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01/07/2013

AN AGREEMENT

between

THE CITY OF OLMSTED FALLS

and

**THE OHIO PATROLMEN'S
BENEVOLENT ASSOCIATION**

SERGEANTS

**EFFECTIVE: January 1, 2011
THROUGH: December 31, 2013**

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ARTICLE 1 - PREAMBLE

Section 1. This Agreement is hereby entered into by and between the City of Olmsted Falls, hereinafter referred to as "the City," and the Ohio Patrolmen's Benevolent Association, hereinafter referred to as "the OPBA," as exclusive bargaining representative for full-time Sergeants employed by the City.

ARTICLE 2 - RECOGNITION

Section 1. The City voluntarily recognizes the OPBA as the exclusive representative for purposes of collective bargaining for the full-time unit of employees holding the rank of Sergeant in the City of Olmsted Falls Police Department and excluding all other employees. Wherever the term employee is used hereafter, it shall mean only employees in this unit.

Section 2. The City will furnish the OPBA with a list of all employees in the unit indicating their starting date of employment. Such list will be furnished no less than annually and will be supplemented by the names of all new employees as soon as practicable after they begin work.

ARTICLE 3 - DUES CHECK-OFF

Section 1. During the term of this Agreement, the City shall deduct initiation fees, assessments levied by the OPBA and the regular monthly OPBA dues from the wages of those employees who have voluntarily signed dues deduction authorization forms permitting said deductions.

No new authorization forms will be required from any employees in the Division of Police for whom the City is currently deducting dues.

Section 2. The initiation fees, dues or assessments so deducted shall be in the amounts established by the OPBA from time to time in accordance with its Constitution and Bylaws. The OPBA shall certify to the City the amounts due and owing from the employees involved.

Section 3. The City shall deduct dues, initiation fees or assessments from the first pay in each calendar month. If an employee has no pay due on that pay date such amounts shall be deducted from the next or subsequent pay.

Section 4. A check in the amount of the total dues withheld from those employees authorizing a dues deduction shall be tendered to the treasurer of the OPBA within thirty (30) days from the date of making said deductions.

Section 5. The OPBA hereby agrees to defend the City upon request and to hold the City harmless from any and all liabilities or damages which may arise from the performance of its obligations under this Article 3, "Dues Check-Off," and under Article 4, "Service Fees" of this Agreement, and the OPBA shall indemnify the City for any such liabilities or damages that may arise.

ARTICLE 4 - SERVICE FEES

All members of the bargaining unit, as identified in Article 2 of this Agreement, shall either (1) maintain their membership in the OPBA, (2) become members of the OPBA, or (3) pay a service fee to the OPBA in an amount equivalent to the annual dues for membership in the OPBA, as a condition of employment, all in accordance with Ohio Rev. Code Sec. 4117.09.

In the event that a service fee is to be charged to a member of the bargaining unit, the employer shall deduct such fee in the same manner as dues are deducted as specified in Article 3 of this Agreement entitled "Dues Check-Off."

ARTICLE 5 - CITY'S RIGHTS

Section 1. The OPBA and the employees covered herein agree that all of the functions, rights, powers, responsibilities and authority of the City in regard to the operation of its work and business and the direction of its work force which the City has not specifically abridged, deleted, granted, or modified by the express written provisions of this Agreement, are, and shall remain, exclusively those of the City.

Section 2. Not by way of limitation of the foregoing Section 1, but to indicate the type of matters or rights which belong to and are inherent to the City, the City retains the right to:

- (1) hire, transfer, discharge, suspend, demote, or discipline for cause, layoff, transfer, assign, schedule, promote and/or retain employees;
- (2) determine the number of persons required to be employed, laid-off or discharged;
- (3) determine, in compliance with the authority of the Civil Service Commission, the qualifications of the employees covered by this Agreement;
- (4) determine the starting and quitting time and the reasonable number of hours to be worked by its employees;
- (5) make any and all reasonable rules and regulations;
- (6) determine the work assignments of its employees;
- (7) determine, in compliance with the authority of the Civil Service Commission, the basis for selection, retention and promotion of employees to or from occupations not within the bargaining unit;
- (8) determine the type of equipment and the nature of work processes;
- (9) determine the making of the technological changes by revising either process or equipment or both;
- (10) determine work standards and the quality and quantity of work to be produced;
- (11) select and locate buildings and other facilities;
- (12) establish, expand, transfer and/or consolidate work processes and facilities;

- (13) transfer or subcontract work;
- (14) consolidate, merge or otherwise transfer any and all of its facilities, property, processes or work with or to any other municipality or entity, or affect or change in any respect the legal status, management, or responsibility of such property, facilities, processes or work;
- (15) terminate or eliminate all or any part of its work or facilities;
- (16) require physical and psychiatric examinations at the direction of the City, such examinations to be made by a physician designated and paid for by the City, and such right not to be exercised in an arbitrary and capricious manner;
- (17) determine matters of inherent managerial policy which include, but are not limited to, areas of discretion of policy such as the functions and programs of the City, standards of services, its overall budget, utilization of technology and organizational structure;
- (18) direct, supervise, evaluate or hire employees;
- (19) maintain and improve the efficiency and effectiveness of governmental operations;
- (20) determine the overall methods process, means, or personnel by which governmental operations are to be conducted;
- (21) determine the adequacy of the work force;
- (22) determine the overall mission of the employer as a unit of government;
- (23) effectively manage the work force;
- (24) take actions to carry out the mission of the public employer as a governmental unit; and
- (25) the City reserves the right to implement new, or revise existing policies which do not conflict with the express terms of this Agreement.

