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Collective Bargaining Agreement
by and between

City of Hamilton, Ohio

and

Fraternal Order of Police
Lodge 38

Captains' Unit

Effective

Through August 31, 2012

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OPENING CLAUSE - CITY OF HAMILTON and FOP (Captains' Unit)

This Agreement, dated this ____ day of _____ 2010, by and between the City of Hamilton, Ohio (the "Municipality," "City" or "Employer"), and Fraternal Order of Police, Lodge 38, Captains Unit, (the "Union").

WITNESSETH:

WHEREAS, the Employer recognizes the Union as the collective bargaining representative for the Employees covered by this Agreement as hereinafter provided; and

WHEREAS, it is the intent and purpose of the parties hereto that this Agreement protect against interruptions and interferences with services to the citizens of Hamilton and to set forth herein their agreement covering wages, hours, and conditions of employment; and

WHEREAS, the parties desire to achieve and maintain a satisfactory and stable labor-management relationship, and to provide for the peaceful and equitable adjustment of differences which may arise;

ARTICLE I. RECOGNITION

The Employer recognizes the Union, Fraternal Order of Police, Lodge 38, as the sole and exclusive representative for purposes of collective bargaining concerning wages, hours and terms and conditions of employment of a unit of the Employer's permanent, sworn, full-time Police Captains but excluding employees in other bargaining units.

Whenever the word "Employee" is used in this Agreement, it shall be deemed to mean the employees in the bargaining unit covered by this Agreement, as defined in this article paragraph 1, hereof.

ARTICLE II. DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITIES

Neither the Employer nor the Union shall discriminate against, or in favor of, any Employee in a manner which would violate applicable law on account of race, color, religion, creed, national original, sex, age, or handicap.

Words used in this Agreement in the masculine gender will be read and construed in the feminine gender as well.

Joining or not joining the Union and continuing or not continuing in membership shall be voluntary acts by any Employee. Neither the Union nor the Employer shall discriminate

against or in favor of any Employee because of his or her membership or nonmembership in the Union. Further, the Employer agrees not to discriminate against any Employee because of that Employee's activity as an officer, steward, representative, or in any other capacity on behalf of the Union, provided that such activity does not otherwise violate this Agreement or applicable law.

Both the CITY and FOP 38 recognize their respective responsibilities under applicable federal, state and local laws and Executive Orders relating to equal employment and civil rights and each, both separately and as joint parties to this contract, do hereby agree to support those.

ARTICLE III. DUES DEDUCTION, FAIR SHARE FEE

Section 1. It is agreed between CITY and FOP 38 that CITY will deduct periodic dues, initiation fees and assessments of unit members of FOP 38 from the paycheck of all unit members who have signed proper written legal deduction authorizations and who are covered by this Agreement. The Treasurer of FOP 38 will promptly issue a receipt to CITY for all dues, fees and assessments as provided to him.

FOP 38 will provide proper written legal deduction authorization forms for the deduction of dues, initiation fees and assessments.

A. FOP will provide CITY with at least two (2) calendar weeks' advance notice of any change in dues. Such notice will be in writing.

B. CITY's remittance will be deemed correct if FOP 38 does not give written notice within two (2) calendar weeks after a remittance is forwarded, of its belief, with reasons therefor, that the remittance is incorrect.

C. FOP 38 shall indemnify and hold CITY harmless from any and all claims and forms of liability, including costs and attorney fees incurred by the Employer in defending against any such claim arising out of the Employer's deduction from Employees' pay of union dues. The Union assumes full responsibility for the disposition of the funds so deducted, once the funds have been sent to the Union.

D. The Union shall pay the Employer an annual service fee of sixty dollars ($60) in December of each year to reimburse the Employer for the expenses related to the deduction and remittance of dues.

Section 2. Fair Share Fee

A. All employees within the bargaining unit who elect not to join the Union shall pay to the Union an amount of money known as the Fair Share Fee to reimburse FOP 38 for the costs of representation for the purposes of

collective bargaining and for no other purpose, consistent with O.R.C. 4117.09. The Treasurer of the Union shall certify to the CITY the amount of the Fair Share Fee and that the fee is to reimburse FOP 38 for the costs of providing representation for collective bargaining and for no other purpose. Upon such certification by FOP 38, the CITY shall automatically and without requiring further authorization, deduct that amount from the pay of each employee obligated to pay the fee and remit the fee to FOP 38 in the same manner as dues.

For existing non-probationary employees, such payments shall commence upon the date of the execution of this Agreement. For probationary or new employees, such payments shall commence at the conclusion of the first sixty (60) days of employment.

B. FOP 38 shall prescribe an internal procedure to determine a rebate, if any, for nonmembers which conforms to both federal law and Chapter 4117, Ohio Revised Code.

C. Employees having religious objection to payment of said Fair Share Fee are subject to the provisions for exemption contained in Section 4117.09, Ohio Revised Code.

D. FOP 38 will provide the CITY with at least thirty (30) calendar days advance notice of a pending increase in dues.

E. The CITY's remittance will be deemed correct if FOP 38 does not give written notice within two (2) calendar weeks after a remittance is forwarded, of its belief, with reasons therefore, that the remittance is incorrect.

F. FOP 38 agrees to indemnify and hold the CITY harmless against any and all claims or forms of liability arising out of its deduction from an employee's pay of FOP 38 dues, fees, or assessments. FOP 38 assumes full responsibility for the disposition of the deductions so made once they have been forwarded by the CITY.

ARTICLE IV. MANAGEMENT RIGHTS

Section 1: Except as otherwise specifically provided in this Agreement, the Employer hereby retains and reserves all powers, rights, authority, duties and responsibilities conferred upon and vested in the Employer by the laws and the Constitution of the State of Ohio including but not limited to their exclusive right and responsibility:

(a) to 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 Employer, standards of services, its overall budget, utilization of technology, subcontracting, and organizational structure;

(b) to direct, supervise, assign, reassign, schedule, evaluate, hire, discipline, suspend, demote, discharge, reprimand, layoff, transfer, promote, or retain employees;

(c) To maintain and improve the efficiency and effectiveness of the Employer's operations;

(d) to determine the overall methods, process, means, or personnel, internal and external, by which the Employer's operations are to be conducted, the location, type, and number of physical facilities, equipment, programs, and the work to be performed.

(e) to determine the size, composition, and adequacy of the work force, as well as to make, amend, and enforce work rules, regulations, standard operating policies, and procedures;

(f) to determine the overall mission of the Employer as a unit of government including the individuals served by the Employer and the services provided;

(g) to effectively manage the work force;

(h) to determine the hours of work and work schedules;

(i) to determine the duties to be assigned to all bargaining unit job classifications;

(j) to take actions to carry out the mission of the Employer as a governmental unit.

It is agreed that the above listing of management rights shall not be deemed to exclude other proper functions not specifically listed herein or traditionally exercised by the Employer.

Section 2: The management rights set forth above shall not be subject to arbitration or impairment by an arbitration award or otherwise except to the extent that such rights are specifically limited by an express provision of this Agreement. Failure to exercise a right or exercising it in a particular manner shall not be deemed a waiver of any management right or prerogative. Further, the Employer may exercise any or all such management rights or prerogatives without prior negotiations with or agreement of the Union.

ARTICLE V. PROMOTIONAL EXAMINATIONS

The following rules apply regarding promotions:

Section 1. Eligibility and Service:

A. When a promotional examination is held to establish an eligibility list for the promoted rank of Police Chief, no person shall be eligible to take the examination unless he/she has served in the rank of Captain for twelve (12) months prior to the expiration of the previously existing eligibility list for the rank of Chief in the rank. Provided, in those cases where there are less than two persons who have served twelve (12) months in the rank of Captain prior to the expiration of the previously existing eligibility list who are willing to take the examination, the twelve month's service requirement shall not apply. If the non-application of the twelve (12) month service requirement to persons in the rank of Captain does not produce two individuals eligible and willing to compete, then the same method shall be followed by going to successively lower ranks until two or more persons are eligible and willing to compete in an examination for the vacancy. In the event this process of searching successively lower ranks reaches the rank of Police Officer, the forty-eight month service requirement applies, provided in those cases where such application still fails to produce two persons who are eligible and willing to compete, said forty-eight month service requirement does not apply. In the event two persons are unwilling to compete for such examination, then the one person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying examination.

Section 2. Efficiency:

A. No credit for efficiency shall be added to any test grade when the competitors are members of this bargaining unit.

Section 3. Eligibility Lists:

A. All Promotional Lists shall stay in effect for a two (2) year period unless all individuals on the list have been certified for promotion.

