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AGREEMENT

Between

THE CITY OF CUYAHOGA FALLS, OHIO

and

THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

Sergeants & Lieutenants

Effective:

January 1, 2011 through December 31, 2013

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Article 1. Purpose

This Agreement is made by and between the City of Cuyahoga Falls, Ohio, hereinafter referred to as "City" and the Ohio Patrolmen's Benevolent Association, hereinafter referred to as "OPBA," for the purpose of fully setting forth all agreements reached on subjects of negotiations, as required by Section 4117.09(A) of the Ohio Revised Code.

It is also the objective of this Agreement to achieve and maintain a positive employer-employee relationship and improved work performance.

Article 2. Recognition of Ohio Patrolmen's Benevolent Association

SECTION 1. The City agrees to recognize the Ohio Patrolmen's Benevolent Association, as having jurisdiction over and being the sole and exclusive bargaining agent for the supervisors of the Police Department of the City of Cuyahoga Falls, Ohio, and working in the classifications that are listed below for the purpose of establishing wages, hours of work, conditions of employment, and handling grievances.

SECTION 2. The City shall not negotiate with, nor make any collective bargaining agreement or contract with, any other employee group or with any of the employees working in the classifications covered by this Agreement, individually or collectively. All agreements entered into between the City and the employees covered by this Agreement shall be through duly authorized representatives of the OPBA. Any other agreement shall be of no effect.

The classifications included in the bargaining unit are as follows:

A. Supervisors ranked sergeant and lieutenant.

Whenever in this Agreement reference is made to "bargaining unit member" or "member," it shall be understood that the provision shall apply to all of the supervisors in the classifications listed herein, equally and without discrimination.

Article 3. Subject Matter of Negotiations

- A. Wages
- B. Hours of work
- C. Terms and other conditions of employment

It is further mutually agreed between the OPBA and the City that all provisions of this Agreement are subject to the grievance/arbitration procedure or the Civil Service Rules and Regulations of the Civil Service Commission of Cuyahoga Falls, Ohio, the United States Constitution, the Constitution of the State of Ohio, and any applicable Ohio Statute or Regulation, except to the extent that the parties, pursuant to Section 4117.10,

have negotiated provisions inconsistent with such rules, regulations and laws. The City shall provide up-to-date copies of all Civil Service Rules and all changes thereto, to the OPBA staff representative or designee.

Unless the City agrees otherwise in this collective bargaining agreement, nothing will impair the right of the City to:

- 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 standard of services, its overall budget, utilization of technology, and organizational structure.
- B. Direct, supervise, evaluate, or hire employees.
- C. Maintain and improve the efficiency and effectiveness of the 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 or transfer, assign, schedule or promote, or retain employees.
- F. Determine the adequacy of the work force.
- G. Determine the overall mission of the employer as a unit of Government.
- H. Effectively manage the work force.
- I. Take actions to carry out the mission of the public employer as a governmental unit.

The OPBA and the City acknowledge that during the negotiations which preceded this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from an area of collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the City and the OPBA, for the life of this Agreement, each voluntarily and unqualifiedly waive the right, and each agree that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated and signed this Agreement. However, by written mutual consent of the OPBA and the City, the covenants of this paragraph may be waived for negotiations on an article or subject contained herein.

Article 4. Management Rights

SECTION 1. Nothing in this Agreement shall be construed as delegating to others the authority conferred by law on any City official, or in any way abridging or reducing such authority, but this Agreement shall be construed as requiring said City officials to follow the procedures and policies herein prescribed to the extent they are applicable, in the exercise of the authority conferred upon them by law.

SECTION 2. Except where limited by express provisions elsewhere in this Agreement, nothing in this Agreement shall be construed to restrict, limit or impair the rights, powers and authority of the City as granted to it under the laws of the State of Ohio, the Charter of the City of Cuyahoga Falls, the ordinances of the City, the rules and regulations of the Civil Service Commission, and the Police Department Rules and Regulations. These rights, powers and authority include, but are not limited to the following:

- A. The right to determine, effectuate and implement the objectives and goals of the Police Department.
- B. The right to manage and supervise all operations and functions of the Police Department.
- C. The right to establish, allocate, schedule, assign, modify, change and discontinue Police Department operations, work shifts and working hours.
- D. The right to establish, modify, change and discontinue work standards.
- E. The right to hire, examine, classify, promote, train, transfer, assign and retain employees; suspend, demote, discharge or take other disciplinary action against employees for just cause, and to relieve employees from duties due to lack of work or funds.
- F. The right to increase, reduce, change, modify, and alter the composition and size of the work force.
- G. The right to determine, establish, set and implement policies for the selection, training and promotion of employees.
- H. The right to create, establish, change, modify and discontinue any City function, operation and department.
- I. The right to establish, implement, modify and change financial policies, accounting procedures, prices of goods or services, public relations and procedures and policies for the safety, health and protection of City property and personnel.

- J. The right to adopt, modify, change, enforce or discontinue any existing rules, regulations, procedures and policies which are not in direct conflict with any provision of the Agreement.
- K. The right to establish, select, modify, change or discontinue equipment, materials and the allocation and distribution thereof.
- L. The right to determine and enforce employee's quality and quantity standards.
- M. The right to contract, subcontract, merge, sell or discontinue any function or operation of the City.
- N. The right to engage consultants for any function of operation of the City.
- O. The right to sell, transfer, lease, rent or otherwise dispose of any City equipment, inventories, tools, machinery or any other type of property or service.
- P. The right to control the use of property, machinery, inventories and equipment owned, leased, or borrowed by the City.
- Q. The right to establish, implement, change, modify, adjust and discontinue and process, technique, method and the type of machinery or equipment to be used or operated by the City or any of its employees.
- R. The location, establishment and organization of new departments, divisions, subdivisions or facilities thereof, and the relocation of departments, divisions, subdivisions, locations and the closing and discontinuance of the same.
- S. The right to classify jobs and to allocate individual employees to appropriate classifications based upon duty assignments. The City will not abolish or change any bargaining unit classifications for the purpose of depriving bargaining unit members of their benefits under this Agreement.

Article 5. Employee Rights

SECTION 1. UNION MEMBERSHIP.

- A. It is agreed that any member of the Cuyahoga Falls Police Department included in the classifications contained in the bargaining unit have the right to join the OPBA. (OPBA) for mutual aid or protection and to bargain collectively. Employees also have the right to refrain from being a member of the OPBA

The OPBA shall not indulge in restrictions or practices which deny membership of employees of the City of Cuyahoga Falls, Ohio because of race, color, creed, sex or national origin and shall be free of corrupt influences. It is further agreed that there

shall be no discrimination among employees by virtue of participation or non-participation in "Union Affairs."

- B. If, while on duty, the OPBA Staff Representative designee is invited by the Chief of the Cuyahoga Falls Police Department to attend a departmental staff meeting or any other City meeting where Police business will be discussed, he shall, except in emergency staffing situations, be released from duty with pay, not to exceed a total of six (6) hours per month.

SECTION 2. GENERAL.

- A. When it becomes necessary for a supervisor to counsel a member, it shall be done in clear, understandable language, civil in tone, in private, if the exigencies of the situation allow.
- B. Before any member may be charged with any violation of the Rules and Regulations for a refusal to answer questions or participate in an investigation he shall be advised that his refusal to answer such questions or participate in such investigation may be made the basis of such a charge.
- C. Complaints against a bargaining unit member, anonymous or otherwise, when determined (by the Chief) to be unfounded, shall not be included in the personnel file of the officer and may not be used in any subsequent disciplinary procedure or employment action.
- D. Any evidence obtained in the course of an internal investigation through the use of administrative pressures, threats or promises made to the member shall not be used in any subsequent criminal court action.
- E. If the contract rights of the member who is under investigation as provided for herein have been violated, the violation of procedure shall be subject to the grievance procedure.
- F. For purposes of this Agreement "serious disciplinary action" shall include discharge, suspension without pay, and any other discipline more serious than a written or oral reprimand.

SECTION 3. INVESTIGATION.

- A. On request, the member may have a Union representative present at an investigatory interview which the member has a reasonable basis for believing may lead to serious disciplinary action.
- B. A member who is to be questioned as a suspect in any investigation of any criminal charge against him shall be advised of his constitutional rights before any questioning starts.

- C. Questioning or interviewing of a bargaining unit member in the course of an internal investigation will be conducted at hours reasonably related to the member's shift unless operational necessities require otherwise. Interrogation sessions shall be for reasonable periods of time and time shall be provided for rest periods and attendance to physical necessities.
- D. A member will be informed of the nature of any investigation of himself prior to any questioning. If the member being questioned is, at that time, a witness and not under investigation he shall be so advised.
- E. No member shall be required to submit to a polygraph examination as part of any internal investigation which could lead to disciplinary action.
- F. When a member suspected of a violation is being interviewed or interrogated in an investigation, such interrogation may be recorded at the request and expense of either party. There will be no taping except with knowledge of all parties present.

SECTION 4. DISCIPLINARY ACTION.

- A. Before a member is dismissed, suspended without pay, or otherwise given serious discipline as defined above, the member has a right to a hearing before the Chief of Police or his designee. At least seven (7) calendar days before the hearing, the member shall be notified of the charge(s) against him in writing. Nothing in this section shall limit the ability of the City and the OPBA to enter into a mutual written agreement waiving or extending such seven day waiting period.
- B. A member who has been charged with a violation of any policy or rules and regulations shall, upon request of the member or his designated representative, be provided the opportunity to inspect and obtain copies of transcripts, recordings, written statements and any other evidence. The City shall, upon request, have a mutual opportunity to inspect and copy the member's evidence. The member must give written authorization to the Chief of Police for the representative to see his file.
- C. A member has the right to the presence and advice of a union representative at all disciplinary hearings before the Chief of Police. If a member of the City legal staff is present at any disciplinary hearing the member may also have counsel present. If the Union representative (limited to one) who appears with the member at the Chief of Police's hearing is on duty at the time, then he shall be released from duty with pay for attendance at the hearing.

