cause that employee to become uninsurable under City's insurance policies, misuse of City radio equipment, violation of departmental or City administrative rules, and not inconsistent with this Agreement; failure to discharge the duties of his/her employment; unauthorized use of any City property; any other failure of good behavior; violations of smoke-free policies; or any other acts of misfeasance, malfeasance, or nonfeasance in his/her job; or any off-duty illegal conduct/behavior where there is a reasonable nexus to the individual's employment with the City.

This listing is meant to serve as a guide and is not inclusive of all offenses. Further, Departmental regulations may extend this list covering more specific violations within each department.

### Section 10.2 – Progressive Disciplinary Action

The principles of progressive disciplinary action will be followed with respect to minor infractions as determined by the Department Head. The progression may include a minor reprimand, a written reprimand, and a suspension without pay prior to demotion or dismissal. The City may deviate from this progression for serious job related misconduct or for any criminal misconduct.

### Section 10.3 – Disciplinary Process

- A. Pending a disciplinary hearing, the Department Head or other authorized City designee may, depending upon the severity of charges, place the Member on a paid administrative leave or reassign the Member. Whenever the Member is reassigned or placed upon such a paid administrative leave, the Department Head shall provide to the Member, in writing:
  - 1. The specific allegations against the Member;
  - 2. A brief listing of the evidence.
  
- B. For allegations that could result in suspension or a recommendation of demotion or termination, the Department Head or designee shall hold a hearing within fourteen (14) days of the 10.3(A) notice if the Member has been placed on paid administrative leave. If the Union requests a continuance beyond the 14 day period, a Member on paid administrative leave must then use either vacation leave, personal leave, or holiday leave for any continuance beyond 14 days. Paid administrative leave may be extended beyond 14 days if the City is unable to complete its' administrative processes within the prescribed time frames. Provided however, if the Member unreasonably delays the disciplinary procedure, the City may suspend the Member without pay pending the final decision.
  
- C. At the Department Head's hearing, the Member shall have right to the presence of a Union representative, but no right to call witnesses. The Department Head

shall again present the allegations being made against the Member and ask the Member to fully respond.

- D. Within fourteen (14) days of the Department Head's hearing, the Department Head shall decide what discipline, if any, is appropriate and notify the Member in writing of same. The Department Head may suspend the Member, or the Department Head may recommend demotion or termination of the Member to the City Manager. If suspended, the Member shall have seven (7) days from receipt of the notice of suspension to file a grievance, which shall begin at Step Three of the Grievance Procedure in Section 6.4. A recommendation of demotion or termination shall be forwarded to the City Manager with a copy provided to the Member. Nothing shall preclude the Department Head from continuing any investigation after the hearing with the Member.
- E. Upon receiving a recommendation of demotion or termination from the Department Head, the City Manager or his designee, shall schedule a City Manager Hearing within 14 days from receipt of the recommendation. The City Manager shall appoint a hearing officer to conduct the hearing, to fully investigate the allegations and to provide a written report for the City Manager and Member within fourteen (14) days of the conference. The City Manager shall render a decision within seven (7) days from the date of the final report from the hearing officer.
- F. The Member may: (1) appear, with or without a chosen representative at the City Manager Hearing to present an oral or written response to the reasons for the proposed disciplinary action; or (2) elect in writing to waive the right to a City Manager Hearing.
- G. At the City Manager Hearing, the Member will be asked to respond to the reasons for the proposed action. Failure to respond, or to respond truthfully, may result in further disciplinary action. As indicated above, the Member may be represented at the City Manager Hearing, and may present any document or testimony relevant to the reasons for the proposed disciplinary action. The Member, the Member's representative (if any), the Department Head, the legal representative of the Department Head of City Manager (if any), and/or the person conducting the hearing may question any witness.
- H. The City Manager Hearing will be conducted informally with recognition at all times that its purpose is to give the Member an opportunity to respond to the reasons for the proposed disciplinary action and present his/her side of the story. The person conducting the conference and/or the Member may tape record the conference or use a stenographer.
- I. After reviewing the final report, the City Manager or his designee will determine what discipline, if any, is appropriate. In all cases, if it is ultimately determined that discipline is not warranted, the Member will return to work as directed by the City Manager.

#### Section 10.4 – Appeal from Disciplinary Decision

The Member may appeal a disciplinary decision made by the Department Head or designee directly to Step Three – City Manager – without resorting to Steps One or Two in the grievance procedure set forth in Section 6.4. To appeal, the Union must file a Grievance Form with the City Manager within seven (7) days of receipt of the notice of suspension in conformance with Article VI.

The Union may appeal a disciplinary decision made by the City Manager directly to arbitration without resorting to the Steps One through Three in the grievance procedure set forth in Section 6.4. An appeal to arbitration must be made with the approval of the International Staff Representative within fourteen (14) calendar days of the Member's receipt of the disciplinary decision. In order to invoke the arbitration process, the appeal must be postmarked or hand-delivered to the City Manager within the fourteen (14) calendar day period.

#### Section 10.5 – Duration of Records

All actions of record, including performance reviews, minor reprimands, written reprimands, demotions, suspensions, or dismissal will be maintained as paper copies in each Member's personnel file. Copies of commendations, letters of appreciation and like matters concerning an individual Member shall also be maintained in his personnel file. Minor reprimands and written reprimands may, upon written request from the Member, be removed from a Member's file after two (2) years if no further disciplinary action has occurred. Suspensions or demotions may, upon written request of the Member, be removed from Member's file after five (5) years if no further disciplinary action has occurred. Records removed under this section shall be placed in a separate file so designated by the Westerville Records Commission and shall not be used for any administrative purpose.

#### Section 10.6 – Review of Personnel Files

Files are maintained by the Department Head, and the City Manager for each Member. For the purpose of public review, promotions, and discipline, the City Manager's file shall be considered the Member's official City Personnel File. All requests to see the Personnel File shall be made to the City Manager's office. The City reserves the right to have someone present when a Member reviews a Personnel File.

A Member will have the ability to simultaneously review both the Department's file and the Personnel File at the time of the Member's annual evaluation. Every Member shall be allowed to review and copy at no charge any of his Personnel File at any reasonable time upon written request. A Member may also authorize his Union Representative to review the Personnel File.

### Section 10.7 – Inaccurate Documents

Should a Member have reason to believe there are improper or inappropriate documents in his file, the Member may notify his Department Head in writing of the alleged improper or inappropriate information. The Member shall have the right to submit a written statement detailing his objections to the materials in question. No document shall be placed in a Member's personnel file unless a copy has also been made available to the Member.

### Section 10.8 – Performance Evaluations

- A. Any performance evaluation will be reviewed by the Member. The Member will be able to make his written comments on or attached to the evaluation form, such comments will pertain to the evaluation and those comments will be maintained in any file in which the City uses for a performance evaluation.
- B. All Members shall be evaluated annually. Additional evaluations may be utilized if authorized by the City. Members in their initial probationary period per Section 2.2 and Members serving promotional probationary periods shall be evaluated after six months and after one year in any position in conformance with Article 14.
- C. Each Member shall have the opportunity to meet with his/her Division Supervisor and/or the Division or Department Head to discuss each performance evaluation. Each performance evaluation must be signed by the Member, the Division Supervisor, and the Division or Department Head.
- D. Members dissatisfied with their performance evaluations may seek an additional review with the City Manager or designee. Such Member should sign in disagreement with their performance review to initiate the additional review process.
- E. Anniversary dates for performance evaluations shall be the date upon which that Member was assigned to his or her position.

### Section 10.9 – Employee Counseling

A Member may be issued a counseling form as a training tool. Such counseling forms shall not be considered disciplinary in nature, must be shared with the Member, and shall not be retained in the Member's personnel file.

### Section 10.10 – Written Reprimands

The City agrees that all written reprimands will be issued within 21 (twenty-one) calendar days of the occurrence of the infraction or within 21 (twenty-one) calendar days of the City receiving notification of the action or event.

## **ARTICLE 11 LABOR RELATIONS MEETINGS**

### Section 11.1 - Informal Discussions

The City and the Union recognize the benefit of an exchange of ideas and information. For this reason the Department Heads welcome the designated Union representatives to meet with them and informally discuss matters of mutual interest and concern to the Union and City. Permission to meet with the Department Heads will not be unreasonably withheld and shall not require addressing the chain of command.

### Section 11.2 - Labor Relations Meetings

Labor management meetings may be called on a quarterly basis by either party submitting a written request for said meeting with a proposed agenda to the other party. Agendas shall be finalized in advance by the City Manager's office. Minutes will be compiled by the City Manager's office for distribution, review and approval at the next meeting.

### Section 11.3 - Authority

Labor relations meetings shall not be collective bargaining negotiations. The Labor Relations Committee shall have no authority to collectively bargain for either party or to modify, add to or delete from the provisions of this Contract.

### Section 11.4 - Members

Each department head or a designee of each department head shall attend the meeting. The Union may have four representatives, one who may be the Union's staff administrative representative. The City Manager or his designee and the Human Resource Manager shall attend to facilitate the meeting. Members acting as the Union representatives, who are on duty may attend, but in no case shall such attendance result in overtime.

## **ARTICLE 12 HEALTH AND SAFETY**

### Section 12.1 – Health and Safety

The parties agree that safety is a primary concern and responsibility of the City, the Members, and the Union. In this regard:

- A. The City agrees to provide safe working conditions and equipment for Members.
- B. The Members accept the responsibility to follow all safety rules and safe working

methods of the City. All unsafe working conditions or practice shall be reported by Members to their supervisor as soon as any unsafe working condition or practice is known, and any accident involving a Member or City equipment, regardless of whether injuries incurred, occurring during working hours shall be reported to the Division Supervisor at once.

- C. The City and the Union shall consider and discuss safety and health related matters and explore ideas for improving safety at the Labor Relations Committee meetings.
- D. Any Member found to be willfully negligent in equipment operation, resulting in either damage to the equipment or an accident, shall be subject to immediate termination. All Members who drive City vehicles will maintain the appropriate speed limits. Whenever provided in City owned or operated equipment the use of seat belts and hearing protection are mandatory. Violators are subject to disciplinary action, including termination.
- E. Members working on construction or maintenance crews are required to wear the prescribed safety equipment (e.g., hard hats in areas of overhead construction and/or equipment, hats and/or vests in traffic conditions, etc.; flagmen are required to wear hats and vests at all times).
- F. Violators of this Article could face disciplinary procedures.
- G. All mandatory personal protective equipment will be provided by the City, consistent with the uniform policies defined in this Contract.
- H. Safety Committee

The USW and the City recognize the Safety Team exists within the City of Westerville to assist management and staff in providing a work environment that is free from recognized hazards. The Safety Team will meet on a regular basis and will function as a forum for reviewing the City's Safety programs, policies, and training programs. The Safety Team shall be authorized to make recommendations for improvements in safety programs, policies and training programs. Employees are encouraged to bring to the attention of management and/or the Safety Team any circumstances believed to be unsafe work practices or conditions.