B. In case of a vacancy in a rank for which no promotional list exists, individuals on lists of all sequential lower ranks who would have been eligible for promotion if lists had existed at that time for each rank, shall immediately be certified for appointment. Said certification shall be used to fill the first vacancy occurring in the appropriate rank. In case of multiple certifications for the same rank, the Appointing Authority shall appoint by priority of certification.

Section 4. Protest Period: Notwithstanding O.R.C. 124.44, the Union and the City hereby establish certain basic conditions for a Protest Period following any promotional examination.

A. After a promotional examination has been held and prior to the grading of such examination there shall have a period of five days, exclusive of Saturdays, Sundays, and holidays, to inspect the questions, the rating keys or answers to the examination.

B. Each candidate may file any protest he may deem advisable. Each protest shall contain written evidence of the validity of the claim, must be on forms provided in the Office of Civil Service, and must contain the remedy being requested. These protests shall be in writing and shall remain anonymous to the commission.

There shall be some list available to all, during this inspection period, which shows those questions which have been contested.

The Chief of Police and/or the Safety Director of the City shall have the right to also inspect the questions, the rating keys or answers to the examination and the same right to file a written, anonymous protest to the examination as is provided to candidates.

C. All protests with respect to rating keys or answers shall be determined by the commission within a period of not more than forty-five (45) days, exclusive of Saturdays, Sundays, and holidays, following the conclusion of the protest period and its decision shall be final. If the commission finds an error in the rating key or answer, it shall publish a revised rating key on the next work day following its finding of such error or errors. The revised rating key or answer shall then be available to participants for a period of five days, exclusive of Saturday, Sundays, and holidays, subsequent to such determination of error.

D. After the grading of such examination papers, any participant in the examination who deems his examination papers have been erroneously graded, shall have the right to appeal to the commission, and said appeal or appeals shall be heard by the commission.

E. The commission's decision regarding protests is final.

Section 5. Examination Content and Notice:

A. For examinations for Chief, the Training Committee shall provide at least three (3) potential rank specific source materials appropriate to the upcoming examination to the Director of Civil Service and Personnel not less than 60 days following the creation of any vacancy in the Chief's rank. If said list of

potential source materials is not provided within this time frame, the Director of Civil Service and Personnel shall have full discretion to select materials without training committee input.

B. The bibliography for the promotional examination for the promoted rank of Chief shall be published not later than one-hundred twenty (120) days following the creation of any vacancy in the Chief's rank. The promotional examination for the rank of Chief shall be administered no sooner than 45 days after the publication of the bibliography for the promotional test for the rank of Chief, and no later than 60 days after the publication of the bibliography for the promotional test for the rank of Chief.

Section 6. Exclusion from Arbitration:

A. The sole and exclusive remedy for challenge of any test question, issue test eligibility, or test-related matter shall rest with the Civil Service Commission, which body shall apply the language contained within this article and subject to its own procedures and appeals therefrom by law.

B. No grievance may be filed in relation to such issues unless the Civil Service Commission has acted in a manner clearly contrary to this article.

ARTICLE VI. WAGES

Effective as of August 12, 2010, wages, as set forth in Appendix A hereto, shall reflect the following rank differential: The maximum pay for Captain shall be 15% above the top rate of pay for Lieutenant. The parties hereto further agree that any wage adjustment that is required by this provision as a result of a wage percentage negotiated on behalf of Fraternal Order of Police, Lodge 38 (Rank and File Unit) shall be made for members of this Unit upon the same dates applicable to the Rank and File Unit.

The Employer will continue to "pick up" the employee's share of the pension contribution by means of the salary reduction method.

ARTICLE VII. WORKDAY AND WORK PERIOD

Section 1: A 'day' for the purpose of this Agreement is defined as a twenty-four (24) hour period beginning with the start of the employee's scheduled shift.

Section 2: The normal workday shall be eight (8) consecutive hours of work inclusive of a thirty (30) minute lunch period within a twenty-four (24) hour period beginning at the regular hour of shift start in a particular assignment or classification within the Division.

Section 3: The above provisions shall not constitute a guarantee of any specific number of hours of work per day or week.

Section 4: Effective as soon as practicable after July 1, 1990, a revised work schedule shall be implemented relative to those officers previously assigned to the modified 4/2 work schedule. The revision in said work schedule shall involve elimination of the heretofore "modified 4/2 work schedule" in favor of all 4/2 work units in a 31-day cycle with rotating pass days.

Section 5: The City will give thirty (30) days written notice prior to a change of shift. However, such notice shall not be required in cases of promotion (and related necessary changes), or emergency which includes, but is not limited to, injury or extended illness, or in cases of voluntary change of assignment.

In consideration of work scheduling changes negotiated herein, FOP 38, on behalf of itself and the members thereof, jointly and severally promises, covenants, and agrees that as a result of the work scheduling changes negotiated herein, neither FOP 38 nor any member thereof, nor anyone claiming through either, will raise as an issue, file any grievance or initiate any other form of administrative or legal action concerning any alleged reduction in work force due to the scheduling changes negotiated within this contract.

ARTICLE VIII. OVERTIME

Section 1: Overtime is defined as hours worked in excess of the normal workday or period as set by Article VII of this agreement.

Section 2: In accordance with existing ordinance provisions, the use of overtime shall be on an emergency basis. Compensation for hours worked on an overtime basis shall be at a rate of one and one-half times the compensation regularly paid for an equal amount of time.

Section 3: Those officers who are called to duty following the completion of their normal work shift and prior to the start of their next work shift, shall receive a minimum of four hours' call-in-pay at time and one-half the employee's rate.

Section 4: Overtime shall be approved in advance by the Chief.

Section 5: The minimum four hour call-in pay provision shall not apply in those instances wherein the employee's work schedule has been changed or in which overtime commences two or fewer hours prior to and runs continuously into the employee's regular shift or commences immediately upon termination and follows on a continuous basis the employee's regular work shift. In such instances, the employee shall be compensated for the exact hours worked at the appropriate rate.

Section 6. Pyramiding of Rates:

In no event shall the overtime or premium pay provided under this policy be pyramided. Thus, if two or more overtime or premium pay provisions are applicable to the same hours of work, only the applicable provision yielding the largest amount shall satisfy the requirements of all other pay provisions.

Section 7. Travel Time:

Time spent traveling to sites more than 40 miles outside the City of Hamilton, at the onset or at the end, of a training program which is required by initiation of the Hamilton Police Division shall be considered work time and shall be paid:

Be paid at a regular straight time rate for any hours which are included within the officer's regular eight hour work day; and

No call-in pay shall be applicable in any situation; and,

Travel to/from the Officers' residence to the HPD Headquarters shall not be considered as travel time in any manner.

No payment shall be made for travel time for any officer initiated school. Travel to or from a multi-week school shall be paid on weekends (including long holiday weekends) only.

Section 8. Compensation for Hazardous Duty:

Officers who are called out on SWAT activities (other than drug warrant service) shall be paid double time, at the appropriate rate, for hazardous work as a SWAT component. It is intended that such double time rate will apply to work of unusual hazard such as hostage situations and barricaded suspects.

ARTICLE IX. HOLIDAYS

Section 1: Unit members assigned to a 4/2 work schedule shall be eligible for a total holiday leave of sixty-four (64) hours with pay per calendar year. Said leave shall be composed of eight (8) eight (8) hour leave tours with pay.

Unit members assigned to a 5/2 work schedule shall be eligible for a total holiday leave of one hundred forty-four (144) hours with pay per calendar year. Said holiday leave for unit members assigned to a 5/2 work schedule shall be composed of the following eight (8) hour leave tours with pay: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, day after Thanksgiving Day, Christmas Eve Day, Christmas Day, New Year's Eve Day, Employee's Birthday, (seven personal leave holidays and Martin Luther King Day as floating holiday).

In the event that a unit member's work schedule is changed from a 5/2 to a modified 4/2 plan or vice versa, total holiday leave eligibility shall be prorated such that, for each month or part thereof of active service on the appropriate schedule in question, the employee shall be eligible for 1/12 of the total holiday allowance.

Section 2: Holidays shall be scheduled in accordance with established division practices. Approval of holiday leave requests shall be conditioned upon the availability of adequate personnel.

Unit members who work on any of the following listed fixed-date holidays shall receive double-time pay for hours worked on those fixed-date holidays. The six recognized holidays are: New Year's Day, Independence Day, Thanksgiving Day, Christmas Eve Day, Christmas Day and New Year's Eve Day.