The Chief of Police may reschedule hearings if emergency staffing conditions foreclose attendance by the personnel needed to conduct the hearing. The member or his/her OPBA Staff Representative may request to reschedule a disciplinary hearing in order to permit the Staff Representative to be present, but in no event shall the hearing be held later than thirty (30) days after the original date unless

mutually agreed to by the Chief and the Staff Representative. However if the member is on paid administrative leave, the hearing shall not be delayed more than fourteen (14) days.

- D. Within seven (7) calendar days after the close of the hearing, the Chief of Police or his designee shall forward a written recommendation for action to the Safety Director along with a copy of evidence presented and/or, if no formal record was made, a summary of evidence. The Safety Director shall then decide what discipline if any, to impose, and to notify the member in writing within thirty (30) calendar days. A copy of the notice shall be provided to the Union.
- E. If the decision of the Safety Director is to dismiss, suspend without pay or otherwise take any serious disciplinary actions, then the union, at the member's request may appeal the decision to arbitration, and such appeal shall be made through the grievance procedure at the Step 5 level, requesting arbitration as set forth in the grievance procedure. If the member does not file a timely notice of appeal, then the right to appeal shall be considered waived and the Safety Director's decision shall be final and unreviewable.
- F. Nothing in this Agreement shall preclude the City from reducing a member in rank during the second half of his probationary period as provided by State Law.
- G. Records of disciplinary actions shall not be considered in future discipline matters after two years, provided that such prior discipline may be considered if, during the two years after said discipline, the member commits the same or a substantially similar offense.

SECTION 5. PERSONNEL RECORDS.

If any member disputes the accuracy, relevance, timeliness or completeness of the personal information pertaining to him, the member shall be permitted within ten (10) days of his inspection of the record to include within his personal file a notation that he protests that the information disputed is inaccurate, irrelevant, outdated or incomplete. The Police Department shall maintain a copy of the member's statement of the dispute in the personnel file. The member desiring to file his statement of dispute shall be brief, clear and concise in his statement.

SECTION 6. TRAVEL AND MEAL ALLOWANCE.

- A. Members, who by virtue of their employment are required to travel outside the Summit County area, and who are required to use their own personal vehicles, shall be compensated thereof at the rate of twenty cents (\$0.20) per mile.
- B. Whenever a member travels outside the City on official business, the member shall be promptly reimbursed for meals during that time in accordance with the following schedule:

Breakfast	\$ 5.00
Lunch	\$ 7.00
Dinner	\$12.00

- C. Bargaining unit members shall be required to submit a written claim for reimbursement stating the period of time the member was gone and which meal(s) were eaten. No meal receipts or cost of meals consumed will be required of any member in any written claim.
- D. Expense reports for parking and lodging submitted by a member within one week of the member's return shall be reimbursed according to City policy and subject to the approval of the Chief of Police and Finance Director, on a case by case basis. Approved reimbursements shall be paid within the pay period following such approval.

SECTION 7. TRAINING COURSES.

- A. The City is committed to trying to improve standards through training. Training Courses may be offered through and by the police division, and a sign-up sheet will be posted whenever practicable to allow every member who desires to attend the course an opportunity to express his desire to do so. The decision of the Chief of Police as to the selection of the person(s) who shall attend said course or seminar, shall be final and not subject to any grievance under this Agreement.
- B. Any member of the bargaining unit who is required to attend training sessions(s) shall attend such sessions on his regular scheduled shift if such scheduling does not interfere with the normal operations of the department as determined by the Chief. If the member is required to attend such training sessions beyond his regular work day, day off, or in excess of his work week, the member shall receive overtime pay as referred to in this Agreement for all time actually participating in such training.

SECTION 8. SENIORITY.

- A. Except as otherwise provided in the Contract or by the Conditions of Merger between the City of Cuyahoga Falls and Northampton Township, seniority shall be defined as a member's length of service with the Cuyahoga Falls Police Department, except that current members who have credit for service with other City of Cuyahoga Falls departments will retain such service credit. Its uses shall be those uses specifically provided for in other Articles of this Agreement, including vacation scheduling.
- B. A member who is unable to work because of a service connected sickness, injury or disability or who is suspended or who is on official leave status of any kind, other than retirement, shall continue to accumulate seniority during any such period.

- C. Seniority lists shall be brought up to date by the City each year as of January 1, posted on bulletin board showing the member's name, title, rate of pay and date of hire and appointment within classification and in order of seniority within department, with a copy forwarded to the OPBA Staff Representative or his designee.
- D. The ranks within the Bargaining Unit shall be lieutenant and sergeant. Lieutenant is the higher rank. Length of service in rank shall determine rank seniority. If two or more members have the same date of rank their rank seniority shall be determined by their order of certification by the Civil Service Commission.

SECTION 9. RULES, REGULATIONS, POLICIES, ETC.

The City shall provide a current master copy of the Cuyahoga Falls Police Department Rules and Regulations, policies, procedures, general orders, IOC's, etc., to be kept at the front office; not to be removed and access to members not to be denied. One member shall be responsible for updating said copies.

Article 6. OPBA Security

SECTION 1. For the purpose of this Agreement, the Chairman of the Grievance Committee or the staff representative of the OPBA may present any grievance according to the grievance procedure of this Agreement.

SECTION 2. The name of the chairman and the OPBA representative shall be furnished to the City. The Chairman shall be permitted to leave work to represent a member of the bargaining unit, at a scheduled hearing before the supervisor, so long as the absence does not unduly interfere with his or other employees work assignments and is so requested by the unit member. The chairman is permitted reasonable time, not to exceed two and one-half (2 1/2) hours to investigate and process each grievance. In exceptional circumstances, with the prior approval of the Police Chief, a longer period of time for investigation may be granted considering the work assignments of the Department.

Two (2) members will be paid by the City during the negotiations of the next labor agreement until the expiration of this Agreement for all time spent negotiating during their normally scheduled work hours.

Article 7. Payroll Deduction, Fair Share

A. Deductions

- 1. The City will continue to deduct OPBA dues, fees and assessments for members who have voluntarily authorized such deductions in accordance with law. However, the City will make only one change in the deduction of dues, fees and assessments per calendar year.

2. The form for said assignment shall be furnished by the OPBA, and it is agreed that the OPBA will indemnify and save the City of Cuyahoga Falls harmless from any and all claims or liability of any sort resulting from the making of deductions in accordance with said form and this Agreement. It is agreed by the City that either within two (2) weeks or the next pay day, whichever is later, after said form is submitted for deduction of payroll dues, that deduction for new members will be made. The OPBA shall annually afford its members an opportunity to cancel, during a period of not less than two (2) weeks, their dues deduction authorization. This two (2) week period shall be from December 1st to December 15th of each year for the ensuing calendar year.

B. Fair Share Fee

1. Membership in the Union shall be voluntary. However, all current full-time employees who are not members or who drop their membership shall pay a fair share fee to the Union, as authorized by Ohio statute. Likewise, employees hired during the term of this Agreement who chose not to join the Union shall pay a fair share fee to the Union as authorized by Ohio statute beginning after sixty (60) days from their date of hire.
2. No later than Sept. 1, 1990, and annually thereafter the Union will determine the amount of its proper expenditures for which a non-member may be charged a fair share fee. Thereafter, not less than thirty (30) days before deducting such newly revised fair share fee from any non-member, the Union shall post in at least two (2) conspicuous places within the Cuyahoga Falls Police Department a notice which shall include the amount and starting date of deductions to be assessed non-members for the next year (Oct.-Sept.). This notice shall remain posted and unobstructed so long as non-members are paying fair share fees.
3. The fair share fee amount shall be certified to the City by the Treasurer of the Local Union. The deduction of the fair share fee from any earnings of the member shall be automatic and does not require a written authorization for payroll deduction. A separate alphabetical listing of all names of employees who are being deducted a fair share fee shall be furnished to the Union. Payment to the Union of fair share fees shall be made in accordance with regular dues deductions as provided herein.
4. The City shall notify each new employee at the time of hire of their right to join the Union, or their obligation as a condition of employment to payment of a Fair Share Fee as indicated above, and to provide such employee with an authorization card as provided by the Union.

5. The City agrees to deduct initiation fees, assessments and dues once each month from the pay of bargaining unit members who have authorized same, in accordance with current practice.
6. The Union shall indemnify and save the City harmless against any and all claims, demands, suits, or other forms of liability that may arise out of or by reason of action taken by an employee against the City in connection with the City's implementation of this Article.

Article 8. Savings Clause

SECTION 1. If any article or section of this Agreement or any addendum thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this Agreement and addendum shall not be affected and shall remain in full force and effect for the contract term.

SECTION 2. Should any article of this Agreement be held invalid or inoperable by a court or tribunal of last resort the City and the Union will meet within thirty (30) days of the determination to negotiate a lawful modification or substitute provision.

Article 9. Visitation of Officials

Accredited representatives of the OPBA may have access to the working areas of its members (except the Detective Bureau unless a supervisor is present) at reasonable times during working hours, provided prior approval is given by the Chief or his designated representative. Such approval shall not be arbitrarily withheld.

Article 10. Bulletin Boards

SECTION 1. The City shall furnish a bulletin board for the Union, which may be used for the following notices approved by the Union:

1. Recreational and social affairs of the Union;
2. Union meetings;
3. Union nominations and elections;
4. Reports of Union committees;
5. Rulings of the policies of the International Union;
6. Other Union business.

SECTION 2. None of the foregoing notices shall contain anything political, (including not only matters of local politics but also signs such as those urging a boycott and any other political matters), nor anything pertaining to the City or any or its employees.

SECTION 3. Upon request of the City, the Union will immediately remove any notice or other writing that violates this provision.

SECTION 4. The OPBA bulletin board will be maintained on the premises at all times.

Article 11. Anti-Strike Clause

SECTION 1. The Union and the City agree that the public interest requires the efficient and uninterrupted performance of the safety services, and to this end pledge their best efforts to avoid or eliminate any conduct contrary to this objective. The Union agrees that during the life of this Agreement it will not cause, encourage, participate in or support any strike or picketing against the City or any slow down or other interruption of or interference with the normal operation and service of the City's departments.

SECTION 2. The City agrees not to lock out any member of this bargaining unit.

Article 12. Waiver in Case of Emergency

SECTION 1. In cases of circumstances beyond the control of the City, such as an act of God, riot, flood, civil disorder and other similar acts, the following conditions of this Agreement shall be automatically suspended without recourse from the OPBA, upon declaration of said emergency by the Mayor. Said declaration of emergency shall expire after a forty-eight (48) hour period unless the declaration of emergency is extended by order of the Mayor.

- A. Time limits for grievances are posted until the emergency has been declared ended.
- B. Limitations on distribution of work assignments.
- C. In addition, and notwithstanding other articles of this Agreement, City reserves the right during any such emergency to assign members to work without regard to their employment classification but limited to the activities of the safety forces responsibilities.

Article 13. Grievance and Arbitration Procedure

SECTION 1. GRIEVANCE DEFINED. A grievance is a dispute between the City and the OPBA or a member or group of members as to the interpretation, application or violation of any terms or provisions of this Agreement.

SECTION 2. GRIEVANCE PROCESS.

STEP 1. A member shall attempt to resolve any controversy, difference or dispute with his immediate supervisor before proceeding with the subsequent steps governing grievance procedures.

STEP 2. A formal written grievance must be filed within ten (10) calendar days of the date on which the member first knew or reasonably should have known of the acts, conditions or circumstances giving rise to the grievance. The written grievance shall be filed with the Division Commander, who shall have the right to review the grievance with the member and with the OPBA Staff Representative or his designee. Copies of the written grievance are to be furnished to the Chief of Police and the OPBA. The Division Commander shall, within ten (10) calendar days from receipt of the grievance, provide the member, the OPBA and the Police Chief a written answer to the grievance. If the member does not invoke Step 3 within ten (10) calendar days after receipt of the written answer, said alleged grievance shall be considered satisfactorily resolved.

STEP 3. If the grievance is not resolved at the second step, the member shall have the right to appeal to the Police Chief or his designee in writing within ten (10) calendar days after receipt of the Division Commander's written answer to the grievance. Copies of said grievance will be furnished by the Chief or his designee, to the Mayor and by the grievant to the OPBA. The Police Chief or his designee may individually meet with the Division Commander and the member who may be accompanied by the OPBA Staff Representative or his designee before making a determination in the matter.

The decision by the Police Chief or his designee shall be in writing and shall be submitted to the member, the Mayor and the OPBA within seven (7) calendar days from the conference with the member, but in any event no longer than ten (10) calendar days from receipt of appeal to the Police Chief. If the member does not invoke Step 4 of this procedure within seven (7) calendar days after receipt of the decision of the Police Chief or his designee, said grievance shall be considered satisfactorily resolved.

STEP 4. The member may appeal in writing within seven (7) calendar days after receipt of the written decision in Step 3 to the Mayor or his designee, who shall meet with the Police Chief, the OPBA Staff Representative and the member within seven (7) calendar days from receipt of appeal and will notify the member, the OPBA and the Police Chief of his decision in writing within five (5) calendar days from hearing the appeal.

STEP 5. The OPBA may appeal in writing within thirty (30) calendar days after receipt of the written decision in Step 4 to binding arbitration. The OPBA shall contact the F.M.C.S. and thereafter the parties shall select an arbitrator by the alternate striking method. Arbitration proceedings shall be conducted in accordance with A.A.A. rules.

The arbitrator's decision shall be strictly confined to interpretation of this contract and the arbitrator shall have no authority to add to, change, or modify this contract. This

decision shall be issued in writing pursuant to A.A.A. rules. This decision shall be final, conclusive and binding on the Union, the City and the grievant.

The cost of the Arbitrator shall be shared by the City and by the Union equally.

Nothing herein shall prevent the parties from voluntarily settling the grievance after the appeal to arbitration has been filed.

If the grievant and/or Union fails to comply with the time limit prescribed by these procedures, then the matter shall be considered settled against the grievant and the Union, and the grievant and the Union shall have no right to pursue the grievance further. All time limits herein may be extended to a time certain by mutual written agreement of the City and the Union.

Discipline matters shall be submitted at Step 5 of the grievance procedure.

SECTION 3. The grievance procedure is the exclusive method of settling or adjudicating disputes within its scope as defined in paragraph "A" above, as to such matters, it supersedes Civil Service procedures. Also, alleged violations of this contract must be filed through the grievance procedure and cannot be filed directly in court.

SECTION 4. FORM. A form will be agreed to by the parties for all grievances processed.

Article 14. Labor-Management Committee

In the interest of sound relations a joint committee of no less than four (4) nor more than six (6) members, half of whom shall be from the City and half of whom shall be from the OPBA, will convene on a regularly scheduled basis for the purpose of discussing subjects of mutual concern. Special Labor-Management Committee meetings may be called more frequently. It shall be the express purpose of this committee to build and maintain a climate of mutual understanding and respect in the solution of common problems. Either the City or the OPBA may request that a representative of the Finance Department participate in a scheduled Labor-Management Committee meeting. It is understood that this Committee shall meet at a time when practicable, considering the other duties and responsibilities of the City and of the members.

Article 15. Tour of Duty

Tour of duty shall mean a normal working time of five (5) consecutive eight (8) hour days except for normal shift changes which are required for a member to perform during his regular assigned duties, as the same shall have been established by the appropriate administrative official in order to meet the needs and requirements of the Police Department. The City will annually assign shifts within the Patrol Division of the Cuyahoga Falls Police Department based upon seniority with the following conditions:

1. Selection shall be by shift, and within the shift by slot related to regular days off.

2. The Chief or his designee may temporarily change employee shifts due to temporary staffing needs, because of illness, injury or emergencies. Such changes shall affect members in reverse order of seniority.
3. Consistent with progressive corrective management practices in the promotion of efficiency, the Chief or his designee may change shift assignment based upon an employee's unsatisfactory performance.
4. A member transferred to the Patrol Division from another division shall not have the right to bump any other member but will be assigned to a vacant slot on a shift until the next annual selection.
5. The parties agree to periodically discuss any problems with assignments through Labor-Management Committee meetings.

Tour of Duty requirements may be waived by the parties where necessary to accommodate training and educational needs.

Article 16. Overtime and Shift Differential

[note: See superseding Memorandum of Understanding attached hereto]

SECTION 1. For the purpose of implementing requirements of the Fair Labor Standards Act (FLSA), the "work period" shall be twenty-eight (28) days. However, contractual overtime shall include hours or fractions thereof which are worked by an eligible member in excess of eight (8) hours in any continuous twenty-four (24) hour period, beginning with the normal starting time of the eligible member's working shift or in excess of those defined herein. Excess hours shall not be considered as overtime work where such excess hours result from normal periodic shift changes or assigned training where the member is not required to report for their regularly assigned shift on the day of said training. Nor shall excess hours be considered as overtime work where the member reports one-half (1/2) hour early for shift preparation pursuant to past practice. One full hour of overtime work will be granted for any period of time worked in excess of thirty (30) minutes.

No claim for overtime shall be made when a member is out of the city for training or other purposes except for time actually spent attending such training or performing actual work on behalf of the City. However, this section shall not be used to deprive a member of his regular eight (8) hours of pay in the event such training is for a period of less than eight (8) hours.

SECTION 2. If a bargaining unit member is required to make an appearance in court at the request of the Prosecutor or other member of the Law or Police Department, he shall be compensated for two (2) hours at the overtime rate of pay. If the actual time spent in Court is greater than three (3) hours, he shall be compensated for all hours over three (3)

spent in Court at the rate of two (2) times his regular rate of pay. If a bargaining unit member is requested to appear for training purposes or is called in after being released from duty he shall be compensated for two (2) hours or the actual time spent in training or call in, whichever is greater, at the overtime rate. If a Court appearance or training time is scheduled to begin within one (1) hour after the conclusion of a previous Court appearance or training time, the subsequent Court appearance(s) or training time(s) shall be considered a continuation of the initial court appearance(s) or training time(s).

SECTION 3. Overtime compensation shall mean one and one-half (1½) times the hourly compensation rate of the eligible member.

SECTION 4. At the election of the eligible member, and subject to approval or disapproval of the Police Chief, compensation for overtime work may be taken as compensatory time off at the rate of one and one-half (1½) times the number of hours which the eligible member has accumulated. This election to take compensatory time off must be exercised immediately within the pay period in which the overtime was accumulated. In the event the eligible member does not elect to take compensatory time off, he will be paid for this overtime work accumulated during the pay period. No more than one hundred (100) hours of compensatory time off may be accumulated by an individual member. Members may use compensatory time off in lieu of such sick leave in the case of illness with the approval of the Chief of Police.

SECTION 5. Compensatory time shall be taken only at the request of the bargaining unit member, subject to the approval of the Chief of Police. Should compensatory time off be requested by two (2) or more members on the same day for the same time off, seniority shall prevail within their rank structure.

SECTION 6. Should the member be called out to report for duty other than his regular scheduled shift, such callout time shall be compensated for a minimum of three (3) hours of pay or one and one-half (1 ½) times his present rate of pay whichever is greater.

Article 17. Uniform Allowance

SECTION 1. Each bargaining unit member shall receive an annual clothing allowance equal to fifteen percent (15%) higher than that provided to patrolmen for the purchase and maintenance of uniforms

This amount is payable one-half on December 31st and one-half on June 30th of each year of the Agreement. This money shall be used by the members of the bargaining unit for the purchase and maintenance of uniforms and this money shall be expended for this purpose only.

SECTION 2. Any member of the bargaining unit who does not successfully complete his probationary period, shall reimburse the City for the uniform allowance.

SECTION 3. The Chief shall determine the uniform for the Department and shall provide the Union with a copy of any modifications of the uniform fourteen (14) days prior to implementation. Any uniform changes may be subject to discussion at the Labor Management Committee as provided in Article 14. Members shall be granted a time period of two uniform allowance allotments to comply with any mandatory uniform change. The cost of compliance with any such modifications of the uniform shall be borne by the City and the cost thereof reimbursed to the member at the end of the first pay period following the pay period during which the additional uniform requirement has been purchased.

Article 18. Holidays/Holiday Pay

SECTION 1. For the purposes of this Article, all days are either "work days" or "regular days off" as established under the scheduling provisions of Article 15. In addition, the following days are "Holidays:" New Year's Day, Martin Luther King Day, Presidents' Day, (3rd Monday in February), Good Friday, Easter Sunday, Memorial Day (4th Monday in May), Independence Day, Labor Day (1st Monday in September), Columbus Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Day before Christmas, and Christmas Day. If a Holiday falls on a member's regular work day, the member shall be paid eight (8) hours at the member's straight time hourly rate for that day, and, for hours actually worked, shall, at the member's option, either receive pay at the rate of one and one-half (1½) times the member's straight time hourly rate, or be credited compensatory time at the rate of one and one-half (1½) times the hours worked. If a Holiday falls on a member's regular day off, the member shall be credited with eight (8) hours of compensatory time. Compensatory time shall be used or cashed out in accordance with the rules for compensatory time off.

SECTION 2. In addition to Holidays, two (2) Personal Leave Days are to be given to all members being two (2) days off during the course of the year to be taken by the member subject to the approval of the Division Commander, and these days are given in lieu of a designated holiday of national recognition. Any member who, in the prior calendar year, has not received any discipline equal to or more serious than a written reprimand may, not later than February 15 of each calendar year, choose to sell one (1) of the two personal leave days.

SECTION 3. In the event that a member works overtime hours on a Holiday set forth in Section 1 of this Article, then the overtime hours or fraction thereof shall be compensated at the rate of two and one-half (2 1/2) times the member's regular rate of pay. No regularly scheduled member will be ordered to take a holiday off.

Article 19. Wages

SECTION 1. WAGES RATES.

Effective January 1, 2011, the hourly wage rates for bargaining unit members shall be the rates as set forth in Appendix A of this contract. The wage rates as set forth in Appendix A reflect a zero percent (0%) wage increase effective January 1, 2011

Wages effective January 1, 2012 and thereafter shall be established pursuant to negotiations called in accordance with Article 38, provided, however, that if wages are not so established, the wage rates contained in Appendix A for 2011 shall continue in force until superceded, or until the end of the contract term, whichever occurs earlier.

SECTION 2. PLACEMENT ON WAGE SCALE.

Except as otherwise provided in this Agreement, sergeants and lieutenants shall be placed on the wage scale in accordance with their seniority, subject to the City's right to withhold annual increases for reasons related to merit, consistent with past practice and the following guidelines:

- A. Original appointments to the positions of sergeant and lieutenant in the bargaining unit shall be placed in that step of the appropriate pay range which provides the member compensation closest to a five percent (5%) increase, but not more than a seven percent (7%) increase, from what the member was receiving in the position from which he advanced. Members shall serve in that step for a minimum one-year period. Said members shall be classified as "Temporary to Permanent" (Provisional or Probationary), and shall not attain "Permanent" status until they have served their required probationary period. The probationary period of various classes of the positions is filed with the records clerk in compliance with the Rules of the Cuyahoga Falls Civil Service Commission.
- B. At the expiration of one (1) year, permanent employees shall be elevated to the succeeding step only upon recommendation of their department head. Such recommendation shall be given after the member is satisfactorily performing his duties. Permanent employees shall advance each year thereafter, upon recommendation of their department head, until reaching Step D, which recommendation shall be made for all members satisfactorily performing their duties. After eight (8) completed years of service and after thirteen (13) completed years of service said members shall advance through Steps A through D of the respective pay ranges designated eight and thirteen years of service upon the same conditions set forth for advancement above.

Article 20. Longevity Pay

The members of this bargaining unit shall receive extra compensation for longevity in actual service within the Police Department. The longevity pay shall be based on completed years of service as follows:

Four (4) years	Sergeant	\$437
	Lieutenant	\$462
Nine (9) years	Sergeant	\$588
	Lieutenant	\$637
Fourteen (14) years	Sergeant	\$740
	Lieutenant	\$813

As of July 1, 1999, the above longevity amounts will no longer be paid by separate check; however, the amounts will be computed into an hourly amount and added to base pay.

Article 21. Acting Capacity

Any member placed in a position of working in the next higher rank will be paid the salary for said rank after eight (8) consecutive days of working in said position.

Article 22. Health Insurance

SECTION 1 The City shall make available to all full-time bargaining unit employees comprehensive major medical/hospitalization health care insurance, as set forth in Section 2. The participating employee may elect either single or family coverage.

SECTION 2. The following summary of medical benefits will be effective July 1, 2009, except as otherwise noted.

NETWORK:	NON NETWORK:
Percentage Payable after deductible is met	
90%/10%	70%/30%
Maximum Out of Pocket (excluding deductibles and co-pays)	
\$1,000/2,000	\$2,500/5,000

Deductible	
\$150/300 except office visit \$200/\$400 except office visit (eff. 1/1/10)	\$200/\$400 \$400/\$800 (eff. 1/1/10)
Office Visits/Urgent Care	
\$15 co-pay	70%/30%
<p>The \$15.00 co-pay for office visits applies to all office visits including those for follow-up treatment for a single medical condition.</p>	
Surgery (eliminate surgical schedule)	
90%/10%	70%/30%
Anesthesiology (eliminate 100% billed)	
90%/10%	70%/30%
<p>Emergency Room Deductible:</p> <p>\$50 per visit (exclusive of other deductibles). The Emergency Room Deductible shall be waived if, as a result of the condition requiring the Emergency Room visit, the covered person is admitted to an area of the hospital other than the Emergency Room.</p>	
Member Co-pay for Prescription Drugs	
Retail Purchases	Mail Order Purchases (90 day supply)
\$5 generic \$20 formulary name brand \$30 non-formulary name brand	\$10 generic \$40 formulary name brand \$60 non-formulary name brand
<p>If a name brand drug is dispensed, the co-pay for name brand drugs applies regardless of whether a generic equivalent is available. Members needing to take medication for at least 90 days shall, after obtaining two 30 day prescriptions of the drug at retail, obtain further refills through the City's mail order prescription drug service. Members needing to take medication for less than 90 days may purchase said medication by mail order with the co-pay prorated at the rate of the mail order co-pay.</p>	
MM Lifetime Maximum: \$2,000,000	

Spousal Eligibility:

When the spouse of a member is employed on a full-time basis (defined as 32 or more hours of work per week) or retired and the spouse's employer or retirement plan makes health care coverage available to the spouse – regardless of the cost – the City's coverage of the spouse shall be limited to being secondary to the coverage that is available from the spouse's employer or retirement plan.

As an alternative to obtaining health care coverage from their primary employers, employed spouses may elect to enroll in the City's health care plan by paying a monthly premium equal to the greater of two-sevenths (2/7) the established COBRA rate for single coverage or any sum received by the employed spouse from his/her employer to decline health care coverage from said employer.

In the event a husband and wife are both employed by the City of Cuyahoga Falls, each will be enrolled with single coverage; provided that if they have dependent children, the husband and wife shall be enrolled together under a single enrollment for family coverage.

A member seeking health care coverage from the City for his/her spouse shall be required to provide to the Department of Human Resources a statement indicating the spouse's employment status along with a statement from the spouse's employer or retirement plan administrator or other appropriate agency that health care coverage is not available to the spouse as a result of the spouse's employment status. The member shall promptly notify the Department of Human Resources of any change in the employment or insurance status of his/her spouse. If a member provides false information concerning his/her spouse, or fails to notify the Department of Human Resources of any required information, the member shall be required to reimburse the City for any medical expenses paid by the City on behalf of the spouse that would not have been paid had the City had accurate information concerning the spouse's employment or insurance status. Said reimbursement may take the form of a payroll deduction in an amount not greater than 5% of the employee's gross pay until full reimbursement is made.

Additional Items of Health Coverage

To clarify and/or provide additional health care coverage, the following services will be covered as noted herein effective July 1, 2009. All levels of coverage are after exhaustion of applicable deductibles:

	Network (member pays)	Non/Network (member pays)
Office Exam with Pap Test	\$15.00	30% after ded.

Routine Pap Test	\$15.00	30%
Routine Mammogram	\$15.00	30%
Well Child Exam Inc.	\$15.00	30%
Immunizations (to age 11)		
Routine Physical Exam	\$15.00	30%
HPV Vaccination	10% after deductible	30%
Childhood Immunizations (to age 11)	10% after deductible	30%
Diagnostic Testing	10% after deductible	30%

Oral Contraceptives prescribed for any purpose shall be covered at the same co-pay levels as any other covered prescription drug.

The benefits provided herein shall remain in effect until December 31, 2011, provided that, in the event the Ohio Police and Fire Pension System eliminates health insurance coverage for retirees, the parties hereby agree to reopen this collective bargaining agreement to negotiate health care benefits.

SECTION 3. DENTAL BENEFITS. The City will continue to provide a dental insurance plan for all members of this bargaining unit, their spouses and dependents, which shall be substantially, equal overall to provisions of the plan now in effect. The City shall bear the cost of providing said dental insurance. The City shall provide benefits for dental implants up to the same actual dollar amount that it would pay toward covered dental bridges.

SECTION 4. A certificate of insurance shall be given to each member with the description of benefits for the member, spouse and dependents.

SECTION 5. EYE SURGERY.

In recognition of the safety enhancement afforded by corrected vision, any bargaining unit member may obtain corrective eye surgery effective upon the execution of this agreement. This benefit is available only to the bargaining unit member, and is available only once during the member's employment with the City. Corrective eye surgery shall be defined as any surgical procedure that will correct the member's vision to the extent that glasses or contact lenses are no longer necessary for the member to perform safety related duties of the job. The City will pay 80% of the cost of the surgery, together with any required follow-up care, provided that the City will only pay for procedures performed in the United States of America.

SECTION 6. RETIREE HEALTH INSURANCE REIMBURSEMENT

Members of the bargaining unit who were hired as police officers in Cuyahoga Falls prior to April 1, 2006, shall be provided with health care benefits upon retirement as provided in accordance with the terms of Ordinance 160-2003.

Article 23. Other Insurance and Benefits

SECTION 1. LIFE INSURANCE. All members of this bargaining unit shall be provided life insurance benefits in the amount of fifty thousand dollars (\$50,000) per person. Life insurance shall further be provided retirees of the Police Department who retire from the Department on or after January 1, 1969, at seven thousand dollars (\$7,000).

SECTION 2. PROFESSIONAL LIABILITY INSURANCE. The City will continue to provide liability insurance for its members. In the event of a suit filed against a member, the City's Law Director shall determine if a conflict of interest exists between his representation of the member and his representation of the City and its police members. If he determines that no conflict exists, then the City's legal staff or insurer or both will represent the member. If a conflict does exist, the member will have to retain a lawyer, as follows:

- A. Of his own choosing, at his expense or that of the OPBA
- B. With the assistance of any member of the City's Law Department, he may hire a recommended lawyer to represent him with the following understanding:

If the suit is dismissed, for any reason, or a trial verdict is rendered in favor of the member, the City will recommend payment for the member's legal fees, same to be established and agreed upon before the representation begins.

- C. Coverage of \$500,000 per person and \$1,000,000 per incident.

SECTION 3. CITY OF CUYAHOGA FALLS FIRE DEPARTMENT EMS TRANSPORT. Any employee and/or member of the employee's immediate family residing with the employee who is transported by Cuyahoga Falls Fire Department EMS service shall be transported at no charge.

Article 24. Vacation

SECTION 1. All members of this bargaining unit shall receive vacation privileges in accordance with this article. Members shall receive vacation on January 1 of each calendar year at the following rates:

In the first calendar year of employment:

No vacation

In the second calendar year of employment: One day vacation for each full calendar month worked in the prior calendar year up to 10 days of vacation

In the third and subsequent calendar years of employment:

Up to 5 complete years of service	2 weeks
After 5 years to 10 complete years of service	3 weeks
After 10 years to 15 complete years of service	4 weeks
After 15 years to 20 complete years of service	5 weeks
After 20 years of service	6 weeks

As used in this Article, "calendar year" means January 1 through December 31. Years "of service" mean years of full-time service with the City.

When a member achieves a milestone anniversary as provided above, the additional week of vacation shall be provided to him on his anniversary date in the year the milestone is met.

If a member, for any reason, is on any form of unpaid leave from his employment with the City, then his vacation for the following year shall be reduced in a prorated amount based on the ratio of his unpaid leave to his normal annualized work shift.

SECTION 2. Members of the bargaining unit who have completed eight (8) years of service with the City and who qualify for three (3) weeks of vacation shall be permitted to bank a maximum of one (1) week of unused vacation time per year. Members who qualify for four (4) weeks vacation or more shall be permitted to bank a maximum of two (2) weeks of unused vacation time per year. Any vacation time banked shall be banked at the rate it was earned.

Members who have banked or carried over vacation time pursuant to this article shall, upon retirement or termination of employment with the City, be paid a sum equal to the amount of vacation hours banked or carried over times the hourly rate of pay of such member at the time(s) the vacation time was earned.

SECTION 3. A member may carry over into the following year, with the approval of the Chief of Police or his designee and certification to the Finance Department, up to one-half of his previous year's unused vacation; however, a member may carry this vacation into the following year only. Vacation weeks must be taken by June 1st of the year carried over to.

A member who notifies the Chief prior to January 1, in writing, that the member intends to retire during the coming calendar year may carry unused vacation into that year without limitation provided that the member has not used more than eighty (80) hours of sick leave during the year from which the vacation is carried. Vacation carried into the member's final year in excess of one-half (1/2) of the member's unused vacation may only be cashed out upon retirement if, as of the member's last day of employment, the member has not used more than forty (40) hours of sick leave in his final year. A

member may only take advantage of this retirement provision once during his employment with the City.

SECTION 4. Prior to January 1 of each year members must notify the Finance Department and designate whether their unused vacation time shall be banked or carried over pursuant to the terms of this Agreement. Members must choose either to bank or carry over their unused vacation time and they shall not be permitted to do both in any given year.

SECTION 5. An employee may sell vacation under the same terms and conditions as vacation banking set forth above except that:

- vacation may be sold in one (1) week increments only
- vacation must be sold in the year in which it is credited to the employee, and
- an employee may both bank and sell vacation, as provided herein, in the same year.
- Notwithstanding the above, no vacation may be sold in calendar year 2011.

Section 6. In the event a member retires or resigns in good standing with the City, he shall be paid for any unused vacation, banked vacation and any vacation accrued for use in the following year as of the date of the resignation or retirement. In the event a member dies during employment with the City, such payment shall be made to his estate or his lawful heirs, if there is no estate.

Article 25. Health Maintenance Standards

SECTION 1. HEALTH MAINTENANCE STANDARDS. For the benefit of the members of the bargaining unit and the City it shall be required that members of the bargaining unit obtain periodic physical examinations to be performed by competent medical personnel selected by the City.

SECTION 2. Examinations are to be scheduled at the direction of the Chief upon no less than three (3) days advance notice. The examinations and follow-up intervention are to be paid for by the City or by the member's health care insurance. In addition to examination services historically provided, members may, at their election, obtain a colonoscopy as part of the physical examination.

SECTION 3. The following values for blood pressure and serum cholesterol are hereby established as health maintenance requirements for members of the bargaining unit. These values are divided into two categories: one is a level where intervention is suggested and a second level where mandatory intervention must be considered.

Values for Blood Pressure

Intervention Suggested	140-160/90-95 mm Hg
Mandatory Intervention	160/95 mm Hg

Values for Serum Cholesterol

Intervention Suggested	220-249 mg/dl
Mandatory Intervention	250 mg/dl

When a member has values that fall within the mandatory guidelines, he has the option to do one of the following within three (3) months:

- A. See the medical personnel designated by the City for education and intervention; or
- B. See his family physician for the same service.

Thereafter, the member will receive regular checks to determine if the course of intervention is being followed.

SECTION 4. As long as this course is being followed and reasonable progress toward meeting the physical fitness requirements herein specified, (as determined by a licensed physician) is being made, the member is in compliance with the program. However, in the event a member fails to see a health care professional within the aforementioned three (3) months or he is not following a prescribed intervention program and showing reasonable progress toward meeting the requirements, then he may be subject to any of the following after initial warning of non-compliance:

- A. Denial or reduction in pay grade steps.
- B. Unsatisfactory semi-annual evaluations.
- C. Ineligibility to sit for promotional exams upon receiving two or more unsatisfactory semi-annual evaluations.

For the purpose of this section, "denial or reduction in pay grade steps" means that a member may be reduced one (1) pay step if he fails to comply with the requirements of this article. However, he shall be returned to his original pay grade step upon substantial compliance with the requirement of this article. This same policy shall apply to denial of a pay grade step increase.

SECTION 5. SUBSTANCE ABUSE SCREENING.

- A. Substance abuse screening tests shall be a part of the periodic physical examination to detect the use of illicit drugs or controlled chemical substances. If the screening is

positive the member may be ordered to undergo a confirmatory test which shall be administered by a medical laboratory qualified to administer such tests.

- B. The member may have a second confirmatory test done at a lab of his choosing, at his expense, provided however, such test must be done by a laboratory testing all known drugs and alcohol of abuse having a sensitivity of at least sixty percent (60%) and a specificity of ninety-nine plus percent (99+%). This test shall be given the same weight as the two (2) previous tests. If both the screening and the confirmatory tests are positive the City may require the member to participate in a rehabilitation or detoxification program which is covered by the member's health insurance program.
- C. A member who participates in a rehabilitation or detoxification program shall be allowed to use sick leave, vacation leave, or personal days for detoxification program. If no such leave credits are available, such member will be placed on leave of absence without pay for the period of the rehabilitation or detoxification program. Upon completion of such program and a retest that demonstrates that the member is no longer using illegal drugs or abusing controlled substances, the member shall be returned to his position. Such member may be subject to regular retesting upon his return to his position for a period of one (1) year from the date of his return.
- D. Any member in the above-mentioned rehabilitation or detoxification program(s) will not lose any seniority or benefits should it be necessary that he be required to take a leave of absence without pay for a period not to exceed ninety (90) days. However, members in such program(s) shall be eligible for sick leave advance under the provisions of Cuyahoga Falls Ordinance 132-1985 except that the eighteen (18) month limitation on length of service shall not apply.
- E. If the member refuses to undergo rehabilitation or a detoxification program, if he fails to complete a program of rehabilitation or if he tests positive at any time within one (1) year after his return to work upon completion of a program of rehabilitation, such member shall be subject to disciplinary action including removal from office. Except as stated herein, no member shall be subject to discipline due to the fact that he tested positive on the drug screening and/or confirmatory test.
- F. Except as otherwise provided herein, the costs of all substance abuse screening tests and confirmatory tests shall be borne by the City.

For the purpose of this article "periodic" shall mean not less than one (1) time during the term of this Agreement except that substance abuse tests may be performed at any time upon reasonable suspicion of drug or alcohol use and a member may be tested more

frequently during the one (1) year period after his return from a rehabilitation or detoxification program.

SECTION 6. RELEASES/CONFIDENTIALITY.

- A. For the purpose of implementing the provisions of this article, each bargaining unit member shall execute medical releases in order for the City to obtain the results of the physical examination/drug screen testing provided for in this article.
- B. Except as otherwise provided by state or federal law with regard to communicable diseases, or with the permission of the member, the releases referred to in this section shall authorize only the release of examination results and progress reports pertaining to the values established herein for Blood Pressure and Serum Cholesterol, along with Substance Abuse Screening Test results. No other medical findings may be released without the express written permission of the member.
- C. All test results and actions taken pursuant to this article shall be kept strictly confidential except as absolutely necessary to implement the provisions of this article.

Article 26. Worker's Compensation and Injury Leave

SECTION 1. WORKER'S COMPENSATION AND INJURY LEAVE.

- A. A member who is absent from work due to an injury received in the course of, and arising out of, his employment with the City, and for which injury he is eligible to receive weekly benefits (with the possible exception of the first week after the injury is received) under the worker's compensation law of Ohio, shall receive one hundred percent (100%) of his regular straight-time pay for twenty (20) weeks, and for the next twenty (20) weeks shall receive his workers' compensation plus an additional amount from the City, so that his net after tax income from workers' compensation and the City shall be equal to what his net after the income would have been had he been regularly employed at straight-time rates. Benefits under any section above including this section shall be independent of each other and no section shall be charged against the allowance of the other.
- B. In instances where the member's conduct contributed to or aggravated his own injury or where the injuries resulted from or were aggravated by conduct which violated established standards and procedures regarding safety, then the member shall receive ninety percent (90%) of his regular straight-time pay for twenty (20) weeks and for the next twenty (20) weeks shall receive his worker's compensation plus an additional amount from the City, so that his net after tax income from worker's compensation and the City shall be equal to ninety percent (90%) of what his net after tax income would have been had he been regularly employed on straight-time rates.

- C. In the event a member disputes a finding that his conduct contributed to or aggravated his injury under this section, he may, within ten (10) days of such finding ask that a committee be impaneled consisting of two (2) individuals selected by the OPBA Staff Representative and two (2) individuals selected by the Mayor/Safety Director to review said finding. The Committee shall report its recommendation within fifteen (15) days of being impaneled. A majority recommendation shall be binding on the City and the member. However, a tie vote by the Committee shall enable the member to submit the dispute to final and binding arbitration pursuant to the grievance procedure contained in this Agreement where the sole issue before the arbitrator shall be whether there is just cause to find that the member by his conduct caused or contributed to his own injury.

- D. In the event a member is injured as a result of an assault or other similar act of violence committed against him by another person while the member is acting in his capacity as a law enforcement officer, then in that case, he shall receive benefits under the provisions of Paragraph "1" of this section and paragraph "2" shall have no application.

SECTION 2. LIGHT DUTY. A member who is unable because of illness or injury to return to and perform his regular job, and who is eligible to receive benefits under other sections of this article, may be permitted to return to work on light duty status if such work is available and if both the member and the Chief agree to the light duty assignment. The Chief may decline light duty requests in his sole discretion, and his decision shall not be appealable through the grievance procedure or any other legal process. In the event the Chief declines such request for light duty he shall provide verbal notification of the reason(s) for such denial.

Article 27. Police & Fire Pension Fund "Pick-up"

Effective as soon as practical, the City shall implement a system whereby it shall pick up the member's required contribution to Police & Fire Pension Fund without additional cost to the City and in accordance with applicable internal Revenue Service Rulings, Ohio Attorney General Opinions, and State regulations and shall be for the purpose of defining employee tax liability. To accomplish this, the wage otherwise currently payable to the member under this contract shall be reduced by the amount of Police & Fire Pension Fund pick-up. The member's contract wage thus shall consist of two (2) components: (1) a currently payable ("cash") component; and (2) a deferred ("pick-up") component, which shall be the amount of the member's required Police & Fire Pension Fund contribution being picked up by the City. For all other purposes, except those pertaining to this pick-up deferring this amount in relation to state and federal taxes, the member's wages shall still relate to his placement on the wage schedule.

Article 28. Sick Leave

SECTION 1. Members shall be entitled to sick leave of four and six-tenths (4.6) hours per pay period of eighty (80) hours. Members may use sick leave upon approval of the Chief or his designee for absence due to the following:

- A. Illness, injury, or pregnancy-related condition of the member.
- B. Exposure to a contagious disease when the presence of a member at the member's job would jeopardize the health of others.
- C. Examination by a licensed practitioner of the member for health-related purposes including but not limited to medical, psychological, dental, optical.
- D. Illness, injury, or pregnancy-related condition of a member of the bargaining unit member's immediate family where the bargaining unit member's presence is reasonably necessary for the health and welfare of the bargaining unit member or family member.
- E. Examination of a member's immediate family member by a licensed practitioner for health-related purposes including but not limited to medical, psychological, dental, optical, where the bargaining unit member's presence is reasonably necessary.
- F. "Immediate family" is defined as the member, spouse of the member, children and the member's parents.

Use of sick leave by reason of death in the member's family shall be granted as follows:

Spouse, Child, or Step-Child	Maximum of two weeks
Parent, Parent-in-law, Sibling, or anyone in place of parent	Maximum of five days
Sibling-in-law, Aunt, Uncle, Grandparents, Grandchildren	Maximum of three days
All other relatives	Maximum of one day

Sick leave shall not be used for work related injuries.

SECTION 2. Sick leave taken shall be deducted on an hour for hour basis from the member's accumulated sick leave.

SECTION 3. The Chief or his designee may at his discretion require that any member requesting sick leave furnish or submit to any or all of the following before he shall approve any request for sick leave:

- A. A detailed statement from the member specifying:
 - 1. the exact nature of any claimed illness or injury;
 - 2. the name, address and telephone number of any medical practitioner treating said illness or injury; and
 - 3. the anticipated number of sick leave days required to treat said illness or injury.
- B. A medical report from the member's treating physician, normally after three (3) days, however, medical reports may be requested for any absence of shorter duration if necessary.
- C. That the member submits to a physical examination by a physician of the City's choice.

SECTION 4. A member who reports himself absent from his assigned duties due to sickness or injury shall not be permitted to engage in any other outside employment during the period of his absence, nor may he return to such outside employment until he returns to work or receives permission from the Chief.

SECTION 5. Should it be determined by proper medical authority that the member will not be able to return to regular duties, the City has the right to require that member to apply for disability retirement. In the event of a difference of opinion as to the member's mental or physical status regarding his ability to perform his regular duties between the member's physician and the City's physician, the issue shall be submitted to a third physician specializing in occupational medicine, whose decision shall be final and binding. Fees and expenses of the physician shall be borne equally by the parties.

SECTION 6. Upon retirement or termination in good standing from active service with the City after December 31, 1996, and with ten (10) or more years of service with the City, a member of this bargaining unit shall be paid in cash one hundred percent (100%) of the value of his accrued but unused sick leave credit up to a maximum of one thousand five hundred (1,500) hours. Such payment shall be based on the employee's rate of pay at the time of retirement. Such payment shall be made only once to any employee.

SECTION 7. An employee who has qualified for a service pension under the rules from the Police and Fire Pension Fund by reason of age and length of service, and has accumulated a sick leave balance of fifteen hundred (1,500) hours or more, may elect to cash out accrued sick time in three (3) equal and annual payments of up to five hundred

(500) hours. These payments shall be based on the employee's rate of pay at the time of each payment. The eligible employee must notify the Chief of Police and the Director of Finance of this election at least thirty (30) days prior to the first distribution of funds. All hours paid under this provision shall be deducted from the payment of accrued sick leave as provided under this agreement. Any remaining sick leave credit may be used until the employee's retirement date at which time all remaining sick leave balance shall be deemed exhausted and no further sick leave payment will be allowed. Funds paid to the employee on an annual cash-out basis may be rolled over into an employee's deferred compensation account as allowed by plan rule or paid in cash as requested by the employee.

SECTION 8. For the purpose of funding this sick leave cash out payment, the Finance Director shall establish a fund and annually deposit a sum sufficient to cover the anticipated payout(s) under this provision. Money set aside in this fund shall only be used for the purpose of paying the benefit set forth in this section and for no other purpose.

SECTION 9. In the event a member dies during employment with the City, unused sick leave in the maximum amount allowed by this article shall become payable in a lump sum in the employee's name and given his estate, provided all provisions of this article have been met by the member. Only sick leave credit earned by employment with the City may be converted into cash benefits upon retirement, disability retirement or death.

SECTION 10. Members with five or more years of service and with a sick leave balance of at least 500 hours at the beginning of the calendar year for which this sick leave incentive program applies shall have the following options with regard to accumulated sick leave.

- (1) Allow the unused sick leave balance earned to accrue to the employee's sick leave balance.
- (2) Receive a cash benefit as follows:
 - A. A member who did not use sick leave for the year may convert forty (40) hours of sick leave to cash at a rate of 100% of the member's hourly base rate of pay for the year in which the sick leave incentive was earned.
 - B. A member who used more than zero but not more than eight hours of sick leave may convert forty (40) hours of sick leave to cash at a rate of 75% of the member's hourly base rate of pay for the year in which the sick leave incentive was earned.
 - C. A member who used more than eight but not more than sixteen hours of sick leave may convert forty (40) hours of sick leave to cash at a rate of 60%

of the member's hourly base rate of pay for the year in which the sick leave incentive was earned.

- D. A member who used more than sixteen but not more than twenty-four hours of sick leave may convert forty (40) hours of sick leave to cash at a rate of 50% of the member's hourly base rate of pay for the year in which the sick leave incentive was earned.
- E. A member who used more than twenty-four but not more than thirty-two hours of sick leave may convert forty (40) hours of sick leave to cash at a rate of 25% of the member's hourly base rate of pay for the year in which the sick leave incentive was earned.

Members meeting the above criteria must notify the Finance Department by January 15 of the year following the year for which sick leave incentive payment is sought and the cash disbursement shall be made on or about February 15. Notwithstanding the above, no sick leave incentive cash benefit payments will be made in calendar year 2011 on the basis of sick leave usage in calendar year 2010.

Article 29. Sick Leave Donation

SECTION 1. It is the intent of the City and the Union to provide a sick leave donation program to allow employees to voluntarily assist their co-workers who have exhausted all their paid leave and are in critical need of sick leave due to serious illness or injury of the employee, a member of the employee's immediate family or some other unforeseen circumstance which would place an employee in the position of needing sick leave.

SECTION 2. Employees may donate sick leave to a fellow employee who is otherwise eligible to accrue and use sick leave. An employee may receive donated sick leave, per pay period, equal to the number of hours the employee is scheduled to work each pay period. Donated sick leave will be subject to the conditions in this article.

SECTION 3. Sick leave may be donated on a strictly voluntary basis by the donor employee. Donated sick leave will not be returned by either the donee or the City. In no case may donated sick leave be converted into a cash benefit. Sick leave will be donated and used on an hour for hour basis and employees using donated leave will be considered on sick leave and will accrue leave and be entitled to any benefits to which they would otherwise be entitled. Leave accrued by an employee while using donated sick leave will be used, if necessary, in the pay period before additional donated leave may be received. Donated leave will not count toward the probationary period of an employee if an employee is receiving/using donated leave during their probationary period.

SECTION 4. It will be the policy of both the City and the Union to respect the privacy of all employees. However, either the City or the Union, with the permission of the Employee, may inform employees of their co-workers need for leave. This will be done for informational purposes only and will not be a solicitation of leave donations by either the City or the Union.

SECTION 5. When it becomes apparent that a qualifying employee will exhaust all time off, the Chief or his designee will notify the Union of the number of hours needed to cover the employee's upcoming payroll period, and the estimated date the employee will be able to return to work. If any members wish to donate sick leave, the Union will supply the Chief or his designee with a schedule, in a form agreed to by the Union and the Chief or his designee, delineating the donating individuals and their number of hours to be applied as donated sick leave.

SECTION 6. Employees desiring to donate leave will certify the name of the employee for whom the donated leave is intended, the number of hours to be donated and that the leave is donated voluntarily with no provision that the leave will be returned

Article 30. Communicable Diseases and Life-Threatening Illnesses

SECTION 1. The City recognizes that employees with life-threatening illnesses, including but not limited to cancer, heart disease, and AIDS, may wish to continue their active employment as long as their medical conditions are not a threat to themselves or others on the job. At the same time, the City has an obligation to provide a safe work environment for employees and for those who use the services of the City. Inasmuch as the guidelines issued by the Public Health Service's Centers for Disease Control (CDC) dealing with AIDS in the workplace state that "the kind of nonsexual person-to-person contact that generally occurs among workers and clients or customers in the workplace does not pose a risk for transmission of AIDS," the City is under no obligation to inform citizens or employees that an employee has AIDS or a related illness. Nonetheless, an employee should take every reasonable precaution to ensure that the employee's medical condition does not present a health or safety threat to other employees or citizens.

SECTION 2. The City will comply with all Federal, State, and Local laws and regulations regarding discrimination against individuals suffering from life-threatening illnesses, including but not limited to cancer, heart disease, and AIDS. The City will comply with all Federal, State, and Local laws and regulations protecting the confidentiality of medical records. All policies and procedures relating to benefits, sick leave, and injury leave, are the same for employees with AIDS and other life-threatening illnesses as for all other employees.

SECTION 3. The City and the OPBA shall, within ninety (90) days from the execution of this Agreement, compile information on communicable diseases to which Bargaining

Unit Members may have exposure in the workplace. This information may be in the form of existing literature, and shall include information on modes of transmission, methods of self-protection, proper procedures and special precautions. A copy of this information shall be available at the front desk, through the OPBA and will be provided to each Bargaining Unit Member. This information shall be reviewed by the City and the OPBA annually, through the Labor Management Committee, and any additions or modifications shall be made available as provided herein.

SECTION 4. Any Bargaining Unit Member who has contact with the blood or other body fluids of another while on duty should wash the affected area immediately (mucous membranes should be flushed with water). If EMS personnel respond, the member shall advise such personnel of the exposure, and shall accompany the EMS personnel to the hospital. If EMS personnel do not respond, the member shall proceed to the Cuyahoga Falls General Hospital Emergency Room as soon as possible. Upon arrival at the hospital the member shall immediately advise the emergency room physician of the exposure and the circumstances thereof, and should request to fill out the form entitled "Employee or Emergency Care Worker Request for Information on Infectious Diseases." As soon as practicable after the exposure the member shall file an Exposure Report with the Chief or his designee on forms provided by the Chief. The City shall reimburse Bargaining Unit Members who report exposure as provided herein for any out of pocket expenses associated with medical testing as a result of an on duty exposure to the blood or other body fluids of another. In addition, the City will make hepatitis inoculation available to all bargaining unit members.

Article 31. Promotional Examinations

SECTION 1. Members who are on duty and who are eligible for and have submitted the appropriate application(s) to participate in any Cuyahoga Falls Police Department promotional examination given by the Civil Service Commission shall be released from duty for such time as is required to take said examination should the examination be given during the member's working hours.

SECTION 2. Should emergency circumstances exist in the Cuyahoga Falls Police Department at the time of the examination which force any member eligible for and who has submitted the appropriate application to participate in any Cuyahoga Falls Police Department promotional examination given by the Civil Service Commission to be unable to participate in said examination, the examination shall be postponed and rescheduled with no less than seven (7) calendar days notice to the applicants, service of which notice shall be completed when posted on the Bulletin Board provided for herein. No member who has not filed an application to take the examination as originally scheduled shall be eligible to take said examination by reason of any such rescheduling.

Article 32. Protective Vests

The City shall provide protective vests to members of the bargaining unit and shall replace protective vests provided to members of the bargaining unit at such time as the vests are no longer serviceable as provided in the manufacturer's specifications, unless the vest has been rendered unserviceable due to the misuse or neglect of the member, in which case the replacement shall be the responsibility of the member. The Chief of Police shall issue a policy, within thirty (30) days of the execution of this Agreement, outlining the care, maintenance, and use of protective vests.

Article 33. Family Medical Leave

The benefits of the Family Medical Leave Act of 1993 and its amendments will be provided to each member as stated therein.

Article 34. Administrative Leave

The Chief may place any member on Administrative Leave when, in the exercise of his discretion, he determines it is in the best interest of the member or the Department. Administrative Leave shall be leave with full pay and benefits and shall continue for a period determined by the Chief. Administrative Leave is not punitive or disciplinary in nature. A member on Administrative Leave shall not report for duty during the period of such leave.

Article 35. Fitness Evaluation

SECTION 1. Effective January 1, 2009, the physical fitness evaluation and financial compensation for attending, participating in, and/or passing fitness evaluations is hereby abolished.

SECTION 2. In consideration of the elimination of the fitness evaluation as provided in Section 1 above, all members shall receive, effective July 1, 2008, a one half of one percent (.5%) wage increase.

Article 36. Jury Duty

Any member who is compelled to be absent from work due to serving on any bona fide jury shall receive full pay during the period of such jury duty. Said member shall pay to the City any sums received from the court for jury service. Officers assigned to the afternoon or night shifts shall be temporarily assigned to the day shift during actual jury duty service, subject to the operational and scheduling needs of the City. During periods of jury service, all report-for-duty obligations shall be met by the affected employee through the Chief or his designee.

Article 37. Layoff, Demotion and Recall Procedure

A. The procedures contained in this Article apply only to layoffs and demotions resulting from lack of funds, lack of work, or abolishment of positions (as defined in Ohio Revised Code §124.321). To the extent authorized by Ohio Revised Code §4117.10, the layoff, demotion and recall procedures contained herein shall supersede any conflicting provision of general law.

B. Not less than twenty (20) calendar days prior to serving or mailing a notice of layoff or demotion to members as provided in Paragraph G below, the City shall give the Union written notice of its intent to demote or lay off members, and shall, upon request, meet with the Union thereafter to discuss alternatives, if any, to the demotions or layoffs, provided, however, that any failure to agree on alternatives to layoffs or demotion shall not be used by the Union as the basis for a grievance, a claim of unfair labor practice, a civil action, or any other legal proceeding. The notice to the Union shall specify the number of members, by rank, that will be laid off or demoted.

C. The order of demotions or layoffs shall be determined by reverse seniority in rank with the least senior member in each rank being demoted or laid off first. Seniority shall be determined by time in rank.

D. The City shall provide to each member to be demoted or laid off a written notice of demotion or layoff. Such written notice shall be personally served or mailed by certified mail to the last address on file with the City at least fourteen (14) calendar days before the effective date of each demotion or layoff. If the notice is mailed to the last address on file with the City, failure of delivery of said notice shall not constitute grounds for delaying the effectiveness of the layoff. Each notice shall contain the following information:

1. The date of the demotion or layoff;
2. The employee's seniority date in the classification;
3. A statement advising the employee of the right to recall.

E. The City shall maintain a list of demoted or laid off employees by classification. If recalled, members will be recalled to the same classification or rank from which they were demoted or laid off, in reverse order of their demotion or layoff.

F. A demoted member shall be eligible for recall for such time as he or she remains an employee on full time active status. A laid off member shall be eligible for recall for three (3) years. The period of recall eligibility shall be measured from the date of the member's layoff. When the recall period expires for a given member, the City shall remove the member's name from the recall list and the member will be permanently separated from the City. To be eligible for recall, a member must possess all of the

qualifications required of the member to hold the position to which he or she is being recalled.

G. To effectuate a recall, the City shall send a notice of recall by certified mail to the member's last known address as shown on the City records. For the purpose of recall, it is the member's responsibility to have a current address on file with the City. Service of the notice is satisfied if the notice is mailed to the last address on file with the City. A member on layoff will be given up to fourteen (14) calendar days to report for duty. A member who fails to return within the specified period shall waive all future recall rights. However, if within the specified period, the employee notifies the City and establishes that temporary sickness will prevent him from accepting the recall, he or she may decline the appointment and stay on the recall list. In such a case, the City will recall the next member on the list.

H. A member on layoff status shall not cash out any accrued benefit, including without limitation, vacation, sick leave, compensatory time off, holiday pay, or any other benefit which he would otherwise be entitled to cash out upon separation from the City; provided, however, that a member on layoff status may convert his layoff to a permanent resignation, in which case he will be entitled to cash out all benefits the same as if he had resigned without being first laid off. A member who converts his layoff to a permanent resignation shall be removed from any recall list and shall forfeit any right of reinstatement.

I. A member on layoff status shall accrue no benefits, nor shall he or she remain on the City's health insurance plan. Upon recall, the recalled employee shall have the same balances of sick leave, vacation and seniority that the employee had on the date of the layoff.

Article 38. Term of Agreement

This agreement shall be in effect from January 1, 2011, to December 31, 2013. To initiate negotiations for a successor agreement, either party may give written notice to the other at least ninety (90) days prior to December 31, 2013.

To establish wages and other economic conditions of employment from January 1, 2012 through December 31, 2012, either party may reopen negotiations for economic reasons by submitting a request for modification of the contract under Ohio Revised Code §4117.14, anytime after July 1, 2011, but in no event later than the sixty (60) days prior to the desired effective date of the modification.

To establish wages and other economic conditions of employment from January 1, 2013 through December 31, 2013, either party may reopen negotiations for economic reasons by submitting a request for modification of the contract under Ohio Revised Code §4117.14, anytime after July 1, 2012, but in no event later than the sixty (60) days prior to

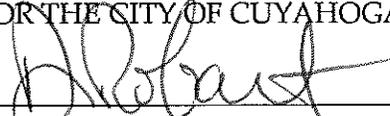
the desired effective date of the modification, provided, however, that if wage rates for 2013 are agreed upon in a modification proceeding commenced in 2011, the contract shall not thereafter be reopened to adjust economic issues.

[Next following is signature page.]

IN WITNESS WHEREOF, the City of Cuyahoga Falls has caused this Agreement to be executed by its Mayor and OPBA has caused this Agreement to be executed by its OPBA representative. This Agreement is effective January 1, 2011, pursuant to authority duly granted by the Council of the City of Cuyahoga Falls, Ohio.

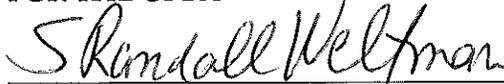
Signed at Cuyahoga Falls, Ohio this 20th day of December, 2010.

FOR THE CITY OF CUYAHOGA FALLS



Mayor Don L. Robart

FOR THE OPBA



S. Randall Weltman



Sgt. Perry Tabak



Sgt. Gary Merton

Certificate of the Director of Law

Approved as to form and correctness:



Paul A. Janis

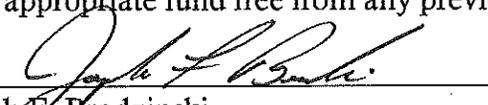
Director of Law

Dated: 12/20/2010

Certificate of the Director of Finance

To the Mayor, Director of Public Safety or Director of Public Service:

I hereby certify that the funds required to meet the City's obligations under this contract has been lawfully appropriated and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrance.



Joseph F. Brodzinski
Director of Finance
Date: 11/5/11

Appendix A

Effective January 1, 2011

	Steps			
	A	B	C	D
Sergeant	28.0085	29.3870	30.8814	32.3630
Over 7 Complete Service Years	28.7943	30.1857	31.6803	33.2262
Over 12 Complete Service Years	29.4772	30.9845	32.4919	34.0249
<hr/>				
Lieutenant	33.1360	33.9348	35.6096	37.3618
Over 7 Complete Service Years	34.0378	34.8752	36.5757	38.3795
Over 12 Complete Service Years	34.8752	35.7128	37.4649	39.3200

Effective January 1, 2012

	Steps			
	A	B	C	D
Sergeant	TBD	TBD	TBD	TBD
Over 7 Complete Service Years	TBD	TBD	TBD	TBD
Over 12 Complete Service Years	TBD	TBD	TBD	TBD
<hr/>				
Lieutenant	TBD	TBD	TBD	TBD
Over 7 Complete Service Years	TBD	TBD	TBD	TBD
Over 12 Complete Service Years	TBD	TBD	TBD	TBD

Effective January 1, 2013

	Steps			
	A	B	C	D
Sergeant	TBD	TBD	TBD	TBD
Over 7 Complete Service Years	TBD	TBD	TBD	TBD
Over 12 Complete Service Years	TBD	TBD	TBD	TBD
<hr/>				
Lieutenant	TBD	TBD	TBD	TBD
Over 7 Complete Service Years	TBD	TBD	TBD	TBD
Over 12 Complete Service Years	TBD	TBD	TBD	TBD

Memorandum of Understanding

Now come the City of Cuyahoga Falls (City) and Ohio Patrolmen's Benevolent Association (Gold or the "Union") and enter into the following memorandum of understanding.

Whereas, the parties have entered into or will enter into a collective bargaining agreement (the "Contract") covering Sergeants and Lieutenants in the Cuyahoga Falls Police Department for the period January 1, 2011 through December 31, 2013 (the "term of the Contract"), and

Whereas, the parties agree that it is mutually beneficial to set forth the following mutual understandings with respect to certain personnel and compensation matters in the Police Department,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

Effective January 1, 2011, and for the term of the Contract:

1. The City will maintain a supervisory staff (Sergeants, Lieutenants, Captains and a Chief of Police) of no less than fourteen (14) positions, at least six (6) of which will be above the rank of Sergeant, and, commencing with the date set forth in paragraph 2, will promptly fill supervisory positions vacated through attrition or promotion, in accordance with the City Charter, Ordinances, Civil Service Rules, and the Contract.
2. Except as provided in Paragraph 1, the distribution of positions among the various supervisory ranks shall be within the discretion of the City, provided, that no later than January 11, 2011, the City will fill or have filled Lieutenant positions by promotion so that the number of incumbent Lieutenants is four (4).
3. The City will not demote any incumbent Lieutenant appointed pursuant to paragraph 2 for the purpose of achieving any particular distribution of positions among the various supervisory ranks in the Police Department.
4. In consideration of the provisions contained in paragraphs 1 through 3, the Union will not assert a grievance, a claim of unfair labor practice, or institute a civil action, civil service appeal, or any other legal proceeding in response to the City's reorganization, existence of vacant positions, or abolishment of vacant positions in the supervisory ranks of the Police Department.
5. The Civil Service Eligible List for Lieutenant certified on June 23, 2010 shall remain active and in effect for the longer of three years or the duration of any of the Gold demotions which were effected in 2010. If the Eligible List is reduced to fewer than three names, the appointing authority may, but is not required to, request a new

examination, which will be conducted within ninety (90) days after the request for examination.

6. Notwithstanding the provisions of Section 4(a) of the MOU entered into between the parties on July 9, 2009, no compensatory time shall be sold back to the employer in calendar year 2011, except retirement cash-outs, if any.

7. This Memorandum of Understanding supercedes and replaces the Memorandum of Understanding between the parties entered into on January 19, 2010.

8. The parties recognize that the provisions of this memorandum are a product of "effects bargaining" and are intended to deviate from provisions of state law, city ordinance and/or civil service rules. The parties further agree that such deviation is to their mutual benefit and desirable to all parties. It is, therefore, the express intention of the parties that this memorandum shall supplant and supersede any conflicting provision of law to the full extent permitted by law. The parties hereby expressly waive any rights that would otherwise be obtained by application of conflicting state or local law to the subject matter of this memorandum.

Date: 12/20/2010

For the City:

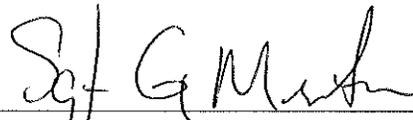


Mayor

For the Union:



Sgt. Perry Tabak



Sgt. Gary Merton



Paul A. Janis
Director of Law



S. Randall Weltman
Staff Representative