The USW and the City recognize the Safety Team will consist of City employees as designated by management and bargaining unit members as designated by the Union. The Union shall designate one (1) member from each department and an alternate from each department to serve as a representative to the Safety Team. The names of such representatives shall be furnished to the City.

## **ARTICLE 13 INCLEMENT WEATHER**

### Section 13.1 – Inclement Weather

- A. The City recognizes that on certain days it may be difficult or impossible for a scheduled employee to come into work, due to excessive snow, ice, or other inclement weather. The City encourages its employees to come into work on such occasions, only if in the employee's judgment, they are able to do so in a safe manner. If in the opinion of the City Manager such inclement weather conditions exist, the following policy specifies the guidelines for payment of wages on such days.
  
- B. Scheduled employees who are able to come into work on such inclement days shall be paid their regular wage for actual time worked. Those employees who are not able to come into work due to inclement weather shall have the option of receiving an excused day off without pay or using time from vacation hours, compensatory time or personal leave.

## **ARTICLE 14 SUBSTANCE ABUSE AND TESTING**

### Section 14.1 - Purpose

The City and the Union recognize that the ability of a Member to properly perform his or her duties depends, in part, on a workplace that is free of substance abuse. The City and the Union shall work to promote such a workplace and to provide Members who may be drug or alcohol dependent with an opportunity for treatment and to remain productive Members of their respective department. It is the purpose of this article to provide a method for responding to the risks presented by the possible presence of substance abuse in the workplace by:

- A. Dealing with incidents of substance abuse that present a reasonable likelihood of significant risk to Members, the general public, or other employees of the City;
  
- B. Providing assistance to Members with drug or alcohol dependency problems;
  
- C. Providing for the necessary corrective actions or discipline;
  
- D. Providing a “two strike policy” in an effort to focus upon the rehabilitation goals of this substance abuse Article. This policy shall provide Members with the opportunity to enter and complete a rehabilitation program consistent with all sections of this Article. Positive tests for illegal substances, abuse of illegal substances or the misuse of alcohol shall be considered a “strike” whenever such tests result from random testing, reasonable suspicion testing or a failure of a

Member to cooperate with a voluntary referral;

- E. Nothing in this Contract shall limit the right of the City to conduct any substance abuse tests it may deem appropriate for persons seeking employment prior to their date of hire. The parties agree that the Union has no role or responsibility with regard to any such pre-employment testing.
- F. Nothing in this Contract shall limit the right of the City to conduct testing of Members whose job duties require that said Members have a Commercial Drivers' License ("CDL"), so long as said testing is in conformance with the State of Ohio's requirements for the Member to maintain a CDL. The parties agree that the Members subject to CDL substance testing shall not in any way be exempted from any of the other provisions of this Article.

#### Section 14.2 - Responsibility

Although it is the responsibility of every Member to be alert to potential incidents of substance abuse in the workplace, it is the primary responsibility of supervisors to initially respond to such incidents, particularly where circumstances are felt to pose a reasonable likelihood of significant risk to the public safety. Supervisors shall take such action, not inconsistent with this article, as they deem appropriate to eliminate immediate risks associated with any incident of potential substance abuse.

#### Section 14.3 - Definitions

The following definitions shall govern this article:

- A. "Under the Influence" means that the Member is using illegal drugs or misusing alcohol or legally prescribed drugs or the combination of any illegal drug and alcohol.
- B. "Legal Drug" means prescribed drugs or over-the-counter drugs, which have been legally obtained for the user and are used for the purpose for which they were prescribed and manufactured.
- C. "Illegal Drug" means any drug (1) which is not legally obtainable, or (2) which is legally obtainable but has not been legally obtained; and prescribed drugs not being used for prescribed purposes.
- D. "Reasonable Belief" is an articulated belief that a Member is using illegal drugs or misusing alcohol. This belief must be drawn from specific and particularized objective behavior and conduct exhibited by the Member and reasonable inferences therefrom. Reasonable belief may be based upon a Member's slurred speech, odor, disorientation, abnormal appearance, conduct or behavior, work-related accident or other observable cause.

E. "Supervisor" means a non-Member management level employee.

Adulterating, attempting to adulterate, refusing to test or attempting to defraud a test will subject a Member to discharge.

#### Section 14.4 - Prohibited Conduct

For purposes of this Article, a Member shall not, while performing his or her duties for the City, or while in a City facility or vehicle, or at any time while in uniform or wearing apparel that identifies the Member as an employee of the City:

- A. Report to duty, remain on duty, or perform his/her duties under the influence of alcohol;
- B. Report to duty, remain on duty, or perform his/her duties while being under the influence of any illegal drug, or while using any legal drug be impaired to the point that he or she cannot satisfactorily perform his or her assigned duties;
- C. Unlawfully use, sell, purchase, transfer or possess alcohol or an illegal drug.
- D. Fail to report immediately to their supervisor any duty-related restrictions imposed as a result of prescription or over-the-counter medications;
- E. Consume or possess alcohol at any time while on duty or anywhere on City premises.

#### Section 14.5 - Reasonable Belief Testing

A Member shall be tested for alcohol or illegal drug use where a supervisor has reasonable belief that the Member has violated any provision of Section 14.4, Prohibited Conduct, above. Such testing may also occur where a supervisor has such reasonable belief arising out of a work-related accident. Where a Member has been ordered to undergo reasonable belief testing, he or she shall be placed on paid administrative leave pending receipt of the test results. If the test results are negative, the Member shall be returned to assigned duties.

A Member's refusal or failure, when ordered, to timely submit to testing permitted under this article may subject a Member to discipline, including discharge. By taking a test, a Member does not waive any objection or challenge he or she may possess. Within forty-eight (48) hours after the time the Member is ordered to submit to a test, the City shall provide the Member with a written notice setting forth the information and observations that form the basis of the order.

Upon determining that a Member must submit to a reasonable belief test for alcohol or illegal drug usage, the supervisor shall give the Member the opportunity, prior to the test, to request the presence of, or to seek the advice from a Union representative. The

Member and the Union representative, if available, shall be given an opportunity to communicate any information or other explanation relevant to the circumstances to the supervisor. The supervisor shall then determine, after considering all of the circumstances, whether the test shall be administered. If the supervisor determines that a test shall be given, testing shall be made immediately after discussion with the Member and the Union representative, if available, but no more than one hundred and twenty (120) minutes after the reasonable belief determination has been made, whichever is sooner. The Union representative, if available, may accompany the Member to and be present with the Member at the collection agency. Should a Union representative not be readily available and the supervisor believes time is critical in determining whether the Member is impaired, the supervisor may direct the Member to submit to testing immediately.

A Member who is subject to testing shall be placed on paid administrative leave pending completion of the testing process.

The fact that a Member may have been taking a legal drug shall not preclude the administration of a drug test if the supervisor has reasonable belief to believe that the member's satisfactory work performance has been adversely affected by the presence of such a legal drug; provided, however, that the ultimate disposition of the matter shall take such fact into consideration.

#### Section 14.6 - Random Testing

Members shall be subject to random drug and alcohol testing. For the purpose of determining who will be subject to Random Testing, Members will be divided in to two (2) classes: (Class 1 Members) Members with CDLs and (Class 2 Members) Members without CDLs. The annual number of random tests performed for Class 1 Members shall total no less than 25% of the total number of Class 1 Members, or a higher percentage to the extent Federal or state law requires that the City tests a higher percentage of Class 1 Members. The annual number of random tests performed for Class 2 Members shall be determined by including Class 2 Members in the City's "safety-sensitive" classification under Westerville Ordinance §154.303(f)(3), or any comparable amended section, and applying the random selection process to the City's "safety-sensitive" classification and then testing any Class 2 Members selected.

Testing will be done on a quarterly basis by an independent lab contracted by the City. The City will be responsible for providing the lab with a roster of Class 1 Members and of "safety-sensitive" employees including Class 2 Members on a quarterly basis prior to testing. The random testing selection method will be scientifically valid, for example a random number table or a computer based random number generation matched by Social Security number, payroll I.D. number, or other comparable identifying numbers.

Members notified of their selection for random testing shall proceed immediately to the designated collection agency. Members who are on leave, vacation, or already absent from work at the time of their selection will be excused, but remain in all future testing

pools. Any refusal when ordered to promptly submit to random testing shall subject the Member to disciplinary action up to and including discharge.

#### Section 14.7 - Collection Agency/Laboratory

- A. The testing agency performing under this Article shall be certified under the DHHS "Mandatory Guidelines for Federal Workplace Drug Testing Program."
- B. The City and the testing agency shall have a clear and well-documented procedure for collection, shipment, and assessment of testing samples, which procedure shall be provided in writing to the Member subject to testing and, upon request, to the Union representative.
- C. For drug testing, the City, and the testing agency shall follow the procedures set forth in 49 CFR Part 40, including an evidentiary chain of custody and control and split sample collection and testing. The testing agency is responsible for maintaining the integrity of any specimen collection and transfer. Alcohol breath testing shall be conducted at the collection agency and shall be conducted by a technician trained in such testing. Appropriate records of such testing shall be maintained by the collection agency for review by the Member and/or Union representative. The breath-testing device shall meet standards commonly used.
- D. The City shall pay all costs associated with testing, except that any cost for testing of a split sample is the responsibility of the Member.
- E. The City and the Union agree to follow the most current procedures for drug testing under 49 CFR Part 40. This Article does not need to be altered or amended if 49 CFR Part 40 is amended.

#### Section 14.8 - Testing Procedure

- A. For alcohol testing, the Member shall be first given a breath test followed by a confirmatory urine test only where the breath test reveals an initial positive alcohol level of .02 grams per 210 L. of breath or greater. If the initial breath test results are below this level, testing shall be discontinued; if confirmatory urine test results are below a level equivalent to .02 grams to 210 L. of breath, the confirmatory test shall be considered negative. The breath test shall be performed at the collection agency. A supervisor may be present during the breath test at the City's option; the Member may also have a Union representative or co-worker present during the breath test. The breath test may only be performed by a certified operator. If the results of the confirmatory urine test results are equal to or greater than a level equivalent to .02 grams per 210 L. of breath, rehabilitative or disciplinary action shall be taken.
- B. For drug testing, urine samples shall be provided by the Member without any chemical alteration. Such chemical alteration without authorized medical

documentation will result in a positive test.