Section 3: Employees who separate shall be eligible for a proration of the annual holiday leave benefit such that for each month or part thereof where the employee has worked fifteen (15) or more days of active service, the employee shall be eligible for one-twelfth (1/12) of the total holiday allowance.

Section 4: Holiday leave shall not be approved in those instances where no holiday eligibility exists. Holiday leave taken, but not earned, shall be subject to recovery.

Section 5: Holiday leave, as provided for herein, may be requested in increments of four hours. Such requests shall be submitted in accordance with established Division practices for approval by the appropriate supervisor.

Section 6: Officers who are scheduled to work any of the six defined premium holidays will be paid either three (3) times the regular rate of pay and will receive no time off for the holiday, or the officer, at his option with supervision approval, shall receive double time pay for the holiday worked and then an additional eight hours off at some other date.

An officer called in on any of the six defined premium holidays will be paid double time at the appropriate call-in hours.

The recognized days for this benefit will be only: New Year's Day, Independence Day, Thanksgiving Day, Christmas Eve Day, Christmas Day and New Year's Eve Day.

Section 7: Accrued but unpaid holiday pay shall be forfeited by an employee who is terminated for disciplinary reasons. However, such funds shall be paid if the employee is reinstated by the Civil Service Commission or a Court of Law and all appeals are exhausted.

Section 8: If additional holidays are granted to the Police Officer and Detective, unit, then the same benefit will be applied to this unit.

ARTICLE X. SICK LEAVE

Section 1. Accrual:

Each unit member covered by this Agreement shall be entitled to a sick leave accrual of one and one-quarter (1.25) days or ten (10) hours for each month in which the employee has actively worked. Unused sick leave accumulation shall accrue.

Section 2. Administration:

A. Sick leave may be used only in accordance with the provisions of the sick leave policy as established by Administrative Directive 306, effective on October 1, 2007.

Sick leave usage for the purpose of illness/injury of a member of the employee's immediate family (wherein the employee's presence is required) shall be limited to a total of sixteen (16) hours per calendar year. Such usage may be taken in increments of as few as one (1) hour per incident. In the event an employee should require additional time in excess of the allowance established or for reasons other than those noted above, such additional time may be charged against vacation or holiday credit with the approval of the employee's supervisor.

Immediate family as used above shall mean spouse, child, stepchild or other relative if that relative actually resides in the home of the employee.

B. Each employee who has been absent for three (3) or more workdays due to personal injury or illness must submit a physician's certificate as proof of illness or injury and as medical support that he or she is sufficiently recovered to return to work.

The employee may be required to present a physician's certificate for sick leave absences of less than three (3) days if such is deemed necessary based upon the employee's record of usage or the circumstances attendant to a specific absence or series of absences.

Section 3. Special Provisions:

A. Upon retirement, unit members shall be eligible to receive a cash payment based upon seventy-five percent (75%) of the value of the accumulated sick leave, which for purposes of this benefit, shall not exceed a total of twelve hundred (1,200) hours or one hundred fifty (150) days.

B. In the event a unit member dies from causes determined not to be duty-related or directly associated with his/her employment, a cash benefit based upon seventy-five percent (75%) of the value of the deceased member's

accumulated sick leave will be paid to the surviving spouse and if the employee leaves no surviving spouse, then to the estate of the deceased employee or heir(s) at law. For purposes of this benefit, the sick leave accumulation shall not exceed a total of twelve hundred (1,200) hours or one hundred fifty (150) days.

C. In the event of the death of a unit member resulting from or caused by his/her employment, payment in the amount of one hundred percent (100%) of the value of his/her accrued sick leave shall be made to the surviving spouse or heir(s) at law or estate of the deceased employee. For purposes of this section sick leave shall accumulate to a maximum of one hundred fifty (150) days or one thousand two hundred (1,200) hours.

D. Each unit member who has accumulated at least 240 hours of sick leave at the commencement of an extended illness shall be entitled to additional sick pay when his/her regular accumulation has expired. Additional sick pay shall be an amount equivalent to one-half his/her sick leave accumulation at the time the extended illness or injury commenced thereby causing continuous absence from work. Such additional sick pay shall be paid in a manner similar to payment of regular sick leave but at one-half the normal sick leave rate for a period of time equal to the employee's regular sick leave accumulation at the time the disabling illness or injury caused his/her continuous absence from work.

Eligibility for extended benefits is subject to the following provisions:

(1) Employee must have fully utilized his/her regular sick leave accumulation.

(2) Eligibility for extended or supplemental benefits requires a physician's certificate.

(3) In instances of work-related injury, extended sick leave benefits would not be applied when the employee is eligible to receive or is receiving loss of pay benefits under the Ohio Worker's Compensation Law.

(4) The provisions of this policy do not affect the City's right to initiate disability retirement.

(5) Monies for extended sick leave benefits are not payable upon retirement, death, or work-related fatality.

(6) For purposes of this benefit, maximum sick leave accumulations shall be limited to twelve hundred (1,200) hours.

Section 4. Line of Duty Injury:

Leave of absence with pay in the event of injury received in the performance of a police officer's duties shall be provided in accordance with provisions of the Hamilton Codified Ordinances, Section 181.08, et. seq.; provided, however, that should a leave of absence due to injury extend beyond 120 calendar days, the affected employee shall not be entitled to accrue vacation or holiday pay or credit.

ARTICLE XI. HOSPITALIZATION, MEDICAL-SURGICAL COVERAGE

Section 1. The City shall provide a network plan of medical/hospital/surgical protection, to unit members in accordance with the recommendations of the joint LMC Committee. The current plan is described as a managed care, point of service, plan. It will continue to be packaged with a vision plan and dental coverage unless the subcommittee makes adjustments in plan years 2011, or 2012. A list of the current benefit structure is attached hereto as Appendix B.

The City and the employees shall share in the overall premium cost of the insurance plan in the following manner: the City shall contribute 85% of the total premium cost and the employees shall contribute 15% of the total premium cost through payroll deduction.

Section 2. Employee eligibility for medical/surgical/dental/ prescription care coverage shall commence on the employer's billing date of the month next following the completion of the employee's first 30 days of employment.

Section 3. The Union agrees to participate in a Joint Insurance Committee and to adhere to Committee recommendations of cost-saving administration of benefits suggestions made by the Committee.

Section 4. The Municipality will pay its portion of premiums for hospitalization/health care and life insurance for a period not to exceed six (6) months beyond the expiration of the respective employee's accumulated sick leave.

Section 5. In those instances in which the City employs both spouses of the family unit, the City will provide only one (1) family plan of coverage and that plan shall be applied to the spouse whose birthday occurs earlier in the calendar year.

ARTICLE XII. GROUP LIFE INSURANCE

Section 1. CITY will arrange for a policy of group life insurance for unit members who have completed six months' service with CITY.

Section 2. The amount of life insurance coverage eligibility, up to a $50,000 maximum, shall be an amount equal to one times the employee's annual wage or salary as provided in the current Classification and Compensation Plan but rounded to the next lower one thousand dollar increment.

Section 3. If the employee's annual wage or salary increases, the amount of his/her insurance shall be redetermined on an annual basis in accordance with Section B above, effective July 15 next following the day of such increase in annual earnings.

Section 4. A double indemnity provision for accidental death and an accidental dismemberment clause will be provided.

Section 5. CITY will pay the total cost of the first ten thousand dollars ($10,000) coverage which shall be known as the noncontributory portion of the benefit eligibility. Optional group life coverage of up to one times the employee's annual salary, rounded to the next lowest one thousand dollars ($1,000) increment, as shown in the Classification and Compensation Plan, will be made available at a cost to the employee of fifteen cents ($0.15) per one thousand dollars ($1,000) in optional coverage per month.

The employee will contribute by payroll deduction for optional coverage costs.

Section 6. Unit members who retire on or after March 1, 1977 will be provided a maximum of four thousand dollars ($4,000) death benefit. The cost of said benefit for retirees shall be paid in full by CITY.

Section 7. Unit members who retire subsequent to January 1, 1970 and prior to March 1, 1977 will be provided a maximum of two thousand dollars ($2,000) death benefit. The cost of said benefit for retirees shall be paid in full by CITY.

Section 8. The amount of death benefit on each retired unit member who retired prior to January 1, 1970 shall be one thousand dollars ($1,000) or as otherwise prescribed by appropriate ordinance.

ARTICLE XIII. VACATION

Section 1: Unit members shall receive vacation leave with pay as follows:

Years Continuous Service	Vacation Leave Allowance
Less than one (1) year	None
1 year but less than 8 years	10 workdays

8 years but less than 16 years	15 workdays
16 years	20 workdays
17 years	21 workdays
18 years	22 workdays
19 years	23 workdays
20 years	24 workdays
21 years	25 workdays
22 years	26 workdays
23 years	27 workdays
24 years	28 workdays
25 years	29 workdays
26 years	30 workdays

The maximum leave period will be 30 workdays.

All service with CITY shall be continuous with respect to vacation leave eligibility.

Section 2: When officers working the 5/2 or 4/2 schedule reach 17-18-19 years of service, they may elect to put the extra 8 hour vacation in 17th year, 16 hours in 18th year or 24 hours in the 19th year in the Compensatory Bank, if they do not have the maximum of 200 hours. These extra vacation hours then can be taken as compensatory time when scheduling permits and is approved in advance by the supervisor. Otherwise, officers will be paid in cash for the extra vacation hours.

Section 3: Officers reaching the 20th year of service may elect to take the extra vacation days as vacation or pay. To take it as vacation, it must be approved by a supervisor in advance.

Section 4: Vacation scheduling shall be subject to division scheduling practices and manpower needs.

In those instances wherein a unit member has accrued vacation eligibility, a maximum of fifteen days of accrued leave may be taken, upon request and approval, on a one day leave basis; such usage shall be approved by the appropriate captain in advance. The scheduling of such vacation leave shall be contingent upon the availability of adequate personnel.

Section 5: Accrued vacation or holiday hours not taken by January 1 of each calendar year shall be removed from the employee's credit unless such balance is approved in writing by the City Manager.

Requests for carryover of accrued vacation leave shall be made in writing through the Chief of the Division of Police to the City Manager who shall approve such carryover in the event either that job-related disability has caused the employee's absence from duty for a period of six (6) or more calendar months of the calendar year or operational necessities have prevented the employee's utilization of the vacation leave during the calendar year.

Approval of vacation leave for purposes other than noted above shall be at the discretion of the City Manager.

Section 6. Vacation Worked: An officer may, if he so chooses, be allowed to work his vacation or holidays and receive pay in lieu of time off for maximum of five days per year with supervisory approval. An officer may also select, if he so chooses, to convert these same five (5) days of vacation or holidays per year in the compensatory bank if he does not have the maximum of two hundred (200) hours. A total of five (5) days per year shall be the maximum paid or converted to the compensatory bank, or any combination thereof, not to collectively exceed five (5) days maximum.

Pay for vacation or holidays worked shall be paid in the next pay period or on an overtime check. The employer shall not carry over any vacation or holiday time at the end of the calendar year. A total of five days of vacation or holidays will be the maximum paid. Pay will be at the double time rates for worked vacation or holiday days.

ARTICLE XIV. CLOTHING ALLOWANCE

Section 1: Except for calendar year 2010, each unit member shall be entitled to a clothing allowance based upon the following schedule:

Captains -- $1000.00

The City of Hamilton, Ohio shall pay to each member on or about March 15 of each calendar year, that amount of money which has been agreed to in this section for uniform purchases in a given year. This payment will be issued by payroll check, with all applicable taxes and deductions taken. The Chief of Police shall authorize, in writing, the names of members and the amount(s) to which each is entitled for uniform purchase.

Clothing allowance funds to be expended for uniform and wearing apparel or duty-related accessory items to include brief case, off-duty badge, thermal underwear, insulated boots and rubber boots.

The use of clothing allowance funds for the purchase of duty-related accessory items will be subject to the following provisions:

A. Items may be purchased from either a bid supplier or other vendor.

B. Items purchased must be in compliance with established applicable standards of the Division.

C. All items purchased shall be used by the officer in the performance of his/her work.

Unit members may purchase authorized black, plain-toe low quarter, laced uniform-style shoes from a vendor other than the normal uniform supplier to assure the health and comfort of the officer.

Section 2: The Chief of the Division shall make periodic inspections of uniforms and wearing apparel to members of the Division and shall order the members to purchase new uniforms and wearing apparel at the expense of the member if and when found necessary.

Any member who, upon inspection, is found to be wearing a uniform which is unkempt, unclean, noticeably worn or frayed, stained or in other disrepair shall be ordered to change into a proper uniform. Inability to produce, or obtain as shown in the first paragraph of this section may be grounds for discipline.

Section 3: CITY will, by bid contract, provide for the cleaning and pressing of certain uniform apparel to be limited to thirty (30) items per month at locations in both East and West Hamilton. Such service will further provide for the mending and alteration of authorized apparel.

Section 4: A Special Compensatory Time Allowance shall be established with the following provisions:

A. Unit members assigned and working a schedule providing for five consecutive workdays followed by two pass days shall be eligible for a payment for this Special Compensatory Time Allowance.

   This Allowance shall consist of 16 additional hours of Special Compensatory Time per year. Use and conversion of that time shall be consistent with language contained elsewhere in this contract and in Police Division General Orders.

B. In the event of a schedule or assignment change from the modified 4/2 to a 5/2 schedule or vice versa, or as a result of promotion or for any hired or retiring personnel, the Special Compensatory Time Allowance shall be prorated on a monthly basis.

C. The Special Compensatory Time Allowance shall normally be added to the officer's leave balance at or near the beginning of each year. In the event that an officer changes schedule, or for any other reason does not work the full year, then prorating, and appropriate adjustment of leave balance, shall occur at the soonest possible time.

Section 5: A unit member who has at least fifteen (15) years of service shall, in his final year of service prior to retirement, be permitted to use a portion of his annual clothing allowance to purchase his issued firearm for fair market value from the designated vendor.

ARTICLE XV. LONGEVITY

Section 1: Effective August 12, 2010, unit members shall receive longevity pay based upon the following percentages, utilizing the maximum step rate for the Police Officer classification as shown in the Classification and Compensation Plan:

Years of Service	% of Stipulated Salary
5 through 7 years	- 2%
8 through 11 years	- 4%
12 through 15 years	- 6%
16 through 19 years	- 8%
20 years and over	- 10%

Section 2: The appropriate amount of longevity pay shall be added to the unit member's salary beginning with the pay period next following the particular member's anniversary date.

Section 3: For purposes of longevity pay, unit members who resign and are later reinstated shall earn longevity on the basis of their most recent employment date.

Section 4: Payment of moneys to any unit member for purposes of longevity pay shall not exceed $5,300.

Section 5: Accrued, but unpaid longevity pay is forfeited by an employee who is terminated for disciplinary reasons. However, such funds may be recovered and are payable if the employee is reinstated by the Civil Service Commission or a Court of Law and all appeals are exhausted.

ARTICLE XVI. FUNERAL LEAVE

Section 1:

A. In the event of death in the immediate family, a permanent unit member shall qualify for funeral leave with pay for up to three (3) consecutive workdays (24 hours) for participation in funeral services or arrangements.

B. For the purpose of this section, "immediate family" is defined as: spouse, child or stepchild, grandchild, parent, stepparent, grandparent, brother, sister, parents or stepparents of spouse, brother-in-law or sister-in-law, and grandparents of spouse.

Section 2:

A. Funeral pay will be provided to accommodate absences occurring only on regularly scheduled workdays at the employee's base rate of pay. Funeral leave will not be granted for any period during which the employee is already

in a paid or unpaid leave status (unpaid leave status is interpreted as being military leave, disciplinary suspension, voluntary unpaid leave, absence without leave).

B. Eligibility is further conditioned upon submission by the employee of a certificate as to the purpose and validity of leave usage.

C. Leave requests meeting the conditions of these sections will be approved by the employee's immediate supervisor and, if requested, the employee shall further submit proof of death and relationship.

D. Requests for funeral leave with pay will not be approved for absences not taken within a seven (7) calendar day period of the date of the funeral.

Section 3:

A. In the event of the death of an employee's relative and not in the immediate family, as defined above, leave time with pay up to one eight (8 hour workday) may be taken for funeral purposes. No more than twenty-four (24) hours may be taken in any one calendar year as funeral leave in keeping with this section.

B. In the event a unit member should require additional time in excess of the allowances established in the above provisions, such additional time may be charged against vacation credits, with the approval of the supervisor.

Section 4: Use of funeral leave will not be charged against accumulated sick leave balances.

Section 5: In addition to funeral leave, in the event of the death of a spouse and/or a child of the employee, two days' sick leave may be used by the employee as additional bereavement leave.

ARTICLE XVII. ACTING OFFICER COMPENSATION

Section 1: A person temporarily performing the duties of an officer in an acting capacity shall receive acting pay for the next higher rank after three (3) consecutive working days in that position for a maximum of sixty (60) days when approved in advance by the Chief of Police.

Section 2: Employees assigned on an acting basis will be paid in the first step of the next higher rank but not less than 3%.

ARTICLE XVIII. COMPENSATION FOR POLICE OFFICERS FOR COURT APPEARANCES

Section 1: For each day a police officer subject to this agreement is required to appear in Court, he/she shall be paid on the basis of four (4) hours' pay for the morning sessions, and four (4) hours' pay for the afternoon sessions for a maximum of eight (8) hours' pay regardless of the number of hours worked in a particular day. For the purpose of this section, morning sessions are defined as any session that begins between 7:00 a.m. and 11:59 a.m. For the purpose of this section, afternoon sessions are defined as any session that begins at 12:00 p.m. or after.

Section 2: The above sections shall not apply where the officer is on duty.

Section 3: Unit members who are required to appear in court during an afternoon session and that session lasts longer than four (4) hours shall be compensated at the overtime rate of 1½ times their rate of pay for the actual time over four (4) hours.

Section 4: Witness fees received or mileage allowances paid to a unit member who has been required to appear before a Court shall be returned to the Director of Finance in accordance with established Police Division procedures.

Section 5: Unit members who are off duty and are subpoenaed by the City for a Civil Service case shall receive 4 hours pay; unit members who are on duty and who are required to remain past their regularly scheduled hours shall be paid at 1½ x for actual hours worked past the regular ending time if subpoenaed by the City.

Section 6: Regardless of provisions of this Agreement to the contrary, no individual shall receive more than a total of two (2) court slips for any one day.

Section 7: An officer required to attend a pre-trial conference with a prosecutor on a day when that case is not scheduled for a hearing or at a time on the day that the case is scheduled for hearing that is more than four (4) hours prior to the scheduled hearing and while on an off duty status shall get a court slip for four (4) hours pay.

Section 8: Up to eighty (80) hours of court time can be turned in for compensatory time from November 1 through October 1 of the following year. A request for permission to convert comp time from pay to earned compensatory time only shall be turned in to the officer's supervisor listing the court dates requested to be converted to earned time only. The dates requested will be verified by the officer's supervisor, the Bureau Commander, and the Chief of Police. Such compensatory time shall be on an hour for hour basis and shall be added to the officer's compensatory time bank.

ARTICLE XIX. SHORT TERM MILITARY LEAVE

Section 1: Each unit member who either is or who hereafter becomes a member of the Ohio National Guard, the Ohio Defense Corps., the Ohio Naval Militia, or a reserve component of the Armed Forces of the United States and who is ordered to active service for purposes of training or duty in an emergency shall be granted a leave of absence not to exceed thirty-one (31) workdays in any one calendar year.

Section 2: Such leave shall be granted upon presentation by the unit member to his/her appointing authority a copy of the military orders effecting call to active service.

Section 3: In those instances where the gross military pay, excluding compensation for travel, food, lodging, as earned by the employee while on military duty is less than the pay he/she would have received as a City employee for the same period of time, the employee will be eligible to receive payment from CITY equal to the difference between the gross military and civilian pay as shown in the Classification and Compensation Plan. Military gross pay will be computed from the first to the last calendar day inclusive of such active duty service. The gross pay adjustment will be made upon the employee's return to City employment with the submission of his/her military pay voucher to the Director of Finance and will be subject to deductions required by law or authorized by the employee.

Section 4: The employee's length of service standing and fringe benefit eligibility will not be adversely affected by military leave. Such leave time will not be charged to accrued vacation credits. Sick leave credits shall continue to accumulate during the military leave of absence for training or emergency duty.

Section 5: Required leave for military training and/or duty in an emergency in excess of thirty-one (31) workdays in any calendar year may be charged to accrued vacation, holiday or compensatory time credits.

Section 6: Payments made in excess of allowances provided for in this section shall be subject to recovery.

ARTICLE XX. ATTENDANCE INCENTIVE AWARDS

Section 1: Each full time unit member shall be paid an annual incentive award for work attendance as follows:

Perfect Attendance December 1 through March 31	4 hours Comp Time
Perfect Attendance April 1 through July 31	4 hours Comp Time
Perfect Attendance August 1 through November 30	4 hours Comp Time

Each full time member who has perfect attendance for the year from December 1 through November 30 shall receive an additional twelve (12) hours of Compensatory Time.

Section 2: The period for determining the Attendance Incentive Award will commence on the first day of December of each year and end on the 30th day of November of the next succeeding year.

Section 3: Employee absence from work due to vacation, holiday, funeral leave, jury duty, approved non-pay leave status, such as military or pregnancy leave, attendance at seminars, training functions, or other duty-related absences from the normal work schedule shall not be considered an absence from work for the purpose of this section.

Section 4: Employees who report for duty and work in excess of four (4) hours of their daily work schedule and then leave work for reasons of illness or injury shall be considered to have worked a full day for the purposes of this section. Employees who report for work and work four (4) hours or less of their daily work schedule and then leave for reasons of illness or injury shall be considered absent for the purposes of this section.

Section 5: Notwithstanding Section 4 above, annual cumulative sick leave usage of eight (8) hours shall constitute a day of absence. Annual cumulative sick leave usage of sixteen (16) hours shall constitute two days of absence, and so on.

Section 6: An absence from work due to a duty-related injury or illness for which an employee receives Workers' Compensation benefits or injury leave pay pursuant to ordinance provisions shall be considered an absence for purposes of these sections; except that approved absences from work while an employee is hospitalized due to a duty-related injury and the recovery period immediately subsequent to the employee's discharge from hospital inpatient care will not adversely affect benefit eligibility.

Section 7: New or separating employees shall receive a prorated benefit award based upon one-twelfth (1/12) of the total eligibility for each month of service or part thereof.

Section 8: For purposes of these sections, a workday is defined as an eight (8) hour tour of duty.

Section 9: Accrued, but unpaid attendance bonus is waived by an employee who is discharged or terminated for disciplinary reasons. Said moneys may later be recovered if the employee is later reinstated by the Civil Service Commission or a Court of Law and all appeals are exhausted.

ARTICLE XXI. UNEMPLOYMENT COMPENSATION

Unit members shall be entitled to Unemployment Compensation under the laws of the State of Ohio for any period of unemployment due to lay off for lack of work or lack of funds.

ARTICLE XXII. PREFERENTIAL PAY

Section 1: Physical Fitness Bonus: An annual preferential pay for physical fitness which will be applied to persons who are able to perform the aerobic/running standards as shown:

A. First bracket: $150 will be paid to unit members who can run 1½ mile in less than 15:31 (fifteen minutes, thirty-one seconds).

B. Second bracket: $200, in addition to subsection A above, will be paid to unit members who can run 1½ mile in less than 14:05 (fourteen minutes, five seconds).

Participation in this physical fitness evaluation shall be voluntary only. The evaluation measure shall be scheduled, at the discretion of the Chief, during the span between June and October of each year and shall be announced in advance. Provided, the time standard established and required for the physical fitness standard for those members of the SWAT team shall, if achieved, qualify those individuals for the above physical fitness bonus in lieu of participation in the voluntary evaluation referenced above.

Section 2. Educational Achievement: An annual preferential pay for educational achievement which will be applied to persons who have provided documentation that they have attained the educational achievement standards as shown:

A. First bracket: $150.00 will be paid to unit members who have:
   1. An Associate's degree from an accredited college or university; or,
   2. Graduated from the Police Executive Leadership College conducted by The Police Foundation (PELC program); or,
   3. Have successfully completed the FBI National Academy; or,
   4. Have successfully completed the Sergeant's Supervisory School; or,
   5. Have graduated from an equivalent Command School which has been approved by the City Manager and Chief.

B. Second bracket: $200.00, in addition to Section A above, will be paid to unit members who have
   1. A Bachelor's degree from an accredited college or university; or,
   2. An Associate's degree, **and**,
      A) Have graduated from the PELC program; or
      B) Have graduated from an equivalent Command School which has been approved by the City Manager and Chief; or,
      C) Have graduated from the FBI National Academy.

Section 3. Payment: Payment shall be for time actually worked but shall continue for paid sick leave time or for injury incurred on the job. Payment shall be as an annual bonus on the regular payroll distribution nearest December 1 of each year.

Section 4. The provisions of Sections 1 and 2 of Article XXII, above shall be suspended for the period of July 1, 2009 though December 31, 2010.

ARTICLE XXIII. DISCIPLINE AND RESPONSIBILITY

Section 1. Disciplinary Procedure

1. The Union recognizes the right of the employer to take disciplinary action against employees for just cause. Penalties for disciplinary action may include: oral and written reprimands, suspension, reduction of pay to the next lower step within the pay range, demotion or dismissal. Any employee disciplined will receive a copy of all disciplinary action.

Section 2. Expungement

1. For the sole purpose of discipline, grievance and arbitration procedures, written or oral reprimands or counseling letters shall cease to have force and effect after 24 months, provided the employee incurs no additional discipline of any kind during the time frame listed.

2. For the sole purpose of discipline, grievance and arbitration procedures, suspensions or reductions in pay as discipline shall cease to have force and effect after 48 months provided the employee incurs no additional discipline of any kind during the time frame listed.

3. These same time frames shall be applied to discipline records in an employee's file at the time this contract becomes effective.

ARTICLE XXIV. GRIEVANCE PROCEDURES

Section 1: Should differences arise between the CITY and FOP 38 concerning alleged violations, misinterpretations or misapplication of specific terms of this Agreement, such differences shall be settled in the manner herein. The term "grievance" as used herein is so defined as to limit its applicability to terms and conditions of this Agreement.

Grievances as herein defined shall be processed in the following manner:

Step 1: Whenever an employee believes he/she has a grievance, he/she shall present the matter to the Chief within ten (10) days of occurrence of alleged violation

of this Agreement. A written response to the grievance shall be made by the Chief within ten (10) working days of the presentation by the employee.

Step 2: If the grievance is unresolved, the employee may appeal the grievance in writing to the City Manager. The grievance must be forwarded to the City Manager within ten (10) days of receipt of the Chief's written decision. The City Manager or his authorized representative shall issue a written response within twenty (20) days of receipt of the grievance.

INTERIM LANGUAGE PENDING CIVIL SERVICE COMMISSION ACTION:

The parties are agreed to jointly petition the Hamilton Civil Service Commission to place into its "Rules and Regulations" language exactly mirroring that contained in Article V of this agreement:

A. In the event that the Civil Service Commission has enacted such language into its Rules and Regulations, then any matter alleging any violation of Article V only shall have as its sole and exclusive remedy, appeal to the Civil Service Commission and thus not subject to the grievance procedure. Applicable time frames and procedures for appeal shall be those contained in Civil Service Commission Rules and Regulations.

   Unless specified otherwise, a day shall mean a calendar day. In the event that the final date for any action falls on a date which is not a regularly scheduled workday for the Office of Civil Service, then the final date for the act shall be deemed to be the next regular workday of that office.

B. In the event that the Civil Service Commission has not enacted such language into its Rules and Regulations, then the grievance procedure culminating in Binding Arbitration language which pertains to all other articles within this contract shall also apply to Article V. In such instances, the time frames and procedures to be used shall be those contained within this contract.

Step 3: A grievance which involves the misapplication or misinterpretation of this Agreement or which involves the disciplinary suspension, demotion, or dismissal of an Employee which has been properly and timely processed through the above procedure may be appealed to arbitration by the Union or the Employer. Notice of the request for arbitration must be served on the City, in writing, within forty-five (45) calendar days from the date of the decision of the City Manager's Step 2 decision, or within seven (7) calendar days following the next regular Lodge meeting after receipt of the Step 2 decision whichever is sooner.

Arbitration: The party initiating arbitration shall direct a written demand therefor to the American Arbitration Association (AAA), with a copy of said notice to the other party. Copies of notices to the Employer should be directed to the Office of the City

Manager, and to Labor Relations, and copies of notices to the Union should be sent to the Union President or his designee. The arbitrator shall be selected from a panel of arbitrators furnished by AAA. The arbitration and selection of the arbitrator shall be conducted in conformity with AAA rules. Selection of binding arbitration in cases involving disciplinary suspension, demotion or dismissal, as set forth above, shall preclude and supersede any right of appeal by the Employee or the Union to Civil Service or to Court.

A grievance not so appealed from the second step (by either the procedures A or B above or by Step 3, Binding Arbitration) shall be considered resolved and the written determination of the City Manager shall be final and binding upon the aggrieved Employee, the Union and the Municipality.

In the event that several arbitration cases are pending, they will be heard according to the following priorities: 1) discharge cases, 2) suspension cases, 3) demotion cases, 4) grievances involving back pay issues and 5) the filing date of the grievance.

ARBITRATOR'S JURISDICTION:

The arbitrator shall take such evidence as in his judgment is appropriate for resolution of the dispute; however, he shall confine himself to the issues for arbitration and shall have no authority to determine any other issue not so submitted which is not directly essential to reaching a determination on the dispute at hand.

The arbitrator shall have no power to recommend any right or relief for any period of time prior to the effective date of the Agreement under which the grievance was initiated.

In those issues wherein the grievant's relief sought involves back pay or lost wages covering a period of an Employee's payroll separation due to suspension or discharge, the amount of the award shall be less any unemployment compensation or interim earnings, received by the aggrieved Employee. Second jobs or sources of income which the Employee received while under employment will not be considered interim income and will not be deducted when awarding lost wages or back pay.

The decision of the arbitrator shall be submitted in writing to the parties within thirty calendar days of the hearing's conclusion unless the deadline is mutually extended by the parties.

The decision and award of the arbitrator shall be final and binding on the Union, its members, the aggrieved Employee(s) and the Municipality.

With respect to grievances involving misapplication or misinterpretation of this Agreement, the grievance and arbitration procedure contained in this Article shall be the sole and exclusive remedy available to employees, and the parties hereto as this procedure is intended to supersede all conflicting provisions of the Ohio Revised Code regarding any

and all matters subject to the grievance procedures of this Contract or otherwise made subject to this Agreement. With respect to grievances involving disciplinary suspensions, demotions or dismissals the election of remedies, as set forth above, shall be mutually exclusive. Choice of binding arbitration shall thereafter preclude appeal to Civil Service or to Court. Appeal to Civil Service shall preclude access to binding arbitration.

With respect to cases of suspension, demotion and discharge, the arbitrator shall decide:

1) Whether there was just cause for discipline or demotion.

2) Whether the severity of the discipline was warranted considering:
   a. the Employee's length of employment,
   b. the Employee's past history,
   c. the nature and circumstances which caused the discipline,
   d. similar disciplinary actions taken in similar circumstances.

Fees and Expenses:

Each party shall pay its own expenses as to record transcription costs and for the costs associated with producing its own witnesses. The fees and expenses of the arbitrator shall be borne equally by the parties. If a grievance is withdrawn from arbitration by the union, the employee, or the employer prior to the arbitration hearing but after arbitration expenses have been incurred, such expenses shall be paid by the party withdrawing the grievance. If the grievance is settled by agreement of the parties after arbitration expenses have been incurred, but prior to an arbitrator's award being issued, such expenses shall be shared equally by the employer and the union.

GRIEVANCE GUIDELINES FOR EFFECTIVE PROCESSING:

Representation: The aggrieved employee within the bargaining unit has a right to representation by FOP 38 during the processing of the grievance including any adjustment of the grievance. Employees within the bargaining unit covered by this Agreement have the right to present grievances and have them adjusted without the intervention of the bargaining representative as long as the adjustment is not inconsistent with the terms of the Agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment of the grievance.

Time Frames: For purposes of this procedure, a "day" is any weekday except Sunday, Saturday or a fixed date holiday as recognized by this Agreement.

All written grievances and responses shall be dated and signed by the appropriate Union or City representative.

Time limit extensions beyond those stipulated in this Agreement may be established by mutual agreement of the parties concerned.

In the event no appeal of a grievance is taken within the time limit specified herein, including any extensions to which the parties agree, the grievance shall be deemed resolved. Any grievance not answered by the City within the prescribed time limit, including any agreed extensions, shall be considered to have been answered in the negative and may be advanced immediately to the next Step. No grievance award shall be made to a person other than the specific individual(s) so entitled as eligible under appropriate section(s) of the Agreement. A grievance may be entered in or advanced to any Step of the Grievance Procedure if the parties jointly agree to do so.

Civil Service and Appeal to the Court: If the Civil Service and Appeal to the Court means for final determination is selected as the sole an exclusive remedy for suspension, demotion and dismissal, all rights under this Article for Binding Arbitration are voided.

Meetings: Grievance hearings are not open to the public.