Section 3. It is the intent of the City to maintain the use of full-time Sergeants.

Section 4. Notwithstanding §4117.08 of the Ohio Revised Code, the Employer is not required to bargain on any subject - including, but not limited to, those enumerated above - reserved to and retained by the City under this Article. Therefore, the Union agrees that, during the life of this Agreement, the City shall have no obligation to bargain collectively with respect to the exercise of any rights reserved to and retained by it pursuant to either Ohio Revised Code §4117.08(C) or pursuant to this Article of the Agreement.

ARTICLE 6 - EMPLOYEE AND OPBA RIGHTS

Section 1. Employees have the right to join, assist and participate in the OPBA, or to refrain from doing so. Neither the City nor the OPBA nor any employee will interfere with such right.

Section 2. Employees shall have the right to present grievances to the City without the intervention of the OPBA and to have such grievances adjusted, so long as the adjustment is not inconsistent with the terms of this Agreement and so long as a representative of the OPBA is given permission to be present at the adjustment.

Section 3. An employee called in for an interview that may reasonably be expected to result in discipline for such employee shall be entitled, upon request, to have a representative of the OPBA attend. Such representative may be an attorney. In no case shall the City be required to delay the interview for than one (1) hour to accommodate the request for representation. During the interview, the representative of the OPBA may observe, but shall not interfere with the investigation and shall not answer questions on behalf of the employee. If an employee refuses to participate in an interview or refuses to answer proper questions asked therein, such action shall constitute proper cause for discipline.

Section 4. The OPBA may designate up to two employee representatives, plus an alternate. When one of these representatives is on duty and is required or authorized by the City either to attend an employee disciplinary interview pursuant to Section 3 of this Article or to attend a meeting with the City on a grievance, he shall be entitled to do so with no loss of pay. The parties recognize that it may be appropriate for an employee representative to leave a normal work assignment to perform other duties on behalf of the OPBA. The parties hereto recognize the paramount importance of the operational needs of the City and will cooperate to conduct OPBA business outside of working hours where possible and to keep to a minimum any time lost from work by such representatives. Before leaving an assignment pursuant to this section, the representative must obtain approval from the Chief, who shall grant the request if in his opinion the operations of the City will not be disrupted. Such time off will not be paid, but will not be treated as an absence from work. The purposes for which such time off will be appropriate are: investigation and processing of grievances; collective bargaining negotiations; attending OPBA director meetings; and other reasons acceptable to the Chief.

Section 5. The OPBA shall be provided space for the posting of official OPBA notices of meetings and scheduled events. To be "official," such notices must be authorized by the OPBA and signed by one or more of its duly elected officers. The OPBA is strictly responsible for the content of such notices. No political, defamatory, or disrespectful material will be posted. If posted, it will be removed at once.

Section 6. An employee may request an opportunity to review his personnel file, and shall be permitted to have a representative of the OPBA present when reviewing his file. All items in an employee's file with regard to complaints and investigatory files including written discipline will be removed from this file after a period of two years from date of complaint or discipline and placed into an inactive file provided no similar complaints are filed within a two (2) year period.

Section 7. Complaints that are oral in nature shall be handled orally. An anonymous or oral complaint shall not, in and of itself, be the basis for any disciplinary action against an employee. The Department may, however, investigate the complaint and if corroborated, may become the accusing party and pursue discipline under the terms of this Agreement. All complaints by

civilians that may involve written discipline, including but not limited to, suspension or discharge of any employee shall be in writing and signed by the complainant or presented in person to the Mayor, Safety Director, Chief, or any Lieutenant. The City must furnish a copy of the complaint to the employee whom the complaint had been filed against when such employee is notified of the investigation. Any written discipline administered to an employee must be the result of a signed complaint. Any and all discipline must be for reasonable and just cause. No discipline will be administered until a complete and objective investigation for disciplinary action is completed. An employee will be notified when an investigation is started.

Section 8. In the course of an internal affairs investigation, polygraph examinations and voice stress analysis examinations will not be administered to employees without a determination in good faith by the Chief that probable cause exists, and then will be conducted in conformity with due process standards.

Section 9. Departmental evaluations shall be fair, impartial, and unbiased. They should be given once per calendar year. They should be completed in a reasonable time.

Section 10.

Seniority shall be an employee's uninterrupted length of continuous service in the Police Department. Continuous service and seniority shall be broken by death, resignation, retirement, discharge, layoff or leave of absence longer than six (6) months, or an unauthorized absence from work for three (3) consecutive days.

ARTICLE 7 - DISCIPLINE

Section 1. An employee who is suspended, demoted, discharged, or given written discipline shall be given written notice regarding the reason(s) for the disciplinary action. In the case of suspension or discharge, the employee shall be advised of the right to confer with a representative of the OPBA.

Section 2. Disciplinary action taken by the City shall only be for just cause.

Section 3. Any discipline action against an employee may be appealed through the grievance and arbitration procedures of this Agreement. However, this Section will not be interpreted to conflict with Article 17, New Sergeants.

Section 4. Prior to a disciplinary suspension that does not require emergency relief from duty, the City shall conduct a pre-suspension hearing for the purpose of affording the employee an opportunity to respond to the charges.

Section 5. In the case of an emergency relief from duty, an employee may be suspended without pay prior to a hearing, and a disciplinary hearing will be held within three (3) days of the suspension. The employee shall have the option of using vacation and/or personal days to cover

the days of suspension prior to the hearing. If the suspension is reversed, the City shall reimburse the employee in kind for time and/or benefit time lost.

ARTICLE 8 - LAYOFFS

Section 1. In the event of a layoff or job abolishment for lack of work or lack of funds for police officers and/or Sergeants in the Department, the City will layoff across rank (Patrolmen and Sergeants) in the following order:

- Auxiliary Employees;
- Probationary Part Time Employees; and then
- Part Time Employees

Thereafter, layoffs will be by Departmental Seniority. This Section will be interpreted in tandem with Article 8, Section 1 of the Patrolmen contract between OPBA and The City of Olmsted Falls.

Section 2. Employees shall retain recall rights for a period of one year from the date of layoff.

Section 3. Recalls from layoff will be in the inverse order of layoff (last laid off, first recalled), and the recalled employee will be reinstated to his pre-layoff Rank.

Section 4. In the case of a recall, the City shall provide notice of recall by mail sent to the last address of record for the employee. Such notice shall include the date and time for the employee to return to work, which shall not be less than seven (7) days after the date the notice is sent. If the employee does not report for work at such time or make other arrangements approved by the Chief, the employee shall not retain further rights to recall. It is the responsibility of each employee to keep the City informed of the employee's current address.

ARTICLE 9 - NO STRIKE

Section 1. The City and the OPBA agree that the grievance procedures provided herein are adequate to provide a fair and final determination of all grievances arising under this Agreement. It is the desire of the City and the OPBA to avoid all work stoppages and strikes.

Section 2. Neither the OPBA nor any member of the bargaining unit shall directly or indirectly call, sanction, encourage, finance, participate in, or assist in any way any strike, slowdown, walkout, concerted "sick leave," "blue flu," mass resignation, work stoppage or slowdown, or other unlawful interference with the normal operations of the City. A breach of this Section is grounds for discipline up to and including discharge. The OPBA shall not be held liable for the unauthorized activity of the employees it represents or its members who are in breach of this Section, provided that the OPBA meets all of its obligations under this Article.

Section 3. The OPBA shall, at all times, cooperate with the City in continuing operations in the normal manner and shall actively discourage and attempt to prevent any violation of the “no-strike” clause.

In the event of a violation of the “no-strike” clause, the OPBA shall promptly notify all employees in a reasonable manner that the strike, work stoppage or slowdown, or other unlawful interference with normal operations of the City is in violation of this Agreement, unlawful and not sanctioned or approved of by the OPBA. The OPBA shall advise the employees to return to work immediately. The OPBA shall cooperate with the City in any action that the City chooses to bring to seek an injunction to terminate any job action of the type listed in Section 2 of this Article occurring during the term of this Agreement.

Section 4. The City shall not lock out any employees for the duration of this Agreement.

Section 5. In the event that disciplinary action is taken against an employee for an alleged violation of this Article, such action shall not be reviewable upon any grounds other than whether the employee violated Section 2 of this Article.

ARTICLE 10 - GRIEVANCE PROCEDURE

Section 1. Every employee shall have the right to present his grievance in accordance with the procedures provided herein, free from any interference, coercion, restraint, discrimination or reprisal and, except at Step 1, shall have the right to be represented by a representative of the OPBA at all stages of the Grievance Procedure. It is the intent and purpose of the parties to this Agreement that all grievances shall be settled, if possible, at the lowest step of this procedure.

Section 2. For the purposes of this procedure, the below listed terms are defined as follows:

(a) Grievance - A “grievance” shall be defined as a dispute or controversy concerning the application, interpretation of or compliance with the specific and express written provisions of this Agreement.

(b) Grievant - The “grievant” shall be defined as any employee or group of employees within the bargaining unit or the OPBA.

(c) Party in Interest - A “party in interest” shall be defined as any employee of the City named as a beneficiary or as an opposing party in the grievance who is not the grievant.

(d) Days - A “day” as used in this procedure shall mean calendar days, excluding Saturdays, Sundays or holidays as provided for in this Agreement.

Section 3. The following procedures shall apply to the administration of all grievances filed under this procedure.

(a) Except at Step 1, all grievances shall include the name and position of the grievant, the identity of the provisions of this Agreement involved in the grievance, the time and place where the alleged events or conditions giving rise to the grievance took place, the identity of the party responsible for causing the said grievance, if known to the grievant; and a general statement of the nature of the grievance and the redress sought by the grievant.

(b) Except at Step 1, all decisions shall be rendered in writing at each step of the grievance procedure. Each decision shall be transmitted to the grievant and his representative, if any.

(c) The time limits provided herein will be strictly adhered to and any grievance not filed initially or appealed within the specified time limits will be deemed waived and void. If the City fails to reply within the specified time limit, the grievance shall automatically be sustained in favor of the grievant on a "no precedent" basis. The time limits specified for either party may be extended only by written mutual agreement.

(d) This procedure shall not be used for the purpose of adding to, subtracting from, or altering in any way, any of the provisions of this Agreement.

Section 4. All grievances shall be administered in accordance with the following steps of the grievance procedure.

Step 1: An employee who believes he may have a grievance shall notify a Lieutenant of the possible grievance within five (5) days of the occurrence of the facts giving rise to the grievance. The Lieutenant will schedule an informal meeting with the employee, within five (5) days of the notice from the employee, at which time the issue in dispute will be discussed with the objective of resolving the matter informally.

Step 2: If the dispute is not resolved informally at Step 1, it shall be reduced in writing by the grievant and presented as a grievance to the Chief of Police or his designee within five (5) days of the informal meeting or notification of the Lieutenant's decision at Step 1, whichever is later, but not later than five (5) days from the date of the meeting if the Lieutenant fails to give the employee an answer. The Chief shall schedule a meeting within five (5) days and hold a meeting within ten (10) days after receiving the written grievance at Step 2 from the grievant. The Chief shall give his answer in writing within five (5) days after the meeting.

Step 3: If the grievant is not satisfied with the written decision at the conclusion of Step 2, a written appeal of the decision may be filed with the Mayor within five (5) days from the date of the rendering of the decision at Step 2. A copy of the written decision shall be submitted with the appeal. The Mayor or his designee shall schedule a hearing within five (5) days and hold a hearing within ten (10) days of the receipt of the appeal. All parties will be given at least 72 hours notice before the hearing. The hearing will be held with the grievant, his OPBA representative and any other party necessary to provide the required information for the rendering of a proper decision. The Mayor or his designee shall issue a written decision to the employee and his OPBA representative within ten (10) days from the date of the hearing. If the

decision at Step 3 is not acceptable to the OPBA, the matter may be taken to the exclusive final and binding Arbitration Procedure contained in Article 11 of this Agreement

ARTICLE 11 - ARBITRATION

Section 1. In the event a grievance is unresolved after being processed through all steps of the Grievance Procedure, unless mutually waived, then within ten (10) days after the rendering of the decision at Sept 3, the grievant may submit the grievance to arbitration. Within the next following ten (10) day period, the parties will meet to attempt to mutually agree upon an arbitrator. If such agreement is not reached, the OPBA will promptly request a panel of seven (7) arbitrators From the Metro Region of the FMCS. The parties will then chose one (1) arbitrator from the panel by the alternative strike-off method. Either party, however, shall have the right to reject the initial list and request a second list, in which case the arbitrator will be chosen from the second panel.

Section 2. The arbitrator shall have no power or authority to add to, subtract from, or in any manner alter the specified terms of this Agreement or to make any award requiring the commission of any act prohibited by law or to make any award that itself is contrary to law or violates any of the terms and conditions of this Agreement.

Section 3. Arbitration hearings shall not be open to the public.

Section 4. The fees and expenses of the arbitrator and the cost of the hearing room, if any, will be borne by the party losing the grievance. In cases of "split" awards, the arbitrator shall have authority to allocate these costs between the parties. All other expenses shall be borne by the party incurring them. The costs of a record, if agreed to by the parties, shall be shared equally by the parties. If one party wants a record and the other does not, the party requesting the record shall pay the cost thereof, provided, that if the other party later decides to order a copy, it shall pay 75% of the total cost of the record.

Section 5. An employee requested to appear at the arbitration hearing by either party shall attend without the necessity of subpoena. The City shall not be obligated to pay for the attendance at the hearing of witnesses or representatives of the OPBA; provided, that if the hearing is held within the jurisdiction of the City, and an on-duty witness is able to respond to calls, the City will pay such witness for the time spent testifying. Any request made by either party for the attendance of witnesses shall be made in good faith so as not to disrupt the operations of the City.

Section 6. The arbitrator's decision and award will be in writing and delivered within thirty (30) days from the date the record is closed. The decision of the arbitrator shall be final and binding upon the parties.

ARTICLE 12 - TOTAL AGREEMENT

Section 1. This Agreement represents the entire agreement between the Employer and the Union and unless specifically and expressly set forth in the written provisions of this Agreement, all rules, regulations, benefits and practices previously and presently in effect may be modified or discontinued at the sole discretion of the Employer, except that notices of any such modifications or discontinuance's of a benefit or the administration of a benefit adversely affecting the bargaining unit as a whole, shall be provided to the Bargaining Committee and shall, upon request, be discussed with it prior to the implementations, excluding emergencies.

ARTICLE 13 - NON-DISCRIMINATION

Section 1. The Employer and the OPBA agree not to discriminate against any employee(s) on the basis of race, religion, color, creed, national origin, age or sex, except insofar as the same is a bona fide occupational qualification.

Section 2. The OPBA expressly agrees that membership in the OPBA is at the option of the employee and that it will not discriminate with respect to representation between members and non-members.

ARTICLE 14 - GENDER AND PLURAL

Section 1. Whenever the context so requires, the use of the words herein in the singular shall be construed to include the plural, and works in the plural, the singular. Words whether in the masculine, feminine or neuter genders shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that use is for convenience purposes only and is not to be discriminatory by reason of sex.

ARTICLE 15 - HEADINGS

Section 1. It is understood and agreed that the use of headings before Articles is for convenience only and that no heading shall be used in the interpretation of said Article or affect any interpretation of any such Article.

ARTICLE 16 - OBLIGATION TO NEGOTIATE

Section 1. The City and the OPBA 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 matter not removed by law from the 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.

Section 2. Therefore, for the life of this Agreement, the City and the OPBA each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated, to negotiate collectively with respect to any subject or matter referred to, or covered in this

Agreement, or with respect to any subject or matter not specially 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.

ARTICLE 17 - NEW SERGEANTS

Section 1. New full-time Sergeants shall be on probationary status for their first one (1) year of employment as a Sergeant. While on probationary status, a new Sergeant may be demoted to patrolman at the City's sole discretion, with or without just cause, subject only to the City's obligations under Article 13 ("Non-Discrimination"), hereof.

Section 2. The demotion of a probationary Sergeant is subject to the grievance procedure set forth in Article 10 "Grievance Procedure," hereof, and, with the agreement of the City and the OPBA, may be submitted to arbitration. In such an arbitration proceeding, the arbitrator shall have jurisdiction to grant the grievance only if the arbitrator finds, based on clear and convincing evidence, that the City intentionally violated Article 13, "Non-Discrimination," hereof.

ARTICLE 18 - BASE SALARY RATE

Section 1. All employees shall be paid semi-monthly on the fifteenth day of each month and on the last day of the month. The Finance Director shall determine and make those payroll deductions which he deems appropriate or which are otherwise authorized and directed by Council. All payroll changes shall be made at a time and in a manner which the Director deems appropriate. When such pay day falls on a Saturday, Sunday or Bank Holiday Monday, the preceding Friday shall be the pay day. In the event that a pay day falls on a Bank Holiday Friday, pay day shall be on the preceding Thursday. Approved overtime shall be paid in the subsequent payroll.

The base salary rate of any employee shall be calculated by dividing his or her annual salary by 2080 as shown in Section 3, Article 18 to the second decimal place.

Section 2. - The Base Salary Rate for Sergeants shall be twelve percent (12%) greater than that rate constituting the highest rate paid or set to be paid patrolmen.

| | Base Pay Rate | 1% contingent |
|----------------------------------|----------------------|----------------------|
| Effective January 1, 2012 | \$ 64,833.60 | *\$ 648.33 |
| Effective January 1, 2013 | \$ 65,807.84 | **\$ 658.07 |

***A 1% lump sum payment will be paid to each employee on August 15, 2012, provided the gross Municipal Income Tax receipts received by the City of Olmsted Falls between January 1, 2012 and July 31, 2012 are equal to or exceed the gross Municipal Income Tax**

received by the City of Olmsted Falls between January 1, 2008 and July 31, 2008 by \$200,000.00

****A 1% lump payment will be paid to each employee on August 15, 2013, provided the gross Municipal Income Tax receipts received by the City of Olmsted Falls between January 1, 2013 and July 31, 2013, are equal to or exceed the gross Municipal Income Tax receipts received by the City of Olmsted Falls between January 1, 2008 and July 31, 2008 by \$200,000.00**

In the event the employees qualify for the additional 1% payment in either year the 1% shall be added to the employees' base pay schedule effective December 31 of the year in which the lump sum payment was earned.

Section 3. Once an employee has completed five (5) years of service with the City, the employee shall receive Longevity Pay. Longevity Pay will be paid to each eligible employee on the last scheduled payday in November of each year. An employee's Longevity Pay will be equal to .002 multiplied by the number of years of service that the employee will have completed by December 31st of the current year, multiplied by the employee's Annual Base Salary. Longevity Pay will not exceed \$1,100 per year.

ARTICLE 19 - OVERTIME AND CALL-IN

Section 1: Employees shall be compensated at the rate of one and one-half (1-1/2) times their regular base salary rate of pay for all hours of work over eight (8) in any twenty-four (24) hour period or over forty (40) in any one work week. During the period of this Agreement each employee shall work a tour of duty which shall be assigned by the Chief of Police or his Representative. These assignments shall be posted in advance for a thirty (30) day period and given to each employee.

Section 2. Employees called to duty at times other than immediately before or after a shift shall be paid a minimum of two and one half (2½) hours' pay, or the actual time worked, whichever is greater, at time and one-half.

Section 3. Except as expressly provided herein, pyramiding and duplicating of overtime and all other forms of premium payments are prohibited. Hours for which overtime or premium payments are made shall not be used to compute overtime or premium pay for any other hours. All hours actually worked at the regular base salary rate of pay in one week are counted toward the forty (40) hours in one week. Hours paid, but not actually worked, will not be counted towards the forty (40) hours in one work week. If an employee is eligible for pay under both Section 1 and Section 2 of this Article, that employee shall receive pay under the section which provides greater compensation.

ARTICLE 20 - EDUCATION

Section 1. - As part of the agreement reached in negotiations for the 2000-2002 Patrol collective bargaining agreement, the parties agreed to eliminate the former educational achievement compensation provision as it previously existed and add five hundred dollars (\$500.00) to the base pay of each employee for contract year 2000, which is included in the Base Salary Rate Schedule of Article 18, Section 3 of this Agreement.

Section 2. - By the first payroll period in December of each year of this Agreement, employees will receive a payment equal to the amount each employee received during 1999 under the provisions of the former educational achievement compensation article in the 1997-1999 Patrol collective bargaining agreement.

Section 3. - An employee who is enrolled in a course that will be completed by July 1, 2000, will receive credit and compensation for such course consistent with the provisions of the former educational achievement compensation article in the 1997-1999 Patrol collective bargaining agreement. Such compensation will be added to the amount in Section 2 of this Article for future payments under this Article.

Section 4. - If an employee wishes to enroll in a course, the employee may request that the City reimburse the cost of the course. The Police Chief and Safety Director will have sole discretion to determine whether the City will make such reimbursement.

ARTICLE 21 - SICK LEAVE

Section 1. Each employee shall be entitled for each completed eighty (80) hours of service to sick leave of four and six-tenths (4.6) hours with pay, however, such sick leave shall not be accumulated on overtime hours but only on regular hours of service. Employees may use sick leave, upon approval of the responsible administrative officer in the employee's department, for absence due to personal illness, pregnancy, injury, exposure to contagious disease which would be communicated to other employees, and to illness or injury in the employee's immediate family. Unused sick leave shall be cumulative without limit. When sick leave is used, it shall be deducted from the employee's credit on the basis of one (1) hour for every one (1) hour of absence from previously, scheduled work. However, when sick leave is used for exposure to contagious disease received on duty from a patient who has received emergency medical treatment, which occurs while the employee is on duty, it shall not be deducted from the employee's credit. The previously accumulated sick leave of an employee who has been separated from the public service may be placed to his credit upon his re-employment in the public service, provided that such re-employment takes place within ten (10) years of the date on which the employee was last terminated from public service.

An employee who transfers to this City from a different public agency shall be credited with the unused balance of his accumulated sick leave up to a maximum of 500 hours. The City may require the employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of illness shall be required

from the attending physician justifying the use of sick leave. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action including dismissal.

For purposes of this Section, the "contagious disease" referred to herein must be a disease recorded in the medical records of the transported patient and further "contagious disease" is defined as being a disease which is infectious in nature but not including common ailments such as influenza, common cold, etc.

Section 2. Any employee with ten (10) or more full years of continuous service with the City whose employment is terminated for any reason except for conviction of a felony in connection with his relationship to the City may elect at the time of such termination to be paid in cash for forty percent (40%) of unused sick leave to his credit to a maximum of two thousand eighty (2,080) hours of credit (832 hours of pay). The amounts of such payment shall be calculated by multiplying the appropriate number of hours of pay times the total of the previous two (2) years' regular salary of the employee and dividing the resulting product by four thousand one hundred and sixty (4,160). Such payment shall eliminate all unused sick leave credit accumulated by the employee at that time. In the event an employee dies, accumulated sick leave credit, as calculated herein, shall be paid to the employee's estate.

Section 3. Employees may accumulate additional paid leave at the rate of one-fourth (1/4) day for each month worked during which no sick leave is taken.

Such additional paid leave may be used in segments of not less than two (2) hours, provided it is mutually agreed upon between the employee and the Chief of Police and significant shift coverage is available. All full days accumulated during any calendar year and not used by March 15 of the following year shall be lost to the employee and cannot be carried to any succeeding year. Any time remaining unused at the end of any year shall be reimbursed to the employee by the City at the employee's base salary rate.

ARTICLE 22 - HOLIDAYS

Section 1. Employees shall receive time and one-half pay for working the following holidays when the holiday is the employee's scheduled workday:

- New Year's Day
- Independence Day
- Memorial Day
- Labor Day
- Thanksgiving
- Christmas

Section 2. When an employee is scheduled off, but works the above holidays, she shall be compensated at double time.

Section 3. Employees will receive eleven (11) paid Personal Days off per year. Personal days will be granted any time sufficient manpower is available.

Section 4. Once accrued benefit days shall not be lost unless used or cashed in by the employee. All benefit days may be used in four hour increments. All benefit time not used by December 31st of each year will be paid to the employee on the last regular payroll of January of the following year.

Section 5. In the event an employee dies, accrued holiday pay shall be paid to the employee's estate.

ARTICLE 23 – VACATIONS

Employees who have worked less than one (1) year for the City shall receive one (1) day of vacation for each full month worked, not to exceed ten (10) days in the first full year of employment.

Section 1. Employees who have worked less than one (1) year for the City shall receive one (1) day of vacation for each full month worked, not to exceed ten (10) days in the first full year of employment. Employees shall earn and be entitled to paid vacations in accordance with the following schedule (vacation days will be allowed in one (1) day increments):

| <u>Vacation days</u> <u>Length of Service</u> | <u>Per Year</u> |
|--|-----------------|
| After one (1) year | 10 days |
| After five (5) years | 15 days |
| After ten (10) years | 20 days |
| After fifteen (15) years | 25 days |

Section 2. The number of vacation days to which each employee may be entitled during a calendar year shall be posted effective January 1st of each year, however, vacation is not due until it is actually earned by the employee. For example: an employee who was hired on May 1st and has completed five (5) years of service with the City is entitled to fifteen (15) vacation days during the calendar year, provided the employee is employed the entire year. Thus, although the employee will receive a post of fifteen (15) vacation days on January 1st, the employee must be employed the entire calendar year in order to earn all fifteen (15) vacation days. If the employee leaves the City's employ before December 31st, the number of vacation days actually earned will be pro-rated and the employee is entitled to time off or compensation only for the number of days earned during the year. If the employee utilizes more vacation than they have earned, the City will charge back any unearned days that were taken by the employee when calculating the employee's final balances.

Section 3. Vacation time shall be taken at a time approved of by the Chief.

Section 4. An employee who has earned vacation time by reason of being employed in this department shall be able to transfer his vacation time to another department should he elect such a transfer.

Section 5. Any employee who quits or is terminated or retires and has unused earned vacation time shall receive such vacation time. In the event an employee dies, accumulated vacation time shall be paid to the employee's estate.

Section 6. Vacation time must be used within one year after it is earned, or it will be forfeited. However, when the employee is not permitted to take his vacation time by the City, as reflected in a specific written request made by the City, the employee shall be entitled to payment for such unused vacation. In addition, with advanced written approval from the Chief, employees may carry the approved portion of vacation into the following year. With approval of the Chief prior to December 1 of any year, employees may take cash in lieu of up to one-half of their vacation time off for that year.

ARTICLE 24 - OTHER BENEFITS

Section 1. Health Insurance. The City will provide each employee and their family with coverage under a group health insurance policy, underwritten by an insurance carrier as determined by Council. Said insurance shall include hospital, surgical, prescription, optical and dental coverage.

Each bargaining unit will appoint one (1) representative by January 15th of each year and the City will appoint two (2) Council Members to serve on an Advisory Committee which will be chaired by the Mayor. The objectives of the Advisory Committee shall be to review the City's health care program and make recommendations for health care specifications prior to the time the City advertises for bids, and after bids are received, to review the bids and make a recommendation as to the plan that should be selected by Council at least sixty (60) days prior to the expiration of the existing health care contract(s) and before Council makes its final decision. The goals of the Advisory Committee's recommendation to Council shall be two-fold, both being given equal consideration. The first goal is to minimize the expense to the City of the plan that is to be adopted, and the second is to maintain the level of benefits to the employees when comparing the plan that is to be adopted with the existing plan.

Effective January 1, 2012, each employee enrolled in the Base Plan Option (currently MetroHealth) shall contribute ten percent (10%) per month of the actual cost of their monthly premium charged to the City by its insuring agency, with a maximum contribution of \$120 per month. Each employee enrolled in Premium Plan Option (currently Medical Mutual) shall contribute ten percent (10%) per month of the actual cost of their monthly premium charged to the City by its insuring agency, with a maximum contribution of \$150 per month. The City will provide the actual cost to each employee in a private manner.

Effective January 1, 2013, each employee enrolled in the Base Plan Option (currently MetroHealth) shall contribute twelve percent (12%) per month of the actual cost of their monthly premium charged to the City by its insuring agency, with a maximum contribution of \$120 per month. Each employee enrolled in Premium Plan Option (currently Medical Mutual) shall

contribute twelve percent (12%) per month of the actual cost of their monthly premium charged to the City by its insuring agency, with a maximum contribution of \$150 per month. The City will provide the actual cost to each employee in a private manner.

For calendar year 2012 and 2013, the city shall provide at least one (1) Base Plan Option.

Section 2. Leave of Absence

a. FMLA Leave

All employees in the bargaining unit shall be eligible for leave as provided by the Family and Medical Leave Act ("FMLA"), consistent with the City's policy. Employees who qualify for FMLA leave will be required to use all accrued sick, vacation and holiday leave (in that order) concurrently with FMLA leave. As required by law, such employees shall continue to be covered by the City's health insurance coverage during the time of their FMLA leave, provided that they make their required premium contributions.

If an employee requests additional time off as the result of a death under subsections (a) or (b) above, the employee may utilize accrued Personal, Holiday and/or Vacation leave with the prior approval of the Department Head.

b. Unpaid Leave of Absence

After exhausting FMLA leave, an employee with at least five (5) years of service with the City may apply in writing to the Mayor, through the Chief, for an unpaid leave of absence not to exceed three (3) months. No compensation shall be paid to, nor fringe benefits accrue on behalf of, a employee on such leave. Employees granted such leave shall notify the Mayor at least thirty (30) days prior to the expiration of such leave of their intention to return to active employment with the City. Failure to provide such written notice shall be just cause for the City to terminate the individual from employment with the City. Employees on leave pursuant to this Section shall not earn or accrue any type of paid leave.

c. Injury Leave

If an employee is injured or exposed to a contagious disease while working for the City, they shall be eligible for a paid leave not to exceed ninety (90) calendar days, provided they file and be deemed eligible for workers compensation benefits and assign to the City all monetary benefits for which they are eligible.

If, at the end of the initial ninety (90) calendar day period, an employee remains eligible for workers compensation benefits, their leave may, at the City's sole discretion, be extended for an additional ninety (90) calendar days. If such additional leave is granted, employees must assign to the City all monetary benefits for which they are eligible.

Under this Section, every forty-five (45) calendar days, the City shall have the right to require the employee to submit to an examination by a physician approved and paid for by the City in order to be eligible for continued leave of absence. The City shall compile a list of

approved physicians and the employee may select any one (1) physician from that list for the examinations under this Section. Once an employee has selected a physician, the same physician shall conduct all examinations under this Section. The physician's opinion shall govern whether or not the employee is actually disabled, but shall not govern whether the City shall extend the period of leave.

Section 3. Funeral Leave. All employees shall be granted Funeral Leave with pay as follows:

- a) Upon the death of a family member, defined as a brother, sister, aunt, uncle, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law and all such step relations, three (3) days;
- b) Upon the death of a spouse, child, mother, father, five (5) days;
- c) In addition to and separate from the foregoing, during an employee's employment with the City, each employee may have up to three (3) days off with pay for the death of any other family member or friend.

If an employee requests additional time off as the result of a death under subsections (a) or (b) above, the employee may utilize accrued Personal, Holiday and/or Vacation leave with the prior approval of the Department Head.

Section 4. Uniform Allowance.

A. Employees shall receive an annual uniform allowance in the amount of \$1026 to be used by the employee to comply with the uniform code. However, no Sergeant will receive more than one uniform allowance from the City of Olmsted Falls in any one year. The City will provide one (1) duty weapon and one (1) off-duty weapon for each full-time and part-time employee during their tenure with the City. The off-duty weapon will be either a revolver or semi-automatic pistol of .38 caliber or greater as selected by the employee.

B. The City will furnish at its expense the first issue of any required uniform, leather gear, and safety equipment, including bicycle gear. A police style leather jacket is not a required uniform. The City will also furnish the first issue of any required uniform change to full time and part time employees at no cost to the employees.

C. The City will upon hiring provide to each full time employee a fitted, high quality bulletproof vest of the brand and type requested by the officer and not to be less than a Level 2A threat level and not to exceed average costs. The City shall replace the vest every five (5) years, or in accordance with the manufacturer's specifications whichever is longer.

D. The City will repair or replace at its expense eyeglasses or contact lenses that are damaged in the course of duty. This clause will not cover items damaged due to the officer's negligence.

Section 5. Mileage Allowance. Employees who are required by their supervisor or the Chief to use their private automobile for City business, including schools, seminars, conferences and other similar requests made through the department shall be compensated for such automobile use at the rate of the standard mileage rate for travel in publication 1542, Department of Treasury Internal Revenue Service, Per Diem Rates. Each employee shall itemize the reason, date, time, and mileage. If out of town travel is necessary, expenses such as room, board, meals, etc., will be reimbursed by the City. The employee may use a personal or departmental vehicle, if one is available.

Upon completion of an authorized trip or after incurring an authorized expense, an employee shall submit to the Director of Finance, within one week of his or her return from the trip or within one week after incurring the expense, an account of such expenditure on a form provided by the Director. Trips and expenses shall be authorized in the same manner as requisitions for purchase.

Section 6. Jury Duty. Employees serving jury duty shall be afforded paid leave not to exceed two (2) weeks. Employees will receive their regular base pay and benefits while serving such duty, but must pay to the City all monies received for such service. If jury duty exceeds two (2) weeks, the employee may appeal to the Mayor for continued paid leave, which shall be granted, but only after the employee has unsuccessfully petitioned the Judge in the case to be replaced by an alternate juror and furnished proof of such petition.

Section 7. Court Appearances. Any employee who is required to appear in Court where the State or the City is a party, or is required to act as a Bailiff, shall be compensated at the rate of time and one-half (1-1/2) of his base salary rate, in the event such appearance is required when the employee is not scheduled for duty. An employee who is required to appear in Court, when the employee is not scheduled for duty, will receive a minimum of four (4) hours pay. If such attendance is required while the employee is on scheduled duty time, the normal base salary rate shall apply. Hours of compensation shall be calculated to the nearest quarter hour and shall be logged with the dispatcher on duty at the time of any such appearance. If any such employee is called upon to appear on more than one (1) day, or in the event of the continuance of any such one (1) occasion, the officer shall be compensated separately for each such appearance. In addition, such employee shall be reimbursed at the rate of the standard mileage rate for travel in publication 1542, Department of Treasury Internal Revenue Service, Per Diem Rates; if a private car is driven. Each employee shall itemize the reason, date, time, and mileage. No compensation for mileage shall be granted if a City vehicle is used for such Court appearance.

Section 8. Life Insurance. The City shall provide each employee with coverage under a group life insurance policy underwritten by an insurance carrier of the City's choice as determined from time-to-time by Council, in the face value amount of twenty-five thousand dollars (\$25,000). Such policy shall provide death benefits to the beneficiary or beneficiaries designated by each employee, or to the beneficiaries specified in the condition of such policy if no beneficiary designation is on file. No employee contribution shall be required.

Section 9. Bonds. The City shall require and pay for a blanket bond covering all personnel in the amount of two thousand five hundred dollars (\$2,500) per employee.

Section 10. Liability Insurance. The City hereby agrees to provide liability insurance of five hundred thousand dollars (\$500,000) per person per incident for each employee covered hereunder who is responsible for the operation of City-owned vehicles or apparatus, provided such vehicles or apparatus are being used on official city approved business.

Section 11. Professional Liability Insurance. The City will continue and keep in full force and effect professional liability insurance in the amount of five hundred thousand dollars (\$500,000) for all full-time employees and shall pay all premiums for such insurance.

Section 12. Shift/Rotation Exchanges Employees may arrange single shