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AGREEMENT BETWEEN

CITY OF CUYAHOGA FALLS, OHIO

and

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION  
(Patrolmen and Community Service Officers)

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 OPBA**

The City agrees to recognize the OPBA as having jurisdiction over and being the sole and exclusive bargaining agent for the employees of the Police Department of the City of Cuyahoga Falls, Ohio, and working in the classifications that are listed herein for the purpose of establishing wages, hours of work, conditions of employment, and handling grievances.

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:

1. Patrolmen
2. Community Service Officers

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 employees in the classifications listed herein, equally and without discrimination.

All patrolmen shall be sworn officers. CSO's will be given oaths commensurate with their responsibilities.

## **Article 3. Subject Matter of Negotiations**

1. Wages
2. Hours of work
3. 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 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:

1. 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, selection of supervisors, and organizational structure.
2. Direct, supervise, evaluate, or hire employees.
3. Maintain and improve the efficiency and effectiveness of the Governmental Operations.
4. Determine the overall methods, process, means or personnel by which governmental operations are to be conducted.
5. Suspend, discipline, demote, or discharge for just cause, or layoff or transfer, assign, schedule or promote, or retain employees.
6. Determine the adequacy of the work force and the need for overtime work.
7. Determine the overall mission of the employer as a unit of Government.
8. Effectively manage the work force.
9. 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**

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.

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:

1. The right to determine, effectuate, and implement the objectives and goals of the Police Department.
2. The right to manage and supervise all operations and functions of the Police Department.
3. The right to establish, allocate, schedule, assign, modify, change and discontinue Police Department operations, work shifts and working hours.
4. The right to establish, modify, change and discontinue work standards.
5. 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.
6. The right to increase, reduce, change, modify, and alter the composition and size of the work force.
7. The right to determine, establish, set and implement policies for the selection, training and promotion of employees.
8. The right to create, establish, change, modify and discontinue any City function, operation and department.

9. 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.
10. 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.
11. The right to establish, select, modify, change or discontinue equipment, materials and the allocation and distribution thereof.
12. The right to determine and enforce employee's quality and quantity standards.
13. The right to contract, subcontract, merge, sell or discontinue any function or operation of the City.
14. The right to engage consultants for any function of operation of the City.
15. 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.
16. The right to control the use of property, machinery, inventories and equipment owned, leased, or borrowed by the City.
17. 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.
18. 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.
19. 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 for mutual aid or protection and to bargain collectively. Members 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 and/or alternate is invited or asks and is given permission by the Chief of Police or his designee to attend a departmental staff meeting, or asks to attend any public meeting of City Council 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 nine (9) hours per month for time actually spent attending such meeting.
- C. The OPBA Staff Representative designee and/or alternate will request to the Chief of Police or his designee, at least two (2) weeks in advance, to change the work schedule to allow them to attend OPBA meetings or seminars. The City will endeavor to accommodate such schedule change requests subject to departmental staffing needs.
- D. The City agrees to provide a list of names, addresses and telephone numbers of new hires after their first day worked.

## SECTION 2. GENERAL

- A. 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.
- B. Complaints against a bargaining unit member, anonymous or otherwise, when determined by the Chief of Police 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.
- C. 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.
- D. 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.

- E. 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 the OPBA Staff Representative and a department union representative at all disciplinary hearings before the Chief of Police. 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 shall 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 a timely notice of appeal is not filed, 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 removing a member at any time during his probationary period as provided by State Law.
- G. The standard for review in an arbitration case alleging wrongful discharge, suspension without pay, or other serious discipline shall be whether the action was for just cause.
- .H. 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.
- I. 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

- A. . 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 personnel 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 therefore at the rate of twenty cents (\$0.20) per mile. Should the City adopt by resolution or policy a higher rate of reimbursement for miles for any other employees in the City, members shall receive such higher rates for reimbursement.
- B. Whenever a member travels outside Summit County on official business or outside the City for training and is reasonably unable to return for any meal, the member shall be promptly reimbursed for meals during that time in accordance with the following schedule:

Breakfast	\$ 5.00
Lunch	\$ 7.00
Dinner	\$13.00

Should the City adopt by resolution or policy a higher rate of reimbursement for meals for any other employees in the City, members shall receive such higher rates for reimbursement.

- 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.
- 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.

- B. Training courses may be offered through and by the police division, and a sign-up sheet will be posted whenever practical 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 the subject of grievance under this Agreement. The cost of all training required by the City shall be paid for by the City.
- C. In the event a member wishes to attend training not offered by the City, he must obtain prior approval for the time off from the Chief of Police or his designated representative. The costs associated by such approved training shall be borne by the member. However, the Chief of Police, at his sole discretion, may pay the member his normal pay and/or the total or partial cost of the training. Any decision by the Chief of Police under this section shall be final and not the subject of grievance under this Agreement.

#### SECTION 8. SENIORITY

- A. Except as otherwise provided in this Agreement, seniority shall be defined as the length of service with the Cuyahoga Falls Police Department except that current members hired on or before July 1, 1990, who have credit for service with other City of Cuyahoga Falls Departments or as full-time police officers for the former Northampton Township Police Department will retain such seniority credit. Its uses shall be those uses specifically provided for in other articles of this Agreement, including vacation scheduling. Seniority will commence on first day worked.
- B. Except as otherwise specifically provided for under state law, this section shall not apply to any former employee who is on retirement status.
- C. 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, paid or unpaid, other than retirement, shall continue to accumulate seniority during any such period.
- D. Seniority lists shall be brought up to date by the City each year as of January 1, posted on bulletin boards 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.

#### SECTION 9. RULES, REGULATIONS, POLICIES AND PROCEDURES

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

## **Article 6. OPBA Security**

SECTION 1. For the purpose of this agreement, the Staff Representative of the OPBA or designee may present any grievance according to the grievance procedure of this agreement.

SECTION 2. The name of the OPBA representative and designee shall be furnished to the City. The designee 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 designee 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 Chief of Police, a longer period of time for investigation may be granted considering the work assignments of the Department.

SECTION 3. Three 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 choose 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 September 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 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 of Police or his designated representative. Such approval shall not be arbitrarily withheld.

#### **Article 10. Bulletin Boards**

The City shall furnish a bulletin board for this bargaining unit which may be used for the following notices approved by the OPBA:

1. Recreational and social affairs of the bargaining unit;
2. Bargaining unit meetings;
3. Bargaining unit nominations and elections;
4. Reports of bargaining unit committees;
5. Rulings of the policies of the OPBA;
6. Other bargaining unit business.

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.

Upon request of the City, the bargaining unit will immediately remove any notice or other writing that violates this provision.

The OPBA bulletin board will be maintained at a location to be agreed to by the Chief of Police and the OPBA Staff Representative or designee.

The OPBA shall be permitted to place, at its own cost, an additional bulletin board at a location to be agreed to by the Chief of Police and the OPBA Staff Representative or designee. The posting of material shall be limited as above.

#### **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**

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.

1. Time limits for grievances are postponed until the emergency has been declared ended.
2. Limitations on distribution of work assignments.
3. 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**

#### **A. 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, or as to any non-probationary member's discipline.

#### **B. 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 five (5) calendar days from receipt of the grievance, provide the member, the OPBA and the Chief of Police a written answer to the grievance. If the member does not invoke Step 3 within five (5) 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 Chief of Police or his designee in writing within five (5) calendar days after receipt of the Division Commander's written answer to the grievance. Copies of said grievance will be furnished by the Chief of Police or his designee, to the Mayor and by the grievant to the OPBA. The Chief of Police 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 Chief of Police 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 Chief of Police. If the member does not invoke Step 4 of this procedure within seven (7) calendar days after receipt of the decision of the Chief of Police 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 Chief of Police, 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 Chief of Police 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 4 of the grievance procedure. Oral reprimands and written reprimands shall not be subject to arbitration, but the decision rendered at Step 4 shall be binding and final.

C. 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.

D. FORM

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

#### **Article 14. Labor-Management Committee**

SECTION 1. In the interest of sound relations a joint committee consisting of up to four (4) Union members and up to four (4) members from the City shall convene on the first Tuesday of each quarter beginning in January of each calendar year 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. Not less than twenty-four hours before any scheduled meeting, either the City or the Union may serve the other with a proposed agenda of items to be discussed at the meeting. If neither the City nor the Union proposes an agenda not less than twenty-four hours before the scheduled meeting, the meeting shall be cancelled.

SECTION 2. Except where exigent circumstances exist which require immediate, temporary operational changes (of which the OPBA shall be informed as soon as practicable), the City will give the OPBA advance notice of operations changes which will materially affect working conditions, so that the OPBA can express its views through the Labor-Management Committee, and it is also understood that any item may be discussed at Labor-Management Committee meetings, including policy, and the tools, machines and equipment necessary to perform the work. However, management's right to make the final decision is exclusive and is not subject to review of any sort. Bargaining unit members shall be compensated for time spent at such meetings if held while they are on duty.

SECTION 3. Any agreements or policy changes agreed upon by the Labor-Management Committee shall be reduced to writing. Any said changes shall be subject to review and/or change at future meetings of the Committee. A record also shall be made of topics discussed and the positions taken by the OPBA and management in each.

#### **Article 15. Tour of Duty**

SECTION 1. Tour of duty shall mean a normal working time of five (5) consecutive eight-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.

SECTION 2. The City will annually assign shifts within the Patrol Division of the Cuyahoga Falls Police Department based upon seniority with the following conditions:

- A. Employees will be eligible to participate in annual seniority based shift selection only after one (1) year of service with the Cuyahoga Falls Police Department after completion of the Field Officer Training Program. Annual shift assignments for employees with less than one (1) year of service after completion of the Field Officer Training Program will be made by the Chief or his designee.
- B. Seniority based shift selection by eligible employees shall be by shift, and within the shift by slot related to regular days off. The Chief or his designee shall post the shifts and choice of days off within each shift that are available for seniority based selection and shall indicate on the schedule those shifts on which he intends to place employees pursuant to Section A above. Day off assignments for those employees who are not eligible for shift selection shall take place after all eligible bargaining unit members have participated in the shift selection by seniority process.
- C. Probationary employees shall be subject to shift assignment and rotation at the Chief's discretion. The assignment and rotation of probationary employees shall not preempt an officer's seniority selection rights unless there are extenuating circumstances that makes such preemption necessary.
- D. 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.
- E. Consistent with progressive corrective management practices in the promotion of efficiency, the Chief or his designee may change shift assignment based upon an officer's unsatisfactory performance.

- F. 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.

SECTION 3. The parties agree to periodically discuss any problems with assignments through Labor-Management Committee meetings.

SECTION 4. Nothing in this article shall be construed to affect the City's management rights as provided in the Collective Bargaining Agreement between the parties and in R.C. 4117.

SECTION 5. The provisions of this article shall only be enforceable through the grievance procedure provided in the Collective Bargaining Agreement between the parties.

SECTION 6. Tour of Duty requirements may be waived by the parties where necessary to accommodate training and educational needs.

#### **Article 16. Overtime**

[See Memorandum of Understanding, attached hereto]

SECTION 1. The "work period" shall be twenty-eight (28) days. No more than one hundred seventy-one (171) hours actually worked shall be paid at straight-time rates during any twenty-eight (28) day work period. Hours actually worked in excess of one hundred seventy-one (171) hours in any twenty-eight (28) day work period shall be paid in cash at the rate of one and one-half (1 1/2) times the straight-time rate, unless amendments to the Fair Labor Standards Act or regulations issued pursuant thereto, otherwise provided.

SECTION 2. Further, 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, the first hour of assignment to early car duty in a twenty-four (24) hour period or assigned training where the member is not required to report for his regularly assigned shift on the day of said training.

- A. Contractual overtime which does not involve working more than one hundred seventy-one (171) hours in one twenty-eight (28) day work period (Paragraph A) may be compensated in cash or compensatory time as provided below.
- B. 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.

- C. In calculating hours worked for purposes of overtime, hours worked shall not be rounded up to any given clock increment.

SECTION 3. 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 a minimum of 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 4. Overtime compensation shall mean one and one-half (1 1/2) times the hourly compensation rate established for the pay range of the eligible member or its equivalent hourly rate determined by dividing the annual salary by 2,080 hours.

SECTION 5. The following compensatory time option is subject to the right to cash overtime pay for hours worked in excess of one hundred seventy-one (171) hours in any twenty-eight (28) day work period (Paragraph A above). At the election of the eligible member, and subject to approval or disapproval of the Chief of Police, compensation for overtime work may be taken as compensatory time off at the rate of one and one half (1 1/2) 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. This provision is subject to any regulations or order made by the Federal Government. No more than four hundred eighty (480) hours of compensatory time off may be accumulated by an individual member, who shall have the option to sell back to the employer up to two hundred forty (240) hours, two (2) time per year, with a maximum cash out upon retirement of one hundred (100) hours. Members may use compensatory time off in lieu of sick leave in the case of illness with the approval of the Chief of Police. Notwithstanding the above, including anything in the Memorandum of Understanding regarding Overtime, no compensatory time shall be sold back to the employer in calendar year 2011, except retirement cash-outs.

SECTION 6. Compensatory time shall be taken only at the request of the bargaining unit member, subject to the approval of the Chief of Police or his designee. Should two (2) or more members of the same shift request compensatory time off, approval, if granted shall be given to the first submitting member. Should compensatory time off be requested on the same day by two (2) or more members for the same time off, seniority shall prevail.

**Article 17. Uniform Allowance**

SECTION 1. Each bargaining unit member shall receive an annual clothing allowance for the purchase and maintenance of uniforms as follows:

Prior to January 1, 2009	\$1,200.00 per year
Effective January 1, 2009	\$1,250.00 per year

This amount is payable one-half on December 31st and one-half on June 30th of each year of the Agreement.

SECTION 2. 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. Any member of the bargaining unit who does not successfully complete his probationary period, shall return to the City all items purchased with 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 to the uniform shall be borne by the City and the cost thereof reimbursed to the member at the end of the first pay period during which the additional uniform requirement has been purchased.

**Article 18. Holidays and 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, (third Monday in February), Good Friday, Easter, Memorial Day, Independence Day, Labor Day (1st Monday in September), Veterans Day, Thanksgiving Day (4th Thursday in November), Friday after Thanksgiving Day, Day before Christmas, and Christmas Day and Columbus Day (observed). 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. After successful completion of one year of employment, all members of the bargaining unit shall annually receive two (2) personal days, which may be taken subject to the approval of the Division Commander. These days are given in lieu of a designated holiday of national recognition. In 2011 only, all bargaining unit members shall receive one personal day in addition to those authorized by this section.

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.

SECTION 4. The holiday shall be the actual holiday and not a day changed by the City.

## **Article 19. Wages**

### SECTION 1. WAGES RATES

Effective January 1, 2011, the hourly wage rates for bargaining unit members shall be the rates set forth in Appendix A of this contract. The wage rates as set forth in Appendix A reflect a zero percent (0.0%) wage increase effective January 1, 2011.

The provisions of this Section shall not be deemed to affect a Member's eligibility for a Step Increase as provided for in this Article.

Wages effective January 1, 2012 and thereafter shall be established pursuant to negotiations called in accordance with Article 36, 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

- A. Except as otherwise provided in this Agreement, patrol officers and CSO's 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.

- B. Original appointments to a position in the bargaining unit shall be placed in Step A. Members classified under Step A shall not attain "Regular" 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. At the expiration of one calendar year from their original appointment, regular employees in Step A shall be elevated to Step B only upon recommendation of the Chief of Police. Such recommendation shall be given after the employee is satisfactorily performing his duties.
- C. Regular employees shall advance each calendar year thereafter, upon recommendation of the Chief of Police until reaching Step F, which recommendation shall be made for all members satisfactorily performing their duties. After seven (7) completed calendar years of service and after twelve (12) completed calendar years of service said members shall advance to Step F and G respectively upon the same conditions set forth for advancement above.

**Article 20. Longevity Pay**

Effective January 1, 2000, longevity will no longer be paid. A one-time adjustment was made at that time in the salary schedule to the base pay at the following steps:

- Five (5) years .20/hour
- Ten (10) years .29/hour
- Fifteen (15) years.38/hour

**Article 21. Acting Capacity**

SECTION 1. Any patrolman 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.

SECTION 2. The City may hire part-time officers at a rate of pay to be determined by the Chief of Police but in no event shall such pay exceed Step A of the Patrolman pay range. Any part-time officer hired under this provision will be permitted to work no more than 90 days in any calendar year and, except as otherwise provided by law during a declared emergency; such part-time officers may only be assigned to work the Blossom Music Center detail.

**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.

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%
The \$15.00 co-pay for office visits applies to all office visits including those for follow-up treatment for a single medical condition.	
Surgery (eliminate surgical schedule)	
90%/10%	70%/30%
Anesthesiology (eliminate 100% billed)	
90%/10%	70%/30%
Emergency Room Deductible:	

\$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.

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

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.

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 description of benefits shall be given to each member.

SECTION 5. Members of the bargaining unit as of April 1, 2006, shall be provided with health care benefits upon retirement as provided in accordance with the terms of Ordinance 160-2003 (Appendix B).

### **Article 23. Other Insurance**

#### 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 nine thousand dollars (\$9,000) per person.

#### 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.

SECTION 4. VISION COVERAGE

The City shall make group vision insurance coverage available for those bargaining unit members who desire it, provided that the total cost of any and all premiums for such coverage shall be borne by those bargaining unit members electing to enroll for such coverage.

**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.

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. Any member retiring who exercises his option to have banked vacation used to determine gross pay for retirement purposes pursuant to laws, rules and regulations established by the Police and Fire Pension System shall bear the cost of such transfer by having the total vacation amount banked reduced by the employer's pension contribution cost.

SECTION 6. 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, vacation amounts sold in calendar year 2011 shall not exceed, for each employee, the average of the amounts sold by the employee in 2008 and 2009.

SECTION 7. 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. 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. For the purpose of this article, "periodic" shall mean not less than one time during the term of this Agreement. 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. These physical examinations may include the following tests:

- EKG
- Chest X-ray
- Pulmonary Function
- Stress Test
- Colonoscopy

- A. 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: (1) where intervention is suggested and (2) 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

- B. 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:
1. See the medical personnel designated by the City for education and intervention; or
  2. 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.

- C. 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:
1. Denial or reduction in pay grade steps.
  2. Unsatisfactory semi-annual evaluations.
  3. 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 2. 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. In addition to the drugs previously and currently tested, the City may test members for the presence of steroids. 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 60% and a specificity of 99+%. This test shall be given the same weight as the two 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 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 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.
- G. For the purpose of this article, "periodic" shall mean not less than one 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 3. 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. Workers' Compensation and Injury Leave

### SECTION 1. WORKERS' 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 workers' compensation law of Ohio, shall receive 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 90% 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 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 of Police agree to the light duty assignment. The Chief of Police 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 of Police declines such request for light duty he shall provide verbal notification of the reason(s) for such denial.

### **Article 27. Police & Fireman's 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 & Fireman's Pension Fund (and, for CSO's to PERS) 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 & Fireman's Pension Fund (for CSO's, PERS) pick-up. The member's contract wage thus shall consist of two 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 & Fireman's Pension Fund (for CSO's, PERS) 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 4.6 hours per pay period of eighty (80) hours. Members with less than eighteen (18) months service shall be allowed a sick leave advance under the terms of Ordinance No. 132-1985.

SECTION 2. Members may use sick leave upon approval of the Chief of Police 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, and 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.
- G. 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 (2) weeks
Parent, Parent-in-law, Sibling, or anyone in place of parent	Maximum of five (5) days
Sibling-in-law, Aunt, Uncle, Grandparents, Grandchildren	Maximum of three (3) days
All other relatives	Maximum of one (1) day

SECTION 3. Sick leave shall not be used for work related injuries.

SECTION 4. Sick leave taken shall be deducted on an hour-for-hour basis from the member's accumulated sick leave.

SECTION 5. The Chief of Police 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 6. 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 of Police.

SECTION 7. 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 8. Bargaining unit members may donate up to forty (40) hours of sick time to another member's sick time account, as long as the donating bargaining unit member maintains a balance of forty (40) hours of sick time in his balance after the donation. Said donation may be made in accordance with the City's policy regarding Sick Leave Donation.

SECTION 9. Upon retirement, death, or termination in good standing from active service with the City after December 31, 1993, and with ten (10) or more years of service with the City, a member of this bargaining unit, or in the case of his death, his estate or surviving spouse, 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 nine hundred sixty (960) hours. Such payment shall be based on the member's rate of pay at the time of retirement. Such payment shall be made only once to any member.

SECTION 10. An employee who has qualified for a service pension under the rules from the Police and Fireman's Disability and Pension Fund by reason of age and length of service, and has accumulated a sick leave balance of nine hundred and sixty (960) hours or more, may elect to cash out accrued sick time up to nine hundred and sixty (960) hours in three (3) equal and annual payments of up to three hundred twenty (320) hours during any three (3) subsequent years of employment with the City.

- A. These payments shall be based on the employee's rate of pay at the time of each payment.
- B. 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.

- C. 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.
- D. 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.
- E. 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 11. 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, sick leave incentive cash benefit payments made in calendar year 2011 on the basis of sick leave usage in calendar year 2010 shall not exceed, for each employee, the amount that the employee was paid during 2009.

### **Article 29. Family and 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 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 of Police or his designee on forms provided by the Chief of Police.

SECTION 5. 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. Protective Vests and Corrective Eye Surgery**

#### SECTION 1. PROTECTIVE VESTS

The City 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.

#### SECTION 2. CORRECTIVE 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 approved by and performed in the United States of America.

### **Article 32. 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 33. Fitness Evaluation**

SECTION 1. The parties recognize the importance of member fitness in maintaining an effective and efficient department.

- A. A member who participates in the department's annual fitness evaluation shall be compensated as follows:
  - 1. For attending and participating in all aspects of the fitness evaluation, the member shall receive a minimum of four (4) hours straight pay or one and one-half (1 1/2) times the actual time spent in testing, whichever is greater;
  - 2. For each component passed, the member shall receive the amount of fifty dollars (\$50.00);
  - 3. For passing all the components, the member shall receive an additional amount of one hundred dollars (\$100.00).
- B. Item 1 shall be paid with the member's regular paycheck; items 2 & 3 shall be paid with the second pay of December of each year.

SECTION 2. Participation in the fitness evaluation shall be voluntary, and the member shall not have either his failure to participate or his performance on the evaluation considered for any purpose other than as provided in this article.

SECTION 3. The components shall be the bench press, leg press, sit-ups, push-ups, flexibility, and twelve (12) minute walk/run. Tests shall be scored strictly on a pass/fail basis. The standards shall be those set forth in a memorandum agreed to by the parties.

#### **Article 34. 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 35. Layoff and Recall Procedure**

A. To the extent authorized by Ohio Revised Code §4117.10, the layoff 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 to members as provided in Paragraph G below, the City shall give the Union written notice of its intent to lay off members, and shall, upon request, meet with the Union thereafter to discuss alternatives, if any, to the 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.

C. The order of layoffs shall be determined by reverse seniority in classification or rank with the least senior member in each classification or rank being laid off first. Seniority shall be determined by the departmental seniority list established for shift selection under Article 15.

D. The City shall provide to each member to be laid off a written notice of 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 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 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 laid off employees by classification. If recalled, members will be recalled to the same classification or rank from which they were laid off, in reverse order of their layoff.

F. 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 36. 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.

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 13<sup>th</sup> day of January, 2011, 2010.

FOR THE CITY OF  
CUYAHOGA FALLS



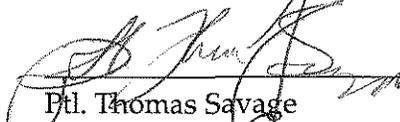
Mayor Don L. Robart

FOR THE OHIO PATROLMEN'S  
BENEVOLENT ASSOCIATION



Randall Weltman

Ptl. Edward Vanadja



Ptl. Thomas Savage



Det. Chad Lengel

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Approved as to Form:



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Paul A. Janis  
Director of Law

**Certificate Of The Director Of Finance**

To the Mayor/Director of Public Safety:

I hereby certify that the amount required to meet the City's obligation 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 Brodzinski  
Director of Finance

*for*

Date 1/13/11

**APPENDIX A**

Wages set forth in terms of hourly rates

**Wage Rates**

Ohio Patrolmen's Benevolent Association Police Officers, Community Service Officers (Blue)  
Rates Effective January 1, 2011 (0.0 Percent)

	Steps						
	A	B	C	D	E	F*	G**
CSO	18.6416	20.5774	21.5776	22.5775	23.8339	24.5520	25.2698
Patrolman	21.6544	23.8852	25.0006	26.1290	27.5775	28.3724	29.1930

Ohio Patrolmen's Benevolent Association Police Officers, Community Service Officers (Blue)  
Rates Effective January 1, 2012 (TBD Percent)

	Steps						
	A	B	C	D	E	F*	G**
CSO	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Patrolman	TBD	TBD	TBD	TBD	TBD	TBD	TBD

Ohio Patrolmen's Benevolent Association Police Officers, Community Service Officers (Blue)  
Rates Effective January 1, 2013 (TBD Percent)

	Steps						
	A	B	C	D	E	F*	G**
CSO	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Patrolman	TBD	TBD	TBD	TBD	TBD	TBD	TBD

\*After 7 Complete Service Years

\*\*After 12 Complete Service Years

\*\*\* TBD – To Be Determined

APPENDIX B

1 Substituts B-137 (12/9/03)

Presented by the Administration

2  
3  
4 CITY OF CUYAHOGA FALLS, OHIO

(7-3)

5  
6 ORDINANCE NO. 160 - 2003

7  
8 AN ORDINANCE AMENDING SECTION 151.09 OF THE  
9 CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY

10  
11  
12 WHEREAS, Section 151.09 of the codified ordinances provides for the reimbursement to City  
13 retirees of all pension system medical insurance premiums, deductibles and co-payments, and

14  
15 WHEREAS, the City is unique among public agencies in Ohio in providing this level of  
16 reimbursement to its retirees as 98% of public agencies in Ohio provide no reimbursement to  
17 their retirees whatsoever, and

18  
19 WHEREAS, recent changes to the medical benefits provided by the state pension systems  
20 have resulted in enormous cost increases to the City,

21  
22 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County  
23 of Summit, and State of Ohio:

24  
25 Section 1. That Section 151.09 of the Codified Ordinances of the City of Cuyahoga Falls is  
26 hereby amended to read as follows in its entirety:

27  
28 151.09 Medical Health Care for Retirees

29  
30 (1) As used herein "retiree" means an employee who is currently retired, or retires hereafter,  
31 with the Ohio Public Employees Retirement System (PERS) or the Ohio Police and Fire  
32 Pension Fund (OP&F) from employment with the City of Cuyahoga Falls having a minimum of  
33 12 years of continuous full-time service with the City immediately before the date of  
34 retirement. Retiree does not include any employee whose date of hire is on or after January 1,  
35 2004. As used herein, "health care cost" means health insurance premiums, prescription  
36 drug insurance premiums, and deductibles and co-payments, charged under a health care  
37 plan provided to the retiree, or the surviving spouse of the retiree by virtue of the retiree's  
38 public employment, by either PERS or OP&F to provide health care to the retiree, the retiree's  
39 eligible spouse, and the retiree's eligible children.

40  
41 (2) Except as otherwise provided by applicable collective bargaining agreements, effective  
42 January 1, 2004, the City shall reimburse a retiree for health care costs incurred by the  
43 retiree or the surviving spouse of the retiree up to the following annual maximum amounts:

44		
45	PERS Retirees	\$1,935.00 per retiree to include premiums, deductibles and
46		copayments, which amount shall increase 5% per year
47		commencing January 1, 2005.
48		
49	OP&F Retirees	
50	Single Coverage	\$1,129.00 per retiree for premiums which amount shall increase
51		5% per year commencing January 1, 2005, plus \$400.00 for
52		deductibles and copayments.
53		
54	Single and	
55	Spousal Coverage	\$2,831.00 per retiree for premiums which amount shall increase
56		5% per year commencing January 1, 2005, plus \$400.00 for
57		deductibles and copayments.
58		
59	Family Coverage	\$3,575.00 per retiree for premiums which amount shall increase
60		5% per year commencing January 1, 2005, plus \$400.00 for
61		deductibles and copayments.

**APPENDIX B**  
**(Continued)**

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The annual reimbursement maximum for premiums shall be prorated on a monthly basis and the amount of reimbursement for premiums in a given month shall not exceed the prorated monthly amount.

(3) The reimbursements provided for herein shall cease upon the happening of either of the following events.

- (a) The retiree and the retiree's spouse both reach the age of 65 years.
- (b) The retiree, the retiree's spouse, or the surviving spouse of a retiree becomes employed on a full-time basis with the City of Cuyahoga Falls,
- (c) Any event, the effect of which under eligibility requirements in effect at PERS or OP&F would be that PERS or OP&F would cease to provide insurance premium subsidies to the retiree or the retiree's surviving spouse.

(4) In the event that either PERS or OP&F terminate health care coverage to retirees after the effective date of this ordinance, an adversely affected retiree shall be permitted to return to the City's health care plan, provided that the retiree pay one-third the amount of the premium charged pursuant to the Comprehensive Omnibus Budget Reconciliation Act.

(5) The Director of Finance is hereby authorized and directed to make the payments provided for herein.

Section 2. That Ordinance 173-191 and any other ordinance dealing with retiree health care and any ordinances or resolutions or portions of ordinances and resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.

Passed: December 15, 2003

Kathleen Hummer  
President of Council

Carolyn J. Beede  
Clerk of Council

Approved 12/16/03

Bobart  
Mayor

12/15/03  
O:\2003 ordinances\retiree-medical-sub7.doc

MEMORANDUM OF UNDERSTANDING

FITNESS EVALUATION

In the implementation of the Fitness Evaluation program for the Department the parties agree as follows:

1. The standards shall be those set forth in the "Cooper" protocol attached hereto.
2. A passing grade shall be obtained by achieving the 50<sup>th</sup> percentile for the member's age and gender.
3. The components shall be graded on a pass/fail basis.
4. Any records related to the evaluation shall be maintained in a separate Fitness Evaluation file maintained by the Chief.

Participation in the Evaluation is voluntary, however, to qualify for Fitness Evaluation compensation a member must participate in all components of the Evaluation unless excused by the Chief or his designee.

City of Cuyahoga Falls

Ohio Patrolmen's Benevolent Association

Robert

Randall Welton

Vigil

Don W. Brown

Date 8/11/09

Date 8/11/09

## PHYSICAL FITNESS TESTING

Physical fitness can be defined into two categories: health-related and motor-related. The health-related components of physical fitness are of great importance because they make an individual fit for life, being functional and productive for everyday living. Motor-related components make an individual successful in athletics or motor-developed activities.

Each category has the following components:

### Health-Related

- A. Strength
- B. Dynamic strength
- C. Flexibility
- D. Cardiovascular

### Motor-Related

- A. Coordination
- B. Agility
- C. Power
- D. Balance
- E. Speed
- F. Accuracy

The health-related components are those which are tested to determine an applicant's fitness level. This approach emphasizes basic, functional fitness, not agility tasks. The controlled tests that are performed and the fitness norms used to determine these fitness levels are prescribed from Dr. Kenneth Cooper's Institute of Aerobics Research in Dallas, Texas, whose expertise in the area of exercise physiology is well known.

The following tests and their descriptions are used to determine the health-related fitness levels of the applicants. The accompanying tables for each test list the percentile levels of the general population norms. It is expected that EACH PARTICIPANT will perform the optimal level on each event, as this process is a physical fitness assessment.

**NOTE:** Participants in the fitness testing are to PACE themselves throughout the phases of the assessment process. It is SUGGESTED that participants consult with their physicians regarding the content of this testing and the effect the testing may have relative to any past or present illnesses, conditions or injuries which may affect his/her participation in, and ability to perform, the testing program.

## COMPONENTS OF FITNESS TESTING

### I. Strength:

Strength is the amount of tension a muscle can exhibit in one maximal contraction. Two tests that go through the full range of motion which meet the total body strength criterion are the single repetition maximum BENCH PRESS and LEG PRESS.

#### A. Procedure:

1. Estimate the weight that an individual press in one maximum effort.
2. For the BENCH PRESS, load the weights about one-half of the estimated weight or the following: Male -  $2/3$  body weight; Female  $1/2$  body weight. For the LEG PRESS, the weights are loaded for both males and females to body weight.
3. The individual is instructed to press the weight once for an easy warm-up.
4. The loading of the weights is increased in ten pound or more increments to maximum. The first three to four repetitions serve as warm-up lifts in order to prevent injury and to prepare the person for a maximal lift on the fifth or sixth effort.
5. The score for this test is the maximum number of pounds lifted in one repetition.
6. The performance factor is determined by dividing the maximum weights lifted by the body weights of the candidate.

### II. Dynamic Strength – Muscular Endurance Testing:

Muscular Endurance is the ability to contract the muscle repeatedly over a period of time. Low muscular endurance indicates inefficiency in movement and low capacity to perform work.

#### A. Procedure:

Sit-up Test: This test indicates the muscular endurance of the abdominal muscle group, an area of important concern.

1. The subject starts by lying on his back with knees bent, heels flat on the floor.
2. A partner holds the feet down.
3. The subject then performs as many correct sit-ups as possible in one minute.
4. In the up position, the individual should touch elbows to knees and return to a full lying position before starting the next sit-up.
5. Score is total number of correct sit-ups.

Push-up Test: This test measures muscular endurance of the shoulder (deltoids, pectorals, triceps).

1. The test administrator places his fist on the floor below the subject's chest.
2. The subject must keep the back straight at all times and from the up position lower him/herself to the floor until the chest touches the administrator's fist and then push back to the up position again.
3. The subject repeats push-ups for one minute, non-stop, except in the UP position.
4. The total number of correct push-ups in one minute is recorded as the score.

### III. Flexibility:

Flexibility is included in total fitness assessment because of the wide-spread problems of low back pain and joint soreness. Flexibility is the range of possible movement in a joint or group of joints. It is necessary to determine the functional ability of the joints to move through a full range of motion. No general flexibility test measures the flexibility of all joints, however, the trunk flexion or the sit and reach test serves as an important measure of hip and back flexibility.

A. *Procedure:*

1. The subject should warm up slowly by practicing the test.
2. The subject sits on the floor with legs extended at right angles against a box.
3. The heels touch the near edge of the box and are eight inches apart.
4. A yardstick is placed between the legs of the subject and rests on the box with the 15" mark of a yardstick on the edge of the box and the short end toward the subject.
5. The subject slowly reaches forward with both hands as far as possible and holds the position momentarily.
6. The distance reached on the yardstick by the fingertips in inches is recorded.
7. The best of three trials is considered as the flexibility score.

IV. Cardiovascular Endurance – Aerobic Power Test

The term "aerobics" was adapted from the term aerobic which refers to the type of metabolism utilizing oxygen in the production of energy for the body. The 12-minute run/walk test is used to determine the efficiency of the cardio-respiratory system.

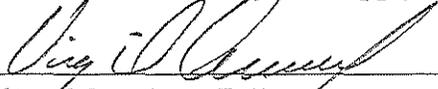
A. *Procedure: 12-Minute Run/Walk*

1. An indoor or outdoor track is used or another suitable running area measured so that exact distances are indicated.
2. The distance covered in 12 minutes is then compared to the norm tables.
3. IMPORTANT SUGGESTIONS!!

- a. Each subject should have experience and practice in pacing prior to the test. Subjects should pace themselves to avoid becoming fatigued too early.
- b. On the day of testing, the participants should refrain from smoking or eating for two hours preceding the test.
- c. It is advisable to allow adequate time prior to the test for stretching and warm-up exercises.
- d. During the administration of the test, participants will be informed of the times.
- e. An important consideration at the end of the run is the "cool down" period. Participants should keep walking for five to ten minutes after the run to prevent pooling of blood in the lower extremities.

## MEMORANDUM OF UNDERSTANDING

The City of Cuyahoga Falls and the Fraternal Order of Police, Ohio Labor Council, Inc., hereby agree to meet within thirty (30) days after the execution date of this agreement to negotiate regarding a Sick Leave Donation Policy. Should the parties fail to reach agreement within thirty (30) days thereafter, the parties agree that the following Sick Leave Donation Policy shall apply.

  
City of Cuyahoga Falls

  
Ohio Patrolmen's Benevolent Association

### SICK LEAVE DONATION POLICY

A. **Purpose:** The intent of the sick leave donation policy is to allow employees of the City of Cuyahoga Falls to voluntarily provide assistance to their co-workers (other employees of the City) who are in critical need of leave due to an extended illness or injury of the employee or a member of the employee's immediate family.

B. **Definitions:** For the purpose of this policy the following shall apply:

Donee: the employee in need of and approved to receive donated sick leave.

Donor: the employee volunteering to donate sick leave.

Immediate family: grandparents, brother, sister, brother-in-law, sister-in-law, daughter-in-law, son-in-law, father, father-in-law, mother, mother-in-law, spouse, child, stepchild, grandchild, a legal guardian or any other person who stands in place of a parent (loco parentis).

Serious health condition: an illness, injury, impairment, or physical/mental condition that involves a period of incapacity or treatment that requires absence from employment and involves care by a health care provider. Serious health condition also includes continuing treatment of chronic or long-termed incurable conditions and prenatal care.

Spouse: A legally recognized husband or wife.

- C. **Policy:** Employees of the City may donate accrued sick leave to a fellow employee who is otherwise eligible to accrue and use sick leave. The intent of the leave donation program is to allow employees to voluntarily provide assistance to their co-workers who are in critical need of leave due to an extended serious health condition of the employee or a member of the employee's immediate family. This policy has been adopted pursuant to ORC 124.391.
- D. **Hours Donated:** Any hours donated shall be donated at a rate of pay equal to that of the Donor unless the rate of pay of the Donee is less than that of the Donor, in which case the donation shall be at the rate of pay of the Donee.
- E. **Receiving Leave:** An employee may receive donated leave up for a maximum period of up to three (3) months. Each pay period an employee may receive donated leave up to the number of hours the employee is normally scheduled to work each pay period (the equivalent of the employee's normal biweekly earnings), if the employee to receive donated leave or a member of the employee's immediate family has a serious health condition and the employee:
1. Has no accrued paid leave; and
  2. Has completed his or her new hire probationary period; and
  3. Has applied for any paid leave, Workers' Compensation, or benefits program for which the employee is eligible; and
  4. Has applied for and would qualify for Family and Medical Leave; and
  5. Has not been disciplined for the improper use of sick leave during the past 12 month period; and
  6. Has provided acceptable written verification that a serious health condition exists; and
  7. Agrees to accept the leave under the terms of this policy and completes an "Application to Receive Donated Leave" form.
- F. **Donating Leave:** Employees may donate leave if the donating employee:
1. Voluntarily elects to donate sick leave and does so with the understanding that donated leave will not be returned; and
-

2. Donates a minimum of eight (8) hours; and
3. Retains a sick leave balance of at least forty (40) hours; and
4. completes an "Application to Donate Leave" form.

**G. Administration:** The sick leave donation program shall be administered on a pay period to pay period basis. The Employer shall review the Application to Receive Donated Sick Leave and the Application to Donate Sick Leave to assure compliance with Sections E and F of this policy. Donations of sick leave will be recorded in the order of their submission, and will not be considered actually donated nor be deducted from the Donor's balance or credited to the Donee's balance until the pay period such leave is actually used. Unused donation applications shall be returned to the Donor. Employees using donated leave shall be eligible to accrue sick leave and be entitled to any benefits to which they would otherwise be entitled. Vacation and sick leave accrued by an employee while using donated sick leave shall be used, if necessary, in the following pay period before additional donated sick leave may be received. Donated sick leave shall be considered sick leave but shall never be converted into a cash benefit. The Employer shall maintain records that are necessary for the administration of this program. The Employer reserves the right to discontinue the program at any time.

**H. Certification:** Employees who wish to donate sick leave shall certify:

1. The name of the employee for whom the donated leave is intended; and
2. The number of hours to be donated; and
3. the employee will have a minimum sick leave balance after donation of at least forty (40) hours; and
4. The sick leave is donated voluntarily and the employee understands that it will not be returned.

**I. Confidentiality:** The City of Cuyahoga Falls shall ensure that no employees are forced to donate leave. The City shall respect an employee's right to privacy; however, the City may, with the permission of the employee who is in need of leave or a member of the employee's immediate family, inform employees of their co-worker's critical need for leave donations from employees. The donation of sick leave shall occur on a strictly confidential and voluntary basis.

- J. **Applications:** An employee wishing to donate or receive donated sick leave should request the appropriate application from his immediate supervisor.

## Memorandum of Understanding

Now come the City of Cuyahoga Falls and the Ohio Patrolmen's Benevolent Association (representing Patrolmen and CSOs) and enter into the following memorandum of understanding. This memorandum supplements Article 16 of the collective bargaining agreement and to the extent this memorandum conflicts with said collective bargaining agreement, this memorandum shall control.

### A. FLSA Overtime

1. For purposes of the Fair Labor Standards Act (FLSA), the "work period" for all members shall be twenty-eight (28) days commencing at 6:00 p.m. (1800 hours), Sunday, April 26, 2009. No more than one hundred seventy-one (171) hours actually worked shall be paid at straight-time rates during any twenty-eight (28) day work period. Hours actually worked in excess of one hundred seventy-one (171) hours in any twenty-eight (28) day work period shall be paid in cash at the rate of one and one-half (1 1/2) times the regular rate as defined by the FLSA as the same may be amended from time to time. As provided by the FLSA, no time off work, regardless of the reason and whether or not compensated, shall count toward the one hundred seventy-one (171) hours of actual time worked within a 28 day work period. All overtime worked under this provision shall be compensated in overtime pay and no member shall be permitted to accrue compensatory time as compensation for FLSA Overtime provided for herein.

### B. Contractual Overtime

1. "Contractual overtime" means 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. "Contractual overtime" does not include excess hours resulting from normal periodic shift changes, the first hour of assignment to early car duty in a twenty-four (24) hour period or assigned training where the member is not required to report for his regularly assigned shift on the day of said training. No claim for contractual 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.

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 a minimum of 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).

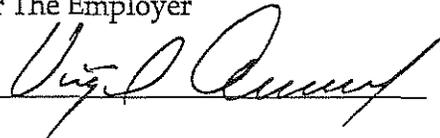
3. Overtime compensation shall mean one and one-half (1 1/2) times the hourly compensation rate established for the pay range of the eligible member or its equivalent hourly rate determined by dividing the annual salary by 2,080 hours.

4. The following compensatory time option is available only for contractual overtime.

- a. At the election of the eligible member, the member may accrue compensatory time off at the rate of one and one half (1 1/2) times the number of contractual overtime hours which the eligible member worked. No more than two hundred forty (240) hours of compensatory time off may be accumulated by an individual member, who shall have the option to sell back to the employer up to two hundred forty (240) hours, two (2) time per year. Compensatory time used and/or sold shall be deducted from the members' bank on a first-in, first-out basis regardless of whether the compensatory time was previously earned under the FLSA or under the collective bargaining agreement. The 240 hour maximum balance of compensatory time off includes all forms of compensatory time off regardless of when and/or by what authority it was earned, included FLSA compensatory time off, contractual compensatory time off, or holiday pay that has been converted to compensatory time off as provided in Article 18.
- b. The parties recognize that it will not be possible to determine if contractual overtime also qualifies as FLSA overtime until the end of the 28 day work period. Thus, compensation for overtime, whether in cash or compensatory time shall be posted in the paycheck following each 28 day work period. Upon working overtime, the member shall designate whether he wishes to be compensated in cash or compensatory time off. At the end of each 28 day work period, the number of hours actually worked by the member shall be tallied. If the number of hours actually worked during the 28 day work period exceeds 171, then all hours over 171 shall be compensated in cash as FLSA overtime. Any contractual overtime worked by the member within the 28 day work period that does not result in an excess of 171 hours may be compensated in either cash or the accrual of compensatory time off as requested by the member.

- c. All hours of compensatory time off earned prior to January 1, 2009, shall be deemed earned under the Fair Labor Standards Act. A member may use such FLSA compensatory time as provided by the FLSA and regulations and court decisions promulgated thereunder.
- d. All hours of compensatory time off earned after January 1, 2009, shall be deemed contractual compensatory time off. Such contractual compensatory time off shall be used only at the request of the bargaining unit member and subject to the approval of the Chief of Police or his designee. Requests for compensatory time off shall be considered on a first come, first serve, basis, provided that, if compensatory time off is requested on the same day by two or more members for the same time off, seniority shall prevail. The decision by the Chief or his designee to grant or deny the use of compensatory time off shall be final, unless it can be demonstrated that the decision is arbitrary and capricious.
- d. In the event it is statutorily or judicially held that an employer may not regulate or limit the use of accrued contractual compensatory time off, then the compensatory time off option provided herein shall thereby terminate and all overtime, whether FLSA or contractual, shall be compensated with cash.
- e. This memorandum shall remain in effect until December 31, 2010.

For The Employer



Date 8/10/09

For The Union



Date 8/10/09

## Memorandum of Understanding

Now come the City of Cuyahoga Falls ("City") and Ohio Patrolmen's Benevolent Association ("Blue" 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 Police Officers and Community Service Officers in the Cuyahoga Falls Police Department for the period January 1, 2011 through December 31, 2013, and

Whereas, the parties agree that it is beneficial to set forth the mutual understanding of the results of negotiations, and both the City and the Union are committed to compliance with the terms of this memorandum of understanding ("MOU") upon execution of the 2011-2013 CBA by the Union and the City, after approval by City Council (hereinafter the "Effective Date"),

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

1. The parties agree that the Union's proposal on Timekeeping and the City's counterproposal on Timekeeping will be addressed in one or more meetings of the Labor-Management Committee called pursuant to Article 14 of the CBA currently in effect, with a goal toward an agreed-upon policy.

2. The parties agree that the City's proposal on Sick Leave Use Policy and the Union's counterproposal on Sick Leave Use Policy will be addressed in one or more meetings of the Labor-Management Committee called pursuant to Article 14 of the CBA currently in effect, with a goal toward an agreed-upon policy.

3. The parties agree that the Union's proposal on elimination of FLSA Overtime will be addressed in one or more meetings of the Labor-Management Committee called pursuant to Article 14 of the CBA currently in effect, with a goal toward an agreed-upon policy.

4. Inter-Office Communications (IOCs) dated August 12, 2010 that were directed to certain members of the bargaining unit concerning their use of sick leave will be removed from the members' personnel files and stored separately until such time as the Labor-Management Committee reports that it

has developed a revised Sick Leave Use Policy or has reached impasse on that issue. Despite being stored elsewhere, the terms of the IOCs shall remain in effect. If a Sick Leave Use Policy is agreed upon, the IOCs will be treated in accordance with the policy. If impasse is reached, the IOCs will be returned to the members' personnel files. Nothing in this paragraph is intended to limit or prejudice the rights of any member that received one of the mentioned IOCs.

5. From and after the Effective Date, until December 31, 2011 (the "Guarantee Period"), the City will not lay off any then-currently employed members of the bargaining unit.

6. Bargaining Unit members on layoff as of the Effective Date will be added to a provisional Recall List that will be established in anticipation of the layoff and recall procedures contained in the 2011-2013 CBA. Once the 2011-2013 CBA is effective, the provisional Recall List established under this MOU will become the Recall List under the 2011-2013 CBA.

7. To the extent a new position vacancy in the bargaining unit occurs due to attrition (resignation, retirement, etc., but not promotions) during the Guarantee Period, the position will be filled within thirty (30) days after the last day of the last pay period of the member being replaced, until the Recall List is exhausted. The Recall List will be deemed exhausted when all bargaining unit members on the Recall List have been offered a return to work, and have either accepted or once declined the job, or having accepted, cannot be re-certified to work in a job requiring Peace Officer certification.

8. For the purposes of this MOU, it is acknowledged that as of the Effective Date, a position vacancy already exists. Therefore, upon the Effective Date or within 24 hours thereafter, the City will make an offer of employment with a start date of January 2, 2011 to the first person eligible for re-employment from the Recall List. Due to the notice provisions contained in Article 35 of the CBA ("Layoff & Recall Procedure") and the readiness circumstances of members on layoff, the City cannot guarantee that the first recalled employee will actually start work on January 2, 2011.

9. Once the Recall List has been exhausted, the City will not be required to fill vacant positions in the bargaining unit until two (2) additional vacancies occur. Upon the second vacancy after exhaustion of the Recall List, the City will fill one vacancy and shall thereafter promptly fill each succeeding vacancy in accordance with the City Charter, Ordinances, and Civil Service

Rules. It is understood that a) the City is not required to appoint members from a Civil Service Eligible List with less than ten (10) certified candidates, and b) the City cannot appoint members after expiration of the current certified eligible list. The current Civil Service Eligible List for Patrol Officer will expire before the end of the Guarantee Period.

10. If the City fails to promptly fill vacancies in accordance with Paragraph 9, the City will rebate the salary and benefit savings achieved thereby to the bargaining unit members, apportioned equally between them, through the end of the Guarantee Period. The City will not be deemed to have "failed" under this paragraph if it declines to appoint members from a Civil Service Eligible List with less than ten (10) certified candidates, or cannot appoint members because there is no active Eligible List, as long as the City diligently pursues the establishment of a new eligible list according to the rules and procedures of the Civil Service Commission.

11. If the City lays off any then-currently employed bargaining unit members in contravention of Paragraph 5, fails to timely recall laid-off members in contravention of Paragraph 7, or fails to rebate salary and benefit savings in contravention of Paragraph 10, then the wage rates contained in Appendix A to the CBA will be increased by 2.25%, retroactive to January 1, 2011

12. If a Court, arbitrator, or other tribunal orders the return to work of a separated bargaining unit member during the Guarantee Period, necessitating the layoff of a less senior bargaining unit member, such layoff shall not be deemed in contravention of Paragraph 5.

12. The commitments contained in Paragraphs 5 through 11 expire as of the end of the Guarantee Period (i.e., December 31, 2011).

13. The commitments made in this MOU are provided in consideration of the other provisions of the 2011-2013 CBA agreed to, and these commitments are made expressly without prejudice to, or waiver of the City's authority to assert its management rights (set forth in Ohio Revised Code §4117.08) in future negotiations.

Date: 1-13-11

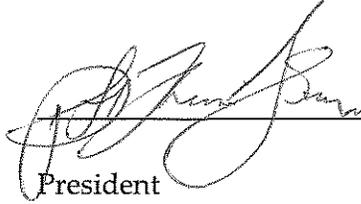
For the City:

For the Union:



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Don L. Robart  
Mayor



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President



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Paul A. Janis  
Director of Law



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S. Randall Weltman  
Staff Representative