- C. Individual privacy shall be afforded to a Member in the collection of urine samples, provided that the collection agency may impose stringent specimen alteration and/or substitution procedures.
- D. With regard to drug testing, where the Member provides a sufficient urine sample at the time of the original sample collection, this sample shall be split and placed in two (2) separate containers at the collection agency. In the presence of the Member at the testing site, and without ever leaving his or her sight, each urine sample taken shall be placed in two sterile screw-capped, self-sealed, tamper-resistant urine collection containers, which shall be each sealed and labeled and then initialed by the Member. The samples shall be sent, by the most expedient means available, to the testing laboratory as soon as practicable on the date of the test. The sample within the second container shall be stored at the test collection agency or certified laboratory.

The laboratory shall commence testing of the sample within the first container only if the sample is received in an undamaged condition, properly sealed and labeled, and properly initialed by the Member. The certified laboratory shall first conduct an initial screening of this sample. If the test results from the screening are negative the respective Department Head will be so advised and the testing procedure will be concluded. If illegal drugs or alcohol are found in the sample as a result of the screening, then that sample shall be submitted for confirmatory testing. The initial screening shall be accomplished by means of Thin Layer Chromatography (TLC) or equally reliable testing methods, and the confirmatory test shall be accomplished by means of Gas Chromatography/Mass Spectrometry (GS/MS). If the test results from the confirmatory test are negative, the City will be so advised and the testing procedure will be concluded. If, as a result of the initial screening and confirmatory test, the test result is positive, the Member will be contacted directly by a Medial Review Officer (M.R.O.) who has been assigned by the testing agency. The Member will be given the opportunity to explain to the M.R.O. any possible reasons for a positive test result. Should the Member offer an explanation that in the judgment of the M.R.O. sufficiently explains the positive test result, the M.R.O. will consider the results as negative and the City will be so advised and the testing procedure will be concluded.

- E. With regard to drug tests, if the test results are positive, and the Member has not offered an explanation to the M.R.O. sufficient to cause the M.R.O. to consider the results negative, the Assistant City Manager and/or designee shall be notified and the Assistant City Manager and/or designee shall in turn contact the Member and the respective Department Head. The City will provide Members who test positive for drugs with an opportunity to have the split urine specimen tested by a clinical laboratory or hospital facility of the Member's choosing, at the Member's own expense, providing the Member notifies the City within seventy-two (72) hours of receiving the positive results and provided further that the laboratory or

clinic and the testing procedures, including chain of custody, meets or exceeds the standards established in this Contract. If the Member does not request the testing of the sample within the second container after the sample within the first container tests positive, or if the Member requests the testing of the sample within the second container, and it also tests positive for an illegal drug or alcohol levels in excess of those defined in Section 14.10, rehabilitative and/or disciplinary action shall be taken.

- F. The City shall provide each Member tested with a copy of all of their own information and reports from the collection agency and laboratory in connection with the testing and results upon request.

#### Section 14.9 - Voluntary Request for Assistance

A Member may voluntarily enter treatment without a requirement of prior testing. A Member who voluntarily seeks assistance for a substance abuse problem before being required to submit to a reasonable belief test may be tested pursuant to Section 14.5, but shall not be subject to discipline if the Member completes the recommended course of treatment if required by the counseling agency or physician. A Member who has requested assistance prior to a requirement for testing shall be placed on paid leave pending completion of the prescribed course of treatment. If paid leave is exhausted, the City shall grant an unpaid leave of absence or family medical leave pending completion of the prescribed course of treatment.

#### Section 14.10 - Disciplinary Action

Members who have violated this Article with regard to the misuse of legal drugs or the use of illegal drugs or misuse of alcohol shall be subject to discipline up to and including discharge.

A Member who tests positive for the first time for alcohol at a level in the range of .02 to .07 and who cooperates in fulfilling the obligations set forth in (A) through (F) below may be disciplined up to a written reprimand. A Member who tests positive for alcohol at a level in the range of .02 to .07 for a second time or who tests positive the first time above this range may be suspended. The length of such suspension shall be determined on a case-by-case basis, but shall not exceed twenty-four (24) duty hours. The limitation on discipline shall not limit the City in imposing discipline up to and including termination for gross misconduct, which may be coincident with a Member's improper alcohol use. A Member who tests positive for the first time or a second time in the range of .02 to .07 must do the following in order to take advantage of the foregoing limitations on discipline:

- A. Cooperate in an evaluation for chemical dependency by an individual qualified under 49 C.F.R. Part 382 to be a Substance Abuse Professional and provide the City with a copy of the evaluation;

- B. Successfully complete all counseling, treatment or after-care (of up to 12 months) recommended by the Substance Abuse Professional;
- C. Discontinue (and not resume) the use of illegal drugs or misuse of legal drugs or alcohol;
- D. Agree to authorize all persons involved in evaluating, counseling, diagnosing, and treating the Member to disclose to the City's EAP the Member's evaluation, progress, cooperation, drug and alcohol use, and the successful completion or non-completion of counseling and treatment, and any threat to property or safety involved in the Member performing job duties or returning to active duty;
- E. Agree to submit to follow-up testing, at times determined by the City, up to eight (8) times in a twenty-four (24) month period for violations involving illegal drugs or the misuse of legal drugs, and up to four (4) times in a twelve (12) month period for violations involving alcohol (said 24 or 12 month period beginning after the Member's completion of counseling, treatment and/or aftercare); and
- F. Agree that during or after this follow-up testing period in (E) above, if the Member tests positive again or otherwise violates this Article, the Member may be properly terminated.

Members who do not agree to act or who do not act in accordance with the foregoing shall be subject to discipline, up to and including discharge.

#### Section 14.11 - Referral to Treatment

Where a Member is referred to treatment and the Member accepts the referral, the Member must:

- A. Agree to cooperate in and successfully complete appropriate treatment as determined by the substance abuse professional (s) or physician(s) involved;
- B. Discontinue and not resume at any point the use of illegal drugs or misuse of legal drugs or alcohol;
- C. Agree to authorize persons involved in counseling, diagnosis and treating the Member to disclose to the City the Member's progress, cooperation, drug and alcohol use, completion or non-completion of counseling and treatment, and any threat to property or safety perceived in connection with the Member's performance of his or her job duties.
- D. Complete any course of counseling or treatment prescribed, including an "after-care" group for a period of up to twelve (12) months; and

- E. Agree to submit to random testing during treatment and up to eight (8) times during the twenty-four (24) month period following the completion of counseling, treatment and/or after-care.

Members who do not accept the treatment referral, or do not agree to act or fail to act in accordance with the foregoing shall be subject to discipline, up to and including discharge.

#### Section 14.12 - Right of Appeal

The Member has the right to challenge the results of the drug or alcohol tests and any discipline imposed in the same manner that any other employer action under the terms of this Contract is grievable. Any evidence concerning test results that is obtained either in violation of the standards contained in this article, or in violation of the procedures required by this Article shall not be used to support disciplinary action involving the Member. Minor trivial violations that do not affect the integrity or reliability of the testing process shall not invalidate the testing results.

#### Section 14.13 - Treatment Costs

Treatment costs arising out of the Member's use of such services shall be paid for by the Member's insurance program, subject to any deductible, co-payment and coverage limits under the Member's insurance program. Except for any period of time during which a Member is serving a disciplinary suspension, Members will be allowed to use any paid leave (including vacation, sick leave or holiday leave) or take an unpaid leave of absence for the necessary time off involved in a treatment program. Other than as specified in this Section or required by law, the City shall have no obligation to pay for or insure treatment or rehabilitation.

#### Section 14.14 - Confidentiality

All testing and actions taken under or pursuant to the Article shall be kept confidential to the extent permitted by federal and state law, except where disclosure is warranted to comply with the provisions of this Agreement relative to disciplinary action taken against a Member.

#### Section 14.15 - Other Laws

This Article is in no way intended to supersede or waive any rights that a Member may be entitled to under federal or state constitutions any applicable law. Any action taken pursuant to this Article shall not be used as evidence or otherwise in any criminal proceeding against a Member.

## **ARTICLE 15 JOB CLASSIFICATIONS**

### Section 15.1 – Job Classifications

Job classifications for the bargaining unit shall be defined as:

- A. Maintenance Worker
- B. Maintenance Specialist
- C. Garage Mechanic
- D. Maintenance Custodian

Movement within each job classification shall be as defined in Article 20 “Wages”.

Movement from one classification to another classification that has a higher pay classification shall be considered a promotion. The selection process and qualifications for promotion shall be consistent with Article 16 “Job Openings/Vacancies/Promotions.” Any newly hired Member shall be subject to an initial probationary period in conformance with Section 2.2; and Member promoted to a new classification shall likewise be considered in probationary status in said classification for one year. The City shall provide job descriptions for each classification. These may be reviewed regularly through the Labor Relations Committee.

## **ARTICLE 16 JOB OPENINGS/VACANCIES/PROMOTIONS**

### Section 16.1 – Job Openings/Vacancies/Promotions

Whenever a new or existing position in the bargaining unit becomes open, the City shall post such openings for at least ten (10) working days. Members, so qualified, may apply for any such openings. The City shall fill job openings for shift and schedule purposes from qualified current employees within the classification of the Department affected, provided however, the City retains the right to delay the filling of said shift or schedule opening during the training period for any new hire, which training period shall not exceed 120 days from the new hire’s first day of work.

Promotions shall be the movement from one job classification to another higher job classification. To be considered for promotions, Members must be qualified and have maintained acceptable performance reviews. When multiple applicants are being considered and/or an eligibility list is created, the City shall follow the “Rule of Three” when making final selections. Members, who are promoted, shall be assigned to a step in their new classification such that their pay rate increases to the step that is immediately above their pay rate before promotion.

Nothing in this Article precludes the City from hiring from outside the bargaining unit. The City shall establish the qualifications, responsibilities, and any testing necessary for a job classification open position and promotion. These may be reviewed with the Labor Relations Committee.

## **ARTICLE 17 TRAINING/LICENSING**

### Section 17.1 – Training/Licensing

The scheduling of training or licensing examinations shall be administered by the City consistent with the following:

- A. The City will regularly review training programs to ensure that the needs of the department and the proper employee development objectives are met.
- B. Members may be required to attend job related training courses, classes, seminars, etc. The costs associated with these will be paid by the City.
- C. The City may grant leave with pay for employee's training courses or seminars to further develop the employee's abilities to perform his duties.
- D. The City will provide a list of educational classes for licenses, training, and certifications required for positions within the classification, Maintenance Specialist. The cost to obtain approved licensing or certification will be borne by the City.
- E. Members approved to attend voluntary educational classes for licensing and certification-training classes will be provided release time from work when such classes are during regular work hours. This time shall be compensable. In the event required licensing and certification classes are outside the Member's regular work hours, such time shall be compensable at the Member's regular rate unless said Member qualifies for overtime compensation by working more than 40 hours in the workweek. Required licensing and certification shall be determined based on the Member's job description and classification.
- F. Final assignments or approval for such classes shall be based upon consideration of past work performance records, job relevance, staffing requirements, budgetary limitations and seniority. Sign-up sheets for any outside or in house training shall be posted for members of any classifications to sign up.
- G. Members who are required to obtain and retain licenses required by the City, including CDL, will have all costs borne by the City. All members will have the opportunity to enhance their skills with study time and practice time to obtain and retain required licenses. Failure of probationary employees to obtain a required

CDL by the end of the probationary period will result in the unsuccessful completion of the probationary period.

## **ARTICLE 18 PAY PERIOD**

### Section 18.1 – Pay Period

- A. There are normally twenty-six (26) pay periods per year. All Members are to be paid every other Friday for the two-week pay period immediately preceding payday. The biweekly payroll period for all Members is from 12:01 a.m. Sunday through 12:00 midnight on the second Saturday.
- B. If a holiday occurs on a Friday in which a pay day falls, paychecks will be issued on the preceding Thursday, except under extenuating circumstances, in which case paychecks will be issued as soon as they are available.
- C. Pay advances of any kind are not permitted.
- D. All paychecks shall be directly deposited to the bank chosen by the member.

## **ARTICLE 19 PAYROLL DEDUCTIONS**

### Section 19.1 – Payroll Deductions

Certain deductions are made from an employee's paycheck as required by law, in accordance with employee benefit plans, or as requested by the employee. These deductions are itemized on the employee's pay statement, which accompanies his/her biweekly paycheck. Deductions include:

- A. PERS/PFDPF - The state law requires that employees contribute to the Public Employees Retirement System, or the Police and Fire Disability and Pension Fund, rather than Social Security.\*

\*Membership in the system is compulsory upon being employed except those employees specifically exempted under the provisions of Section 145.03 of the Ohio Revised Code.

- B. Income Taxes - Federal and state laws and some city ordinances require that taxes be withheld from each salary payment. The amount of tax to be withheld is determined from tables furnished to the city personnel office by the Ohio Department of Taxation and various Ohio cities, and varies according to the amount of salary and number of dependency exemptions. Employees are required to complete withholding tax certificates upon initial employment and to

inform the personnel office of any dependency change whenever such change occurs.

- C. Medicare - Employees hired on or after April 1, 1986 must participate in Medicare. Payroll deductions as established by federal laws will be made by the City.
- D. Miscellaneous - Examples include garnishments, deferred compensation, child support, etc. The City may refuse to make deductions, not required by law, which are below certain prescribed minimum amounts, or at irregular intervals, or for other cause, which the City deems not in the best interests of the City. All requests for payroll deductions must be presented to the Appointing Authority. The City retains the right to make other requisite deductions and withholding with notice to the employee.
- E. PAC Check-off – The City agrees to deduct voluntary contributions to the Steelworkers PAC fund from the employee’s pay in an amount designated by that employee on the form provided by the Union for the purpose of such voluntary check-off. The City will be given the signed authorization forms prior to any such deductions being made. The total amount of deductions shall be remitted monthly to the International Union at the address authorized for that purpose.

**ARTICLE 20  
WAGES**

Section 20 .1 – Wages

**EFFECTIVE October 1, 2009**

	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>	<b>Step 7</b>
Maintenance Worker	\$16.74	\$17.57	\$18.46	\$19.38	\$20.35	\$21.38	\$22.66
Maintenance Specialist	\$20.32	\$21.35	\$22.41	\$23.53	\$24.70	\$26.42	
Garage Mechanic	\$20.32	\$21.35	\$22.41	\$23.53	\$24.70	\$26.42	
Maintenance Custodian	\$14.60	\$15.33	\$16.09	\$16.89	\$17.75	\$18.63	

**EFFECTIVE OCTOBER 1, 2010**

	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>	<b>Step 7</b>
Maintenance Worker	\$17.16	\$18.01	\$18.92	\$19.86	\$20.86	\$21.91	\$23.23
Maintenance Specialist	\$20.83	\$21.88	\$22.97	\$24.12	\$25.32	\$27.08	
Garage Mechanic	\$20.83	\$21.88	\$22.97	\$24.12	\$25.32	\$27.08	
Maintenance Custodian	\$14.96	\$15.71	\$16.49	\$17.31	\$18.19	\$19.09	

**EFFECTIVE OCTOBER 1, 2011**

	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>	<b>Step 7</b>
Maintenance Worker	\$17.59	\$18.46	\$19.40	\$20.36	\$21.38	\$22.46	\$23.81
Maintenance Specialist	\$21.35	\$22.43	\$23.54	\$24.72	\$25.96	\$27.76	
Garage Mechanic	\$21.35	\$22.43	\$23.54	\$24.72	\$25.96	\$27.76	
Maintenance Custodian	\$15.34	\$16.11	\$16.90	\$17.75	\$18.65	\$19.57	

Section 20 .2 – Pay Plan Administration

Effective October 1, 2009, members in the classifications of Maintenance Worker, Maintenance Specialist, Garage Mechanic and Maintenance Custodian shall be assigned to the step in their classification that is consistent with their step as of September 30, 2009. Members will advance to the next step on their anniversary date. This yearly progression will continue until the top step is attained or the member is promoted out of their existing classification.

**ARTICLE 21  
ATTENDANCE, HOURS OF WORK AND OVERTIME**

Section 21.1 – Attendance and Hours of Work

- A. The City shall establish daily work schedules and maintain daily employee attendance records. Daily work schedules shall be eight consecutive hours with the normal workweek consisting of 40 hours. Any changes to the members' daily work schedules or work week shall be provided for in writing by the City two weeks in advance of any such change. Four (4) ten-hour days may be considered by the City if the proper notification is provided.

- B. Time changes to and from daylight savings shall not result in any loss of pay or create any overtime pay situation.
- C. Members shall follow the reporting schedule required by the City and shall be totally responsible for the reporting accuracy of their own time and the use of time cards.
- D. Members shall be provided two 15-minute breaks each workday. Such break periods should never interfere with the proper performance of work responsibilities of the department. These breaks will be considered as part of the employee's work time. Breaks may normally be taken at the work site but any travel time to and from the work site is part of the 15-minute break period. Breaks shall not be part of or connected to starting time, lunch periods or ending time. Break time is not cumulative and shall be scheduled by the supervisor.
- E. Members shall be provided a 15-minute period immediately prior to the end of their shift to complete any necessary reporting, clean and store City equipment and to clean themselves.
- F. The City and the Union recognize and agree that when emergency conditions exist, that the City may alter the normal daily work schedules. Such schedule changes may last until the emergency conditions have subsided. When such schedule alterations are necessary on regularly scheduled work days, the City will permit members who have already begun their regular shifts to complete their regular shifts prior to any schedule alterations being made. As conditions and schedule alterations continue, Members will receive eight (8) hours of regular pay for the first eight (8) hours worked on days in their regular work week. All hours beyond eight (8) hours worked on regularly scheduled work days shall be compensated consistently with overtime provisions of this agreement.

#### Section 21.2 – Overtime Approval and Scheduling

- A. Authorization - Normally, overtime must be authorized by management in advance of the overtime being worked. Unusual or emergency circumstances may require Members to work overtime without having prior authorization of the Appointing Authority. Whenever such circumstances occur, the Appointing Authority maintains the right to determine the method of compensation.
- B. Scheduled Overtime - Scheduled overtime shall be the assignment of work, non-emergency in nature, outside of the Member's normal workweek and with at least 24 hours notice. The City shall first determine the classification(s) and number of employees needed within each classification for each scheduled overtime assignment. The City will then offer such scheduled overtime to the Members on basis of seniority, most senior to least senior. Should the scheduled overtime not be filled voluntarily, the City may compel the least senior Members to work the overtime assignment.

Scheduled overtime, which is subsequently canceled for any reason, shall not entitle the Member to overtime compensation; however, in those instances where scheduled overtime is canceled without the benefit of at least four (4) hours advance notice, the Member shall be eligible for four (4) hours pay at one and one-half (1 ½) times the regular rate of pay or twice the regular rate of pay if the scheduled overtime was for the employee's second day off.

- C. Unscheduled, Non Emergency Overtime - The City agrees that during a regular work day, work that will continue into overtime will first be offered to Union Members and any non-union employees that are on that crew. If the City determines that any additional employees are needed or if replacement employees are needed for the unscheduled, non-emergency overtime, the City will offer such overtime to Union members on duty and will make good faith efforts to make such offers based upon the seniority of the Union Member.
- D. Call Back Pay - Members in an overtime pay status who are required to respond to emergency call-ins or unanticipated events, disconnected to their regular scheduled hours of work by 30 minutes or more shall be paid a minimum of three (3) hours pay at one and one-half (1 ½) times their regular rate of pay or twice their regular pay for holiday call ins or call ins on their 2nd consecutive day off. If the Member works beyond the three (3) hours, compensation shall be at the regular overtime rate. Further, Members called back again within such three (3) hour period shall not receive additional pay, as they are currently being compensated by such three (3) hour block. On a scheduled workday, this provision only applies when a Member has physically left the City premises.
- E. Report-In Pay - Members required to report to work before their regular starting time on a regularly scheduled workday shall be compensated at one and one-half times their regular rate of pay for hours worked prior to their regular start time if such Member completes his regularly scheduled 8 hour shift. Members will be able to complete their regular shifts on such days when it is determined they are physically capable. Members who receive less than an eight (8) hours notice for a required call-in and the work begins 60 minutes or more from their regular start time shall be paid a three (3) hour minimum at one and one-half times their regular pay.

### Section 21.3 – Overtime Compensation

- A. Members shall be entitled to overtime compensation at one and one-half (1 ½) times the regular rate of pay for time actually worked in excess of forty (40) hours in a workweek or in excess of a regular full time workday.
  - 1. Members shall be compensated at one and one-half (1 ½) times their regular hourly rate of pay for all hours worked on their scheduled first day off and two (2) times their regular rate of pay for all hours worked on their scheduled second day off in the work week. The first day off and the

second day off shall begin at the same hour as the Member's regular work shift day and shall run for a continual 24-hour period. For Members with irregular work shifts, the most prevalent shift will be defined at the beginning of each year and used for this purpose.

2. Members assigned to a 10-hour day/4-day week regular assignment shall earn overtime for hours worked on their first and second days off at one and one-half (1 ½) times their regular rate of pay and two (2) times their regular rate of pay for hours worked on their third day off. The first, second and third days off shall begin at the same hour as the Member's regular work shift day and shall run for a continual 24-hour period.
  3. Members must be in a paid status for forty (40) hours during the week in order to receive overtime compensation for hours worked on regular days off.
  4. Compensatory time shall be earned or granted to Members, at the election of the Member, in lieu of payment for overtime worked, and shall be earned at a rate consistent with this Article. A Member may accrue a cumulative total of eighty (80) hours per year of compensatory time. Compensatory time is to be taken in a minimum of ¼ hour increments. Members will receive payment for compensatory time not used by the end of the calendar year. Compensatory time cannot be carried over from one calendar year to the next calendar year.
  5. Requests for the use of compensatory time for three (3) consecutive workdays or greater, shall be made in writing and should be submitted at least one (1) week before the start of such proposed leave. Compensatory time shall be subject to the staffing requirements of the City, but shall not be unreasonably denied.
- B. For the purposes of this section, the following paid leaves, when taken as leave time, shall be considered time worked: sick leave, court leave, military leave, vacation, personal days, funeral leave, compensatory time, and holidays.
- C. For purposes of this policy, time worked shall include all hours in which the Member is performing work of the Appointing Authority and which is scheduled or permitted to occur by the Appointing Authority. Members are instructed to not begin work early or perform work beyond their scheduled quitting time without the approval of their immediate supervisor. The following limitations apply to work related activities:
1. Time spent by Members voluntarily attending lectures, seminars, meetings and other training programs is not compensable.
  2. Time spent by the Member at required lectures, seminars, meetings and other training programs which are required by the Employer are compensable; provided however, travel time which does not coincide with Member's normal work hours and other time in which the Member is free to pursue his own

interests (e.g. sleep time, meal periods, etc.) are not compensable time for purposes of determining the City's overtime obligation. If authorized by the City Manager, such training and travel will result in the Member receiving his regular pay. (See Section 154.403 Training.) Further, in the event required lectures, seminars, meetings and other training programs are outside the Member's regular work hours, such time shall be compensable at the Member's regular rate unless said Member qualifies for overtime compensation by working more than 40 hours in the workweek.

## **ARTICLE 22 STAND-BY ASSIGNMENTS**

### Section 22.1 – Stand-by Assignments

The City will establish monthly "Stand-by Lists." Separate lists will be established for the Parks Division and Public Service Department, which lists will function independently of the other Department. To establish the monthly "Stand-by Lists", the City will post a sign-up sheet, setting forth the "Stand-by" assignments, by no later than the first day of the preceding month through the 15<sup>th</sup> of the preceding month for Members to volunteer for the following month's "Stand-by" assignments. Usually, "stand-by" assignments shall cover the period from the end of second shift on Friday, until starting time the following Monday morning or on the Tuesday following a Monday holiday. "Stand-by" assignments may also be made for holidays or observed holidays.

Should more Members sign up for a stand-by assignment than the City needs, the most senior Member(s) will be given the assignment. Should fewer Members sign up than the City needs to cover the stand-by assignment or no Members sign-up, the City may assign the least senior qualified Member(s) to the stand-by assignment. No Member will be assigned more than one non-voluntary stand-by assignment in a two calendar month period. The City will follow this process for any unfilled "Stand-by" assignment. New Members on probationary status may not sign-up for, or be assigned to, a stand-by assignment unless approved by a Supervisor.

Once a Member is assigned or accepts a weekend assignment, the Member is responsible for finding a replacement and notifying supervision if they cannot fulfill the "stand-by" assignment. Failure to fulfill these requirements may result in disciplinary action.

One cell phone will be made available for Members on the "Stand-By" list in each department. Members must keep the cell phones turned on during the stand-by assignment and answer any page or call to a member's home or other location chosen by the member. Members are responsible for the cell phones during such assignments. Members shall respond to calls for service made by Westerville Communication Technicians or departmental supervisors, and when no other City employee is on duty to handle such calls. Whenever an unscheduled weekend call for service occurs, whether routine or emergency in nature, Members on "stand-by" assignment shall assist

with the service call. Failure of a Member on stand-by assignment to respond when called may result in disciplinary action.

Members will not be held responsible for making field decisions for which they are not qualified.

Nothing in this policy exempts Members from their responsibility to respond to any overtime call for service when needed in an emergency.

#### Section 22.2 - Cell Phone Compensation

Members participating in "Stand-by" Assignments shall be compensated at a rate of \$0.75/hour for the Member's assigned stand-by shift. Such compensation shall not be interpreted as hours worked.

### **ARTICLE 23 LUNCH PERIOD/MEALS**

#### Section 23.1 – Lunch Period/Meals

- A. Members will be provided with a one-half hour unpaid lunch period each 8-hour workday.
- B. Lunch breaks will be taken between 11:30 a.m. to 1:00 p.m. ensuring the efficient operation of the department.
- C. Members will not be charged for any travel time to or from a City facility for their lunch period. Members are not permitted to leave any assigned work site until 10 minutes prior to the scheduled lunch period. Members who remain on the job site to eat lunch are still entitled to only 30 minutes.
- D. Lunch periods interrupted by an authorized call to duty will be compensated time.
- E. During periods of service emergencies where a Member works ten (10) hours or more in a regular workday and/or four (4) hours or more on a non-workday, the City will pay the Member \$10.00 for one meal.

**ARTICLE 24  
OUT-OF-CLASS ASSIGNMENTS AND PAY**

Section 24.1 - Out-of-Class Assignments and Pay

Out-of-class assignments and pay shall be whenever a bargaining unit Member is temporarily assigned by the City to a temporarily vacant position in a higher classification with additional responsibilities and duties. Such Members shall be compensated an additional \$2.50/hour for all hours worked during this assignment period. Such assignments may be made for a minimum period of 24 hours or a period of three (3) consecutive workdays. Such assignments may also include assignments to temporarily vacant positions, which are outside of the bargaining unit. The City may rotate the selection of such Members amongst both qualified and interested Members.

**ARTICLE 25  
SENIORITY**

Section 25.1 - Seniority

Seniority is defined as an employee's total length of service in years, months and days dating from his most recent date of hire within the departments represented by this bargaining unit. In the event two (2) or more employees are hired on the same date, seniority will be assigned based on the alphabetical sequence of the employee's name, last name and then first name.

**ARTICLE 26  
INSURANCE**

Section 26.1 – Insurance/Health Savings Plan

The City shall provide life, accidental death and dismemberment, medical health care, dental and vision insurance coverage for all Members who wish to participate. The City shall pay 90% of the cost of health insurance and each enrolled Member shall pay 10% of such monthly health care premiums. The City shall provide life insurances in the amount of \$100,000.

The City will provide health insurance coverage to Members through a high deductible, health savings account (HSA). Yearly deductibles shall be \$2,000 for single coverage in network and \$4,000 for family coverage in network. The City shall pay 90% of the premiums for such a policy and Members shall pay 10% of the premium.

In addition, the City will make the following annual contributions to each participating members' health savings account.

For calendar year beginning January 1, 2010:

Family Coverage	\$3,000
Single Coverage	\$1,500

Since members already received a partial contribution in advance of resolution of this Agreement, the City will make an additional contribution of the balance within 30 days of ratification of the Agreement.

For calendar years beginning January 1, 2011 and January 1, 2012:

Family Coverage	\$3,600
Single Coverage	\$1,800

A Member shall pay to the City the prorated amount of the City's annual HSA contribution, based upon the number of full months remaining in the calendar year, from when the Member is no longer enrolled and participating as a current City employee in the high deductible health insurance plan by reason of a Member's election not to participate in the City's health insurance plan coverage or separation from employment for any reason other than the Member's death or retirement. The City is authorized to collect the prorated amount through payroll deduction from the Member's wages, year-end or terminal pay.

Employees, newly hired during the year shall have the City's contribution to their HSA prorated based upon the number of full months employed by Westerville in that initial year.

#### Section 26.2 - Decrease in Benefits

The City has no present intention to decrease benefits during the term of the contract. Should it become necessary for reasons not anticipated at the time this contract was negotiated to consider a decrease in benefits, the City shall first discuss this matter with the Local and input of the Local would be sought before any decision is made to change benefits.

#### Section 26.3 - Long Term Disability Insurance

The City shall select the provider and provide payroll deduction for long-term disability insurance, paid for by the Member.

#### Section 26.4 - Employee Assistance Program (EAP)

The City shall provide an Employee Assistance Program for the Bargaining Unit Members, their spouses, and dependent children.

## Section 26.5 – Members Electing Not to Participate in HSA

Members electing not to participate in the City's Health Saving plan coverage for the entire year will receive an incentive payment in December based upon the following schedule:

1. Members eligible for family coverage but selecting no coverage \$2,000.
2. Members eligible for family coverage but selecting single coverage, \$1,000.
3. Members eligible only for single coverage, \$750.

Such payments will be made in December of each year.

The decision to enroll in the City's HSA program shall be made during the City's open enrollment period for current employees. Members shall retain HSA coverage(s) until the next open enrollment period unless a qualifying event makes them eligible for other coverage.

### 26.6 Limitation

Members who have a spouse also employed by the City have two options: (1) elect one family coverage plan through either the Member or spouse's position, or (2) or both elect single coverage. If either Member or spouse has dependent children, they must elect the first option. The Member and spouse may not both elect family coverage or elect one family coverage and one single coverage plan. Further, neither spouse is eligible for an incentive payment under Section 26.5 for foregoing coverage if covered by the City under the spouse's family coverage plan.

## **ARTICLE 27 HOLIDAYS**

### Section 27.1 – Holidays

- A. Members shall receive 56 hours of holiday compensation. Members who work an alternate work schedule (e.g. four ten hour days), shall work four eight hour days the week of any recognized holiday, and three eight hour days the workweek of Thanksgiving.

Holiday compensation is based on the following recognized holidays:

New Years Day  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving Day  
Day after Thanksgiving Day  
Christmas Day

Holiday compensation shall be in the form of time off from work or in pay, depending upon the employee's work schedule.

- B. If a holiday falls on Sunday, it will be observed on the following Monday; if it falls on a Saturday, it will be observed on the preceding Friday.
- C. Members shall receive straight time holiday pay for each authorized holiday.
- E. If a holiday occurs while a Member is on vacation, such vacation day will not be charged against his/her vacation leave.
- F. Members hired during the calendar year will only receive holiday pay for those holidays that occur from their hiring date to the end of the year.

Members who work on either a recognized holiday or an observed holiday shall be compensated at double time the regular rate of pay for all hours worked plus the holiday pay. Members who work both the recognized holiday and observed holiday on consecutive days shall be compensated at double time the regular rate of pay for all hours worked on the first such day worked and at one and one half times the regular rate of pay for the second day worked, plus the holiday pay. This Section shall not be interpreted to reduce the compensation of a Member who works an observed or recognized holiday on said Member's first or second day off in conformance with Section 21.2(D).

**ARTICLE 28  
VACATION**

Section 28.1 - Vacation

- A. Members are eligible for paid vacation leave according to the following eligibility guidelines:

<u>Years of Service</u>	<u>Employee is Entitled to</u>
after 1 year	2 weeks vacation
after 6 years	3 weeks vacation
after 12 years	4 weeks vacation
after 18 years	5 weeks vacation
after 24 years	6 weeks vacation

- B. Vacation leave accrues on a pro-rated basis after one (1) full year of employment as a Member with the City. Only Members are entitled to vacation benefits.
- C. Vacation leave may be taken in minimum units of one-quarter ( $\frac{1}{4}$ ) hour unless otherwise approved by the City Manager or designee. Requests for the use of such vacation leave, for 3 consecutive workdays or greater, shall be made in writing and should be submitted at least one (1) week before the start of such proposed vacation. Vacations shall be subject to the staffing requirements of the City, but shall not be unreasonably denied.
- D. Members may carry vacation time over from one calendar year to the next. In no event can a Member carry over more than two (2) times his/her annual accumulation rate.
- E. Members who are accruing at least three (3) weeks of vacation per year may request pay in lieu of vacation. Members must first have taken two (2) weeks of vacation prior to requesting such a request. Members accruing three (3) weeks may receive payment for up to two (2) weeks; Members accruing four (4) weeks or more may receive payment for up to three (3) weeks.
- F. Additional vacation leave is not accrued through the accumulation of paid overtime.
- G. Members who resign or retire after a minimum of one year of service are entitled to compensation, at their current rate of pay, for any earned but unused vacation leave to his credit at the time of separation, provided that the Member gives at least two (2) weeks advanced written notice of the separation.
- H. Pursuant to any applicable Federal or State laws, paid leave accrued credits will not be earned while a Member is in a no-pay status.

- I. Vacation leave will not accrue if the Member is on Shared Leave or if the paid hours for any week in the pay period are less than 40 hours.
- J. Effective October 1, 2009, any newly hired Member who formerly served as seasonal or part-time employee with the City shall receive a credit toward years of service for the purpose of calculating entitlement to vacation based on one month for every two months served with the City.

**ARTICLE 29  
PERSONAL LEAVE**

Section 29.1 – Personal Leave

- A. Full-time employees shall be credited with six (6) paid personal days each calendar year. These days cannot be carried from one year to the next, and they shall be forfeited if not used. Unused Personal Leave shall not be converted to cash payment.
- B. New full-time employees hired during the calendar year shall be credited with personal leave based upon the following schedule:

Hired during January	6 Personal Leave days
Hired 2/1 until 3/31	5 Personal Leave days
Hired 4/1 until 5/31	4 Personal Leave days
Hired 6/1 until 7/31	3 Personal Leave days
Hired 8/1 until 9/30	2 Personal Leave days
Hired 10/1 until 11/30	1 Personal Leave day

Full-time employees hired during December shall not be credited with any Personal Leave until the following calendar year.

- C. The use of personal days shall be requested in advance, and shall be used in a minimum increment of one-quarter ( $\frac{1}{4}$ ) hour.
- D. First year probationary employees may use only three (3) personal leave days during their first ninety (90) days.
- E. Employees who resign or are terminated for cause during the calendar year may only use a pro-rated number of personal leave days (one personal day for every two calendar months). Any personal leave used in excess of this amount will be deducted from vacation leave or regular pay on the employee's final paycheck.

## **ARTICLE 30 SICK LEAVE**

### Section 30.1 – Sick Leave

- A. An employee may request sick leave for absences resulting from illness as described below, provided that the employee follows the proper notification policy for his/her department. Sick leave may be requested for the following reasons:
1. Illness or injury of the employee or a member of his/her immediate family.
  2. Exposure of employee or a member of his/her immediate family to a contagious disease, which would have the potential of jeopardizing the health of the employee or the health of the others.
  3. Medical, dental or optical examinations or treatment of employee or a member of his/her immediate family. Employees shall make every attempt to schedule routine examination, counseling sessions and dental appointments during off-duty time. This also includes appointments for such family members who require an employee's attendance or assistance at such appointments.
  4. Prenatal, childbirth and/or postnatal care.
- For purposes of this policy, the "immediate family" is defined as only: mother, father, child, step-children, spouse, foster children assigned by a licensed agency, or other relative residing in the employee's household.
- B. The City maintains the right to investigate any employee's absence. Employees may be required to furnish proof of illness as evidenced by a physician's statement, or other satisfactory written statements of the employee as required by the City Manager or designee.
- C. Employees shall receive eight (8) hours per month. Sick leave shall not be advanced. Employees hired prior to January 1, 1997, shall receive ten (10) hours per month. Sick leave shall not be accrued for employees on Shared Leave or if the paid hours for any week in the pay period are less than forty (40) hours.
- D. Only full-time employees may accrue sick leave.
- E. The amount of sick leave time any one employee may accrue is unlimited.
- F. Sick leave shall be charged in minimum amounts of one-quarter ( $\frac{1}{4}$ ) hour increments.
- G. Employees absent on sick leave shall be paid at the same basic hourly, daily or biweekly rate as when they are working.

- H. Any employee requesting sick leave must inform his/her supervisor of the fact within thirty (30) minutes of the start time. The employee must give the reason for his/her sick leave and location of convalescence, if different than the home address. Failure to do so may result in denial of sick leave for the period of absence. The employee will submit to such medical examination, nursing visit or other inquiry at the City's expense, which the Appointing Authority deems necessary.
- I. Vacation leave, personal leave and compensatory time may be used for sick leave purposes, at the employee's request and the approval of the Appointing Authority.
- J. An employee who fraudulently uses sick leave, or anyone found falsifying sick leave records, shall be subject to disciplinary action in accordance with policies outlined in Chapter 154 of the City Ordinances, up to and including termination.
- K. Altering a physician's certificate or falsification of a written, signed statement shall be grounds for immediate dismissal.
- L. Employees who have prior service with another public agency in Ohio or who are reappointed or reinstated, and who have not converted their sick leave balance, will be credited with the unused balance of accumulated sick leave, provided the time between separation or reappointment does not exceed ten (10) years. The words "public agency" as used above includes the State, counties, municipalities, all boards of education, libraries, townships, etc. within the State. Sick leave credited from another public agency shall be used prior to any sick leave earned at the City of Westerville. Employees hired after January 1, 2000 shall utilize City earned sick leave prior to utilizing any sick leave from another public agency, which has been transferred to Westerville.
- M. Sick leave may be used by an employee who adopts a child for the express purposes of providing care for a newborn infant, establishing child care responsibilities, and/or parental bonding.
- N. Sick leave shall not be used as a "bridge" into separation from employment when a Member is no longer medically able to perform the functions of his or her job. Sick leave is intended to provide a paid leave for a Member who is recovering from an approved illness or injury as described herein and recuperating to return to his or her normal job duties.

**ARTICLE 31**  
**SICK LEAVE CONVERSION**

Section 31.1 – Sick Leave Conversion

- A. After a minimum of ten (10) years of employment with the City of Westerville and upon termination, a City employee may convert up to 280 days of unused sick leave on the basis of one (1) hour cash payment for every two (2) hours of sick leave accumulated.
- B. Payments for sick leave conversion shall be based on the employee's hourly rate at the time of separation from the City. No payment for sick leave conversion will exceed \$20,500.
- C. Eligible employees shall request such payments in writing, prior to the effective date of their separation from employment.
- D. When sick leave conversion is initiated, it shall be deducted from the employee's sick leave balance accumulated while employed by the City.
- E. For purposes of this policy, termination shall include all separations, with the exception of disciplinary separations or resignations where the employee has not given a minimum of two (2) weeks written notice. In such instances, the employee will not be eligible to convert sick leave.
- F. Upon death, an employee's accrued sick leave balance will be paid to the employee's spouse, children, or parents, if any in that order, otherwise to his/her estate.
- G. Employees who are within three (3) years of full retirement eligibility as defined by PERS or PFDPF, whichever is applicable to the particular employee, may elect to receive payment for accumulated sick leave. Payments may be made on three (3) equal payments in three (3) separate years. Employees desiring such shall give written notice to the City Manager. Such written notification must include evidence that the employee is within three (3) years of full retirement as defined by the pension boards. Payment for sick leave shall be based on the employee's hourly rate as exists at the time each payment is made. The amount due shall be calculated using the schedule set forth in Section 154.604(a). Payment may not exceed one-third of \$20,500 per year, nor \$20,500 in total. Prior to receiving payment, employees shall sign an agreement agreeing to return the funds, with interest at the rate of 10% per annum, in the event that an employee is terminated for cause prior to the expiration of their employment. After payments are made to such employees, their sick leave balance shall be reduced by an amount equal to their payment divided by their hourly rate at the time of this payment.

Employees, who have fully converted to cash their accumulated sick leave balance, shall have a zero balance of sick leave upon their retirement or separation from the City. Any such employee re-hired by the City within 90 days of separation from a full time position shall be entitled to utilize any remaining leave balance consistent with City policies.

H. Qualified employees may convert sick leave to a cash payment based upon the following policy:

1. Full-time employees must have a minimum sick leave balance of 250 hours.
2. Only sick leave earned while employed by the City of Westerville is counted towards the 250 hour minimum balance.
3. Sick leave usage from January 1 through December 31 will be counted.
4. Payment requests must be submitted each January for sick leave used the previous year. Payment will be by the end of February for the rate of pay in effect December 31 of the preceding year.
5. Sick leave hours converted will be deducted from the employees sick leave balance, one hour for one hour.
6. Sick leave may be converted based upon the following schedule:

<b><u>Sick Leave Used</u></b>	<b><u>Conversion</u></b>
0 - 16 hours	48 hours
More than 16 up to 32 hours	40 hours
More than 32 up to 40 hours	32 hours
More than 40 hours	0 hours

7. Sick leave donated through Shared Leave will not count against an employee's sick leave use for this program.

## **ARTICLE 32 MEDICAL DONOR LEAVE**

### **Section 32.1 – Medical Donor Leave**

Members who have worked at least 1,000 hours in the previous year may qualify for Medical Donor Leave. Such Members who perform the service, as an organ donor shall receive up to 240 hours of paid leave in total for such service. Such Members who perform, as a donor for bone marrow shall receive up to 80 hours of paid leave in total for such service. This leave will be at the Member's regular rate of pay. Sick leave, personal leave and/or vacation leave may be used in conjunction with such Medical Donor Leave. Members will be required to furnish medical certification for such procedures and to provide medical certification as to the Member's ability to return to work.

## **ARTICLE 33 INJURY LEAVE**

### Section 33.1 – Injury Leave

- A. Members who sustain injuries while performing City functions in a non-negligent line of duty may be granted up to twenty-four (24) work week's injury leave per injury.
- B. Members who have been injured on the job may make application for injury leave by making a written request through their Department Head. The request for injury leave must outline the circumstances of the injury and include a physician's report indicating the physical condition, which necessitates the injury leave and the length of time necessary for recovery.
- C. The City retains the right to have a Member examined by a physician acceptable to or appointed by the City Manager. The City may also require, consistent with physician approval that injured employees participate in selected rehabilitation programs.
- D. When a request for injury leave is received by the Department Head, the Department Head shall process the request to the City Manager and recommend approval or denial based on the circumstances of the injury and the attached physician's report.
- E. All requests for injury leave require the City Manager's approval before they are implemented. In order to be eligible for injury leave, the following conditions must be met:
  - 1. The accident must have been immediately reported to the Member's supervisor.
  - 2. The accident report form must have been completed and placed in the Member's personnel file.
  - 3. The Department Head recommends the injury leave and the non-negligent aspects of the injury are recorded for the City Manager's approval.
  - 4. The injury must be certified by the Ohio Bureau of Worker's Compensation.
- F. During the injury leave period, all wage or salary benefits resulting from Worker's Compensation must be reimbursed to the City. (See 154.506)
- G. Members on injury leave are prohibited from working at other jobs without the express written permission of the City Manager.

- H. For the purposes of this policy, injury is defined as a physical or traumatic harm or mishap, which damages the health of a Member, causing the Member to be unable to perform the substantial and material responsibilities of his/her position. Aggravated or recurring injuries, which are not a result of the Member's job responsibilities, are not covered under this policy.
- I. The City may reassign injured Members to a "light duty" assignment. Light duty includes any position for which the essential functions of the position are within the Member's medical or psychological limitations. Members with non-work related injuries may qualify for such light duty assignments.

## **ARTICLE 34 FAMILY AND MEDICAL LEAVE (FMLA LEAVE)**

### Section 34.1 – Scope of Coverage

It is intended that this Article comply with the Family and Medical Leave Act of 1993, as amended ("FMLA"). The City's policies in furtherance of the FMLA as to all employees, which may be amended from time to time, that are not inconsistent with this Agreement shall be applicable to the Members. Without limiting the City's policies regarding FMLA, the remainder of this Article is a general outline of the FMLA benefit.

### Section 34.2 – Family and Medical Leave (FMLA Leave)

Pursuant to the FMLA, Members who have been employed for at least twelve (12) months by the City and who have worked at least 1,250 hours for the City during the twelve (12) months before the leave is requested ("eligible employees") may receive up to twelve (12) weeks of unpaid FMLA leave for the following reasons:

- A. Because of the birth of a child or placement for adoption or foster care of a child:
- B. In order to care for the spouse, son, daughter, parent, or one who stood in place of a parent of the employee; if such spouse, son, daughter, parent, or person "in loco parentis" has a serious health condition.
- C. Because of a serious health condition that makes the employee unable to perform his/her employment functions.
- D. Because of the qualifying exigency arising out of the eligible employee's spouse, son, daughter or parent being a covered military member on active duty (or has been notified of any impending call or order to active duty) in support of a contingency operation.
- E. In order to care for a covered service member with a serious injury or illness if the eligible employee is the spouse, son, daughter, parent, or next of kin of the service member.

- F. If both spouses are working for the City, their total leave in any twelve (12) month leave period (Section 34.2A) may be limited to an aggregate of twelve (12) weeks if the leave is taken for either the birth or adoption of a child or to care for a sick parent.

### 34.3 – FMLA Leave to Care for a Covered Service Member

If the eligible employee's leave is to care for a covered service member with a serious injury or illness, the eligible employee shall be entitled to a total of twenty-six (26) weeks of unpaid FMLA leave. Any leave taken pursuant to Section 34.2 above shall be included in calculating the twenty-six (26) weeks of unpaid FMLA leave hereunder.

### Section 34.4 Twelve-Month Leave Period

The City will compute FMLA Leave using a rolling twelve (12) month period measured backward from the date leave commenced.

### Section 34.5 - Substituting Paid Leave

All and any accrued available paid leave benefits and disability benefits, if applicable, must be substituted for all or any part of unpaid FMLA leave taken for any reason. An employee seeking FMLA leave must first use paid sick leave, vacation leave and holiday leave, in that order, before going on unpaid leave. The total amount of family leave paid and/or unpaid will not exceed a total of twelve (12) weeks or twenty-six (26) weeks if taken to care for a covered service member with a serious injury or illness. An employee must use injury leave before using sick leave, where applicable.

### Section 34.6 - Notice Requirements

An employee shall provide the City at least thirty (30) days advance notice before FMLA leave is to begin if the need for the leave is foreseeable. If thirty (30) days notice is not practicable, notice must be given as soon as practicable. This notice may either be verbal or in writing and shall include the anticipated timing and duration of the leave. When planning medical treatment, the employee should consult with the City and make a reasonable effort to schedule the leave as to not unduly disrupt the City's operations, subject to the approval of the health care provider. In the case of a request for intermittent leave or leave on a reduced leave schedule which meets the employee's needs without unduly disrupting the City's operations, subject to the approval of the health care provider, the City may waive these FMLA notice requirements. Should the employee fail to give thirty (30) day's notice for foreseeable leave with no reasonable excuse for the delay, the City may deny the taking of FMLA leave until at least thirty (30) days after the date the employee provides notice to the City for the requirements. Where the employee uses substituted paid leave, the notice requirements applicable to such leave shall apply.

### Section 34.7 – Seniority

During an FMLA leave, an employee will continue to accrue seniority if in a paid FMLA status.

## **ARTICLE 35 FUNERAL LEAVE**

### Section 35.1 – Funeral Leave

Full-time Members may be eligible for funeral leave upon the approval of the Department Head in the event of a death of an immediate family member. Such leave shall be based upon the following schedule:

- A. In the event of the death of a Member's mother, father, sibling, spouse, child, mother-in-law, father-in-law, step child, daughter-in-law, son-in-law, stepmother, stepfather, grandmother, grandfather, grandchild, spouses grandparent or other relative residing in the employee's household, the Member shall be granted five (5) working days off with regular pay to attend the funeral or to attend to any other necessary business.

In the event of the death of a Member's sister-in-law, brother-in-law, or other relative residing in the employee's household, the Member shall be granted three (3) working days off with regular pay to attend the funeral or to attend to any other necessary business.

Additional days may be approved by the City Manager on a case-by-case basis.

- B. Members may use personal leave or vacation time in conjunction with funeral leave with permission of the Department or Division Head. Funeral leave shall not be extended to Members on disability leave, a leave of absence or on shared leave.

## **ARTICLE 36 MILITARY LEAVE**

### Section 36.1 – Military Leave

- A. Effective January 1, 2001, all employees who are members of the Ohio National Guard, the Ohio Defense Corps, the State and Federal Militia, or members of other reserve components of the Armed Forces of the United States are entitled to leave of absence from their respective duties without loss of pay, and without any offset for receipt of military pay, for the time they are performing service in the uniformed services, as defined in Section 5903.01 of the Ohio Revised Code, for periods of up to one hundred and seventy-six (176) hours within one (1) calendar year. This military leave policy will remain consistent with the Ohio Revised Code.
- B. Employees are required to submit to the City an Order or statement from the appropriate military commander as evidence of such duty. There is not a requirement that the service be in one continuous period of time. The maximum

number of hours for which payment will be made in any one (1) calendar year under this provision is one hundred and seventy-six (176) hours. Employees of those components listed in paragraph (a) above will be granted emergency leave for mob, riot, civil defense, or similar duties when so ordered by the Governor to assist civil authorities. Employees who are called or ordered to service by the President of the United States or an act of Congress for periods beyond the authorized military leave for the calendar year shall be compensated consistent with the Ohio Revised Code. The leave will cover the official period of the emergency. This policy will remain consistent with the Ohio Revised Code and applicable federal laws regarding rights of reinstatement.

- C. Periods of military leave shall not reduce the employee's seniority status, vacation, sick leave, or other benefits. The employee does have the option of requesting vacation time for use with military leave or for military purposes.
- D. Full-time City employees called to Active Duty by an order of the Governor or President shall be paid the difference of the military wage and their City forty (40) hours per week wage for active duty military leave beyond the 176 hours granted each calendar year. If the military wage is higher than the City wage, no difference will be paid. Employees will be responsible for all regularly deducted payments for benefits.

## **ARTICLE 37 COURT LEAVE/JURY DUTY LEAVE**

### Section 37.1 – Court Leave/Jury Duty Leave

- A. Full-time employees who are subpoenaed to testify in a court of law about events, which may have occurred while the employee was at work and/or related to the performance of his/her job will be granted court leave. The employee will only be compensated for their regular wages while on court leave. If dismissed on a scheduled workday, employees are expected to immediately return to work to complete any regularly scheduled work shift.
- B. Full-time employees who are selected for jury duty may continue to receive full compensation for the time they serve on such a jury if such jury assignment is during their regularly scheduled workweek. If such daily jury assignment is less than six (6) hours in duration, the employee shall return to the workplace, contacting the immediate supervisor for assignment.
- C. Employees who are called while on vacation leave to testify in a court of law for events related to their job shall be compensated at twice their regular hourly rate. Vacation must be scheduled before any court leave is requested.

**ARTICLE 38  
LEAVE WITHOUT PAY**

Section 38.1 – Leave Without Pay

The Appointing Authority may grant a leave of absence to any employee for a maximum duration of ninety (90) days for any personal reason of an extraordinary or catastrophic nature. The authorization of a leave of absence without pay is a matter of administrative discretion. The City Manager will decide in each individual case if a leave of absence is to be granted.

**ARTICLE 39  
SHARED LEAVE**

Section 39.1 – Shared Leave

In cases of extreme personal emergency, the City Manager may permit Members to voluntarily transfer vacation, personal leave or sick leave days earned while employed with the City to another Member or full-time City employee or to receive said shared leave from another Member or full-time employee. A Member who accepts shared leave must have depleted all other leaves. For each shared leave occurrence, the first day donated by the Member must be a vacation day; a second day donated must be either a vacation or personal leave day; a third day donated and any subsequent leave donated may be either full-day increments of vacation, personal or sick leave. Shared leave requests and donation of leave shall first be offered to and used from the Members in the affected department. If additional donations are needed, requests for donation may be permitted to be made to all Members and full-time City employees. Leave donated but unused will be prorated and returned to all employees or Members who donated leave.

For this section, extreme personal emergency shall be defined as a traumatic injury and/or catastrophic illness or injury that is expected to incapacitate the employee or a member of the employee's immediate household family for an extended period of time. Traumatic or catastrophic illnesses or injuries shall include, but not limited to cancer; AIDS; ALS; stroke; heart attack; permanent paralysis; severe burns of the body, or other conditions defined by the City Manager to be catastrophic in nature.

After forty (40) hours of sick leave donation, the entire donation sequence begins again and donors must again contribute sixteen hours (2 days) of either personal leave or vacation.

Eligibility for Shared Leave shall cease upon any of the following:

- A. Medical certification stating that the Member is capable of engaging in sustained regular employment.
- B. Medical certification that the Member's family member has recovered from the traumatic/catastrophic illness or injury.

- C. An application for disability approved by the retirement system.
- D. Expiration of an eighteen (18) month period that starts with the first day of Shared Leave being used. Members may reapply for Shared Leave, if the qualifying circumstances continue after eighteen months.
- E. Death of the Member or the Member's family member.

## **ARTICLE 40 SHORT TERM UNION LEAVE**

### Section 40.1 – Short Term Union Leave

The Unit Chairman, Grievance Chairman, Unit Recorder, Unit Griever or his designee, shall be given a combined eighty (80) hours of paid leave per year to attend to Union business or training sessions related to Union issues. The Grievance Chairman, or his designee, shall also be given 80 (eighty) additional hours – unpaid - of unpaid leave per year of this Contract to attend Union business or training sessions related to Union issues. The Grievance Chairman will keep a log of hours used.

Employees taking leave under this Article will continue to accrue leave benefits. Employees taking unpaid leave under this Article will still be responsible for all payroll deduction and benefit payments.

## **ARTICLE 41 MISCELLANEOUS ECONOMIC**

### Section 41.1 College Degree

After two years of satisfactory service, any Member having an Associate Degree shall be paid a \$250/year educational bonus, Bachelors Degree shall be paid a \$450/year educational bonus, Masters Degree or Ph.D. shall be paid a \$625/year educational bonus from a fully accredited university.

### Section 41.2 -Tool Allowance

Members assigned to the classification of mechanic shall be paid \$800/year for the maintenance and repair of their tools. Mechanics will be required to furnish their own basic tools.

### Section 41.3 -Tuition Reimbursement

The City may provide for tuition reimbursement for full-time employees based upon the following criteria:

- A. The employee has completed their new probationary period;
- B. Classes must be taken at an accredited institution of higher education;
- C. The Department Head has granted approval for the course of study, prior to the employee taking any classes and budgetary appropriations have been approved;
- D. The degree being sought is required for a position within the City organizational structure. Any advanced degree must be directly related to the employee's current position.
- E. Registration fees and textbooks for Distant Learning Programs or Internet Programs for degrees from accredited institutions of higher learning will qualify for reimbursement. Any software or hardware expenses where the student makes such a purchase for any classes, those on campus or through an off-campus program, will not be counted towards costs eligible for reimbursement.

Upon meeting these requirements, receiving a passing grade of a "C" or better, and providing documentation for grades, all registration fees, and text books, the employee may be reimbursed up to \$4,000 per calendar year. No reimbursements will be made for travel, meals, and parking. All reimbursements will be consistent with all IRS regulations in effect at the time of the reimbursements for reporting an employee's gross income on the W-2 form.

#### Section 41.4 - Shift Differential

Union Members regularly scheduled to work 2nd or 3rd shifts and whose job classification does not recognize the shift assignments shall receive \$1.00/hour in additional compensation for all hours actually worked. The additional pay shall be added to the base pay for determining overtime and holiday pay rates. Any shift regularly scheduled to start any time between 11:00 a.m. and 4:00 a.m. shall qualify for the shift incentive. Shift differential is not included with leave time used. Union Members regularly scheduled to work on a Saturday or Sunday and not in an overtime pay situation, shall also qualify for this shift incentive for those hours worked on Saturdays and Sundays.

#### Section 41.5 – Prescription Safety Glasses

Once during the term of this Contract, the City will provide a prescription safety glasses reimbursement with proper supporting documentation, to employees who are required to wear safety glasses in the performance of their job duties. The City shall reimburse up to \$100.00.

**ARTICLE 42  
LONGEVITY PAYMENTS**

Section 42.1 – Longevity Payments

Longevity will be calculated on continuous full-time service with the City of Westerville. Longevity payment for each Member shall be determined by full years of service completed and will be paid in the first pay period of November. Members will receive longevity pay based on the following schedule:

5 - 9 years of service	\$850
10 - 14 years of service	\$1,150
15 - 19 years of service	\$1,450
20 or more years of service	\$1,700

A Member who would qualify for longevity pay as of December 31 and who retires during the year shall receive longevity pay prorated to date of retirement from January 1.

**ARTICLE 43  
UNIFORMS**

Section 43.1 - Uniforms

A. City Provided Uniform Articles

1. For Mechanics:

The City will provide Mechanics with a uniform service paid for by the City at no cost to the Member. The City will also provide Mechanics with the following:

Pullover Sweatshirt	2
Zippered Hooded Sweatshirt	1
Rain Suit	1
Insulated Carhartt Bibs	1*
Insulated Carhartt Coat	1*

\*Mechanics will only receive one pair of insulated Carhartt bibs and coat per contract, unless they become worn out or damaged, which does not include being soiled by fluids and other materials to which Mechanics are exposed.

2. For all other Members:

The City will provide the following uniform items, for all Members other than Mechanics:

Button Shirt/Polo Shirts	5	Insulated Carhartt Bibs	1
T-shirt with Pocket	7	Rain Suit	1
Knit Cap	1	Pullover Sweatshirt	2
Ball Cap	1	Zippered Hooded Sweatshirt	1
Blue jean pants	6	Rubber Boots	1 pair
Insulated Carhartt Coat	1		

Employees who work out of the Parks and Recreation Facility at 350 N. Cleveland Avenue shall substitute Dockers for the blue jean pants.

3. Personal Protective Equipment

The City will also provide the personal protective equipment needed to insure worker safety. Members will be required to maintain this protective equipment and it shall be replaced by the City when it is damaged or worn out.

4. Probationary Members and Replacement Items

New probationary Members will be provided these uniform items after successfully completing their first ninety (90) days of employment. Members will have the responsibility to insure that uniforms are clean and acceptable to the City. As uniforms become worn out or damaged, they will be replaced by the City, except as otherwise indicated. Uniforms for replacement shall be turned in to the City prior to any replacements being issued, and will be replaced in a timely fashion.

B. Annual Uniform Allowance

The City will pay each Member a uniform allowance of \$250.00/year each January for the purchase of City approved safety work boots, gloves and other ancillary related uniform items.

New employees will receive a pro-rated amount after successfully completing their first ninety (90) days of employment.

The City will provide washer and dryer accommodations for cleaning of uniforms at 350 and 370 Park Meadow Road.

### C. Reimbursement for Damaged Items

The City will provide a maximum reimbursement up to \$175/year for any of the following items, which were clearly damaged in a work-related activity and through no fault of the employee:

1. Eyeglasses including contact lens and prescription sunglasses,
2. Watch.
3. Cellular Phone up to a maximum of \$50 per occurrence.

Such reimbursement will be made after the damage has been reported to a supervisor and a replacement estimate has also been provided. Items covered by the City's insurances are excluded, but deductibles may be reimbursed.

## **ARTICLE 44 LAY OFFS**

### Section 44.1 – Lay Offs

If the City determines that there is reduction needed in the number of workers, the City shall first terminate any seasonal, intermittent, part-time and/or probationary employee, who may work in the operations of those divisions, which compose this bargaining unit.

When the City identifies the classification to be reduced in number, the least senior employee in terms of service time as a Westerville employee in that classification will be laid off. These employees and the Chairperson of the Bargaining Unit will be given a fourteen (14) day notice of such intended lay off.

An employee in the Mechanic or Maintenance Specialist classifications affected by any lay off may "bump" any Member in the Maintenance Worker classification if they have more seniority with the City and they possess the ability to perform the essential job functions. Such "bumping" notice must be completed before the end of the initial fourteen (14) day lay-off notice.

Such laid-off employees will have recall rights to any openings for which they qualify within the bargaining unit for one (1) year from their lay-off date. Offers for recall will be made first to the most senior member laid off. Employees being recalled must pass a physical exam and a drug screen before being reinstated.

**ARTICLE 45  
SIGNATURES**

Section 45.1 - Signatures

Signed and dated at Westerville, Ohio, this 15 day of March 2010.

**FOR THE CITY OF WESTERVILLE:**



David Collinsworth, City Manager



Julie Colley, Assistant City Manager



Ann Lund, Human Resources Administrator



Frank Wiseman, Director of Public Service



Jody Stowers, Director of Parks & Recreation



Dennis Seligman, Committee Member

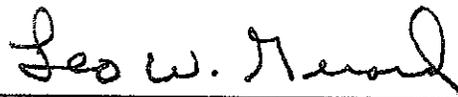


Douglas Vineyard, Committee Member

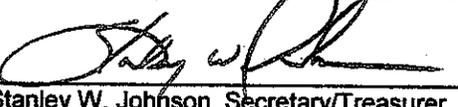


Adam Maxwell, Committee Member

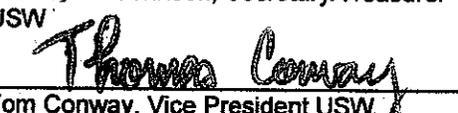
**FOR THE UNITED STEELWORKERS**



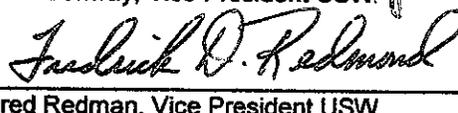
Leo W. Gerard, International President USW



Stanley W. Johnson, Secretary/Treasurer USW



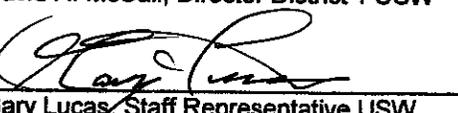
Tom Conway, Vice President USW



Fred Redman, Vice President USW



David R. McCall, Director District 1 USW



Gary Lucas, Staff Representative USW



Patrick O'Neal, Committee Member



Travis McGovern, Committee Member



Jeffrey Suttle, Committee Member



Michael Tussey, Committee Member