Written Reprimand: Records of a written reprimand, or letters of counseling, given to any employee shall be purged from his or her personnel file twenty four months after the reprimand or letter of counseling, was issued, provided that the employee makes a written request, which shall not be filed, that the reprimand or letter of counseling, be removed and, provided further, that the employee incurs no additional written reprimands, or letters of counseling, of any nature during the period between the issuance of the reprimand, or letter of counseling, and the written request for its removal.

In the event that an officer has failed to request removal of a written reprimand as provided above, but has not incurred any additional discipline of any nature in the prescribed twenty four month period, then the written reprimand shall cease to have any force and effect with regard to any discipline and its removal, when requested in writing, shall be accomplished.

Exemptions: Matters exempt from consideration for processing under this grievance procedure shall include the following:

A. Actions appealable to the Civil Service Commission under appropriate Commission rules and regulations.

B. Matters properly the subject of collective bargaining.

ARTICLE XXV. SAVINGS CLAUSE

Should any provision of this Agreement be found to be in violation of any federal, state or applicable municipal law, or Civil Service rule or regulation, or any order of or by a court of competent jurisdiction, or federal or state administrative ruling, all remaining provisions in this Agreement shall remain in full force and effect for the duration of this Agreement.

ARTICLE XXVI. WAIVER

Section 1: The parties to this Agreement hereby 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 and matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties as to the exercise of that right are set forth in this Agreement. Therefore, CITY and FOP 38, for the life of this Agreement, each voluntarily and unqualifiedly waives the right and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to or covered in this Agreement.

Section 2: In consideration of the work scheduling changes negotiated herein, FOP 38, on behalf of itself and the members thereof, jointly and severally promises, covenants and agrees that neither FOP 38, nor any member thereof, nor anyone claiming through either, will hereafter initiate, bring, commence, prosecute, maintain, participate in, or support in any manner, financially or otherwise, or cause or permit to be brought, commenced, prosecuted or maintained (1) any suit or action, either at law or in equity, in any court of the United States or of any state thereof, or (2) any charge or complaint before any administrative agency of the United States, or of any state thereof, against the City of Hamilton, Ohio, its elected officials, officers, employees or agents, for on account of arising out of or in any way connected with the work scheduling changes negotiated herein at Article VII, Section 4.

ARTICLE XXVII. LAY OFF PROCEDURES

Civil Service procedures relative to the lay off of employees are incorporated herein by reference.

ARTICLE XXVIII. MERIT ADJUSTMENTS

Section 1: Consideration for merit adjustments may be delayed in those instances in which work time has been lost as a result of unpaid leaves of absence unless such leave has been for the purpose of military service or arising out of the employee's disability caused in the course of employment.

It is understood that each merit adjustment shall be premised upon defined standards of merit and not simply upon duration of service in a given step. The most recent Performance Evaluation Report form shall be considered as well as information contained on the Personnel, Payroll change Notice.

A copy of any suggested changes in standards to be used shall be forwarded to the FOP at least 30 days prior to a Labor Management Committee meeting and suggested changes shall be discussed, and mutually agreed upon during Labor-Management Committee meeting.

Documented abuse of sick leave can result in reduction of merit.

Any merit adjustment shall be implemented at the beginning of the pay period in which authorization of said adjustment is made.

ARTICLE XXIX. RANDOM DRUG TESTING

In addition to testing provided for under applicable City ordinances (HMC Chapters 180 and 186), and in accordance with the procedures defined in Appendix C, the City will test between seven to ten employees from among all Division of Police personnel, including the Communications Section, per quarter, for the presence of cocaine metabolites, marijuana metabolites, opiate metabolites, amphetamines, phencyclidine, and similar illegal drugs of abuse. The Division will utilize hair testing, provided, that urine testing will be utilized if hair testing is not possible. Random numbers will be confidentially generated at the beginning of each quarter, and provided to the appropriate supervisor. The supervisor will confidentially choose a day when the employee is scheduled to work which coincides with the availability of the collection official. On the selected date, the employee will be provided with a written order to report to the collection official immediately upon receipt of the order.

Police administration reserves the right to submit non-random test subjects based upon complaints, information, or allegations received. The request will remain confidential between police administration and the internal affairs function.

If the laboratory returns a positive result, an immediate second test is automatic and required. The employee has the right to have the second hair sample sent to another certified laboratory at his or her own expense. Hair sent for a second test will be processed by the city in the usual manner. An employee ordered to report for a second test may be accompanied by a union representative or counsel as an observer. If a second positive is indicated, the employee will be immediately suspended pending a pre-disciplinary conference. Employees who refuse to take any ordered drug test will be immediately suspended and scheduled for a pre-disciplinary conference.

ARTICLE XXX DISPUTE SETTLEMENT

If the parties cannot reach agreement prior to thirty (30) days before the expiration of the existing collective bargaining agreement the parties may then declare an impasse and the dispute settlement procedures of mediation, fact-finding and conciliation as provided in the Ohio Collective Bargaining Law with the time intervals designated therein shall then apply.

The parties may mutually agree to extend the time for negotiations and postpone by mutual agreement the declaration of impasse.

ARTICLE XXXI. F.O.P. LEAVE

The total union leave is covered under the rank and file Police Officer contract. That language, however, shall not prohibit a person covered by this negotiated agreement from using portions of that leave as provided therein.

ARTICLE XXXII. COMPENSATORY TIME OFF

Effective January 1, 2011, all accrued compensatory time carried by an employee, regardless of the method by which it was earned, will be combined into one (1) comp time bank, which shall be subject to the following provisions: Any officer may accumulate up to 200 hours of compensatory time off. At that point when an officer has hours of comp time in the bank, he/she shall not be permitted to bank any additional hours until his/her balance has been reduced. No officer will be allowed to carry over more than 200 hours of compensatory time into the next calendar year. Officers must receive pay for all time above the maximum of 200 hours. Officers may convert any portion of accumulated hours in the compensatory time bank to pay at any time.

ARTICLE XXXIII. NO LAY-OFFS, NO ATTRITION

Section 1: It is hereby agreed between the City and Fraternal Order of Police, Lodge 38, that there shall be no lay-offs by the City of any of the members of the Fraternal Order of Police, Lodge #38, nor attrition of any sworn position in the Division of Police through August 31, 1994.

Section 2: The total sworn complement is hereby defined as 114 officers. In the event that special State or Federal funding should become available with which to fund additional officers, then the increased number of officers may, at the time that said funding is no longer available, be reduced back to 114 through attrition only.

ARTICLE XXXIV. NO STRIKE OR LOCKOUT

Section 1: No Employee, during the term of this Agreement or otherwise, shall engage in any strike, sympathy strike, partial strike, slowdown, sitdown, sit-in, cessation, work stoppage, or similar refusal to perform work, picketing (except for lawful informational picketing) or any other interference with the work and statutory functions or obligation of the Employer.

Section 2: Neither the Union nor its officers or agents, shall in any way authorize, institute, aide, condone, or participate in any strike, sympathy strike, partial strike, slowdown, sit-down, sit-in, cessation, work stoppage, refusal to perform work, picketing (except informational picketing), or any other interference with the work and statutory functions or obligations of the Employer.

Section 3: In addition to any other liability, remedy, or right provided by applicable law or statute, should a strike, sympathy strike, partial strike, slowdown, sit-down, sit-in, cessation, work stoppage or similar refusal to perform work, picketing (except for lawful informational picketing), or other interference as stated above occur, the Union, within twenty-four (24) hours of a request by the Employer, shall:

(a) publicly disavow such action by the Employees;

(b) advise the Employer in writing that such action by Employees has not been caused or sanctioned by the Union;

(c) notify Employees, including its local officers and representatives, of its disapproval of such action and instruct such Employees to cease action and return to work immediately;

(d) post notices on Union bulletin boards advising that it disapproves of such action and instructing Employees to return to work immediately.

Section 4: In addition to any other rights and remedies provided by law, and notwithstanding any provisions of the O.R.C. Chapter 4117 to the contrary, the Employer may discharge or otherwise discipline an Employee, subject to the grievance and arbitration procedure of this Agreement, for a violation of his obligations under this article.

Section 5: Nothing contained herein shall preclude the Employer from obtaining judicial restraint and damages in the event of a violation of this article.

Section 6: Upon expiration of this Agreement, the parties shall submit to a final offer settlement procedure consistent with O.R.C. 4117.14 (D)(1) and as outlined in Ohio Administrative Code 4117-9-06.

ARTICLE XXXV. DURATION OF AGREEMENT

Wage amounts effective for the year 2010 are shown at Appendix A.

All provisions of this agreement, except as otherwise provided herein, shall remain in effect until midnight, August 31, 2012, and thereafter, until either Party serves upon the other

written notice of its intent to amend, modify, or terminate the provisions of this Agreement. In the event of such notification, the Parties shall commence negotiations by exchange of proposals in accordance with law.

The provisions of this Agreement shall continue in effect during the negotiation of any new Agreement and until a new Agreement is entered into, or until such negotiations are broken off by either party by way of written notification.

IN WITNESS WHEREOF, the Parties hereto have caused their names to be subscribed by their authorized representatives on this 6th day of JANUARY, 2011.

FOR FOP, LODGE 38 (Captain's Unit)

Steve A. Poulemanos

Capt. Steve Poulemanos

Joseph Murray

Capt. Joseph Murray

FOR THE CITY OF HAMILTON, OHIO

Joshua A. Smith 1/12/11

Joshua A. Smith, City Manager

Neil R. Ferdelman

Neil R. Ferdelman, Chief of Police

Timothy Werdmann

Timothy Werdmann, Assistant Law Director

APPENDIX A

SCHEDULE B-4-C

POLICE CAPTAINS

Effective August 12, 2010

	CLASSIFICATION		1	2	3	4	5	6
439	Police Captain	Hour (40)				$46.58	$48.12	$48.93
		Biweekly				$3,726.40	$3,849.60	$3,914.40
		Annual				$96,886.40	$100,089.60	$101,774.40

LONGEVITY

Yrs. Continuous Service	Percent of Maximum Police Officer Salary		$58,178.00
5 - 7	2%	$1,163.56	$0.56
8 - 11	4%	$2,327.12	$1.12
12 - 15	6%	$3,490.68	$1.68
16 - 19	8%	$4,654.24	$2.24
20+	10%	$5,817.80	$2.80

APPENDIX B

A. Effective January 1, 2010 the Health Care Plan recommended by the Joint Subcommittee is described as: A managed care preferred provider plan. Use of Network providers results in the higher level of benefits. Use of non-network providers results in a lower level of benefits.

	Low Plan		**High Plan**	
	NETWORK	NON-NETWORK	NETWORK	NON-NETWORK
Deductible	$2250 Ind. $4500 Fam.	$4500 Ind. $9000 Fam.	$200 Ind. $400 Fam.	$400 Ind. $800 Fam.
Out-of Pocket Max	$2250 Ind. $4500 Fam.	$10000 Ind. $20000 Fam	$700 Ind. $1400 Fam.	$1400 Ind. $2800 Fam.
Lifetime Max	$5,000,000 per individual	$5,000,000 per individual	Unlimited	Unlimited
Office Visit Co-pay	100% after deductible	Deductible & co-insurance	$20 PCP $40 SCP	Deductible & co-insurance
In-patient Hospital	100% after deductible	Deductible & co-insurance	Deductible & 10% Co-ins.	40% after deductible
Out-patient Hospital	100% after deductible	Deductible & co-insurance	Deductible & 10% Co-ins	40% after deductible
Emergency Room	100% after deductible	100% after deductible	$75 Copay	$75 Copay
Urgent Care Copay	100% after deductible	Deductible & co-insurance	$35 Copay	40% after deductible
Prescript. Drug Retail Mail Order	$10/$30/$60 $10/$30/$60 (90 Days)	Not Covered	$10/$25/$50 $10/$25/$50 (90 Days)	Not Covered

B. A Dental Plan that incorporates a Passive PPO as well as an indemnity plan. Use of in-network providers means that balance-billing is not permitted and that other enhancements may be available. The plan covers the following:

Class I (preventive)	100%
Class II (Minor restorative)	80%
Class III (major restorative)	80%
Class IV (Orthodontia)	60% (children to age 19)

Deductible of $50/person/calendar year on Class II and III.

Maximums: $2500/person/calendar year on Classes I, II and III.
$1,000/lifetime on Class IV.

C. A managed care, point of service, network vision plan that provides:

	NETWORK	NON-NETWORK Reimbursement
Exams: (1 per 12 mo)	$10 co-pay	Up to $35 reimbursement
Lenses: (1 pr per 24 mo)	$25 co-pay	Range: Single vision up to $25 Bifocal up to $40 Trifocal (pr) up to $55
Frames: (1 pr per 24 mo)	$100 allowance; 80% of balance over $100	Up to $50 reimbursement
Contacts Medically necessary Elective (1 pr per 24 mo)	$0 co-pay, paid in full $115 allowance	***Up to $200*** Up to $92

APPENDIX C

1.8.5 RANDOM DRUG TESTING The Hamilton Police Department has instituted a random drug testing program for all sworn and Communications Section personnel:

1. **Program Purpose** The random drug testing program was instituted to:
   1. Test for the presence of:
      1. Cocaine metabolites;
      2. Marijuana metabolites;
      3. Opiate metabolites;
      4. Amphetamines;
      5. Phencyclidine; and
      6. Similar illegal drugs of abuse;
   2. Deter employee use of illicit drugs;
   3. Protect the public, co-workers, and the involved employee from drug-related accidents;
   4. Limit the potential for lawsuits against the city as a result of careless or negligent acts by drug-involved employees;

2. **Procedures:**
   1. **Subject Selection:**
      1. At the beginning of each quarter, the names of seven to ten employees will be randomly generated and provided to the appropriate bureau commander. Additionally, the Chief of Police reserves the right to submit non-random names based upon complaints, information, or allegations received. The submission of non-random names shall remain confidential between the administrative officers and, if necessary, the internal affairs function;
      2. The bureau commander will confidentially choose a day when the employee is scheduled to work that coincides with the availability of the collection official and notify the collection official to respond to Police Headquarters on that date;
      3. On the date in question, the bureau commander will notify the employee's immediate supervisor of the random drug test and provide the supervisor with an Order to Report form (DP-60). The immediate supervisor will:
         1. Notify the employee to respond to headquarters;
         2. Sign, date, and indicate the time on the DP-60 and provide it to the employee;
         3. Direct the employee to immediately respond to the collection official;
   2. **Testing Procedures** Random drug tests will be administered by a registered nurse who is a certified collection official. Hair specimens will be utilized as the primary method of testing for illegal drug usage. However, urine testing will be utilized if a suitable hair specimen cannot be obtained:
      1. **Hair Testing** In order to provide a suitable specimen, an employee must have at least ½ inch of hair (head, chest, leg or underarm). Once a suitable hair specimen is obtained, the collection official will:
         1. Sign, date, and indicate the time on the DP-60;
         2. Process the specimen in accordance with accepted laboratory procedures; and
         3. Forward the DP-60 to the appropriate bureau commander;
      2. **Urine Testing** In those rare instances where a suitable hair specimen cannot be obtained, urine testing will be utilized by the collection official in accordance with the following procedures:
         1. The employee to be tested shall:
            1. Remove extraneous clothing and personal items (coats, hats, etc); and
            2. Remain in full view of the collection official, except when actually providing the sample;
         2. If the employee cannot produce a sample, the collection official will allow the employee:
            1. To consume up to 40 ounces of water;
            2. Up to three hours to provide a suitable specimen. If the employee does not provide a suitable specimen within the three-hour time period, the employee will be considered to have refused the test;
         3. Once a suitable urine specimen is obtained, the collection official will:
            1. Sign, date, and indicate the time on the DP-60;
            2. Process the specimen in accordance with accepted laboratory procedures; and
            3. Forward the DP-60 to the appropriate bureau commander;
      3. **Positive Test Result/Refusals:**
         1. If the laboratory returns a positive test result, a second test is required and will be immediately scheduled by the appropriate bureau commander:
            1. An employee who is ordered to report for a second test may have a union representative or counsel accompany them to serve as an observer;
            2. Specimens obtained for a second test will be obtained and processed in accordance with the procedures outlined in the subsection entitled Testing Procedures, above;
            3. The employee has the right to have the second specimen sent to another certified laboratory at his/her own expense;
         2. If a second positive test is indicated, the employee will be immediately suspended with pay pending a pre-disciplinary conference;
         3. An employee who refuses to take any ordered drug test will be immediately suspended with pay pending a pre-disciplinary conference;
      4. **Record Maintenance** Once final tests results are received, whether positive or negative, the results will be indicated on the original DP-60 by the appropriate bureau commander, and the form and laboratory report will be filed in the employee's personnel file. A copy will be returned to the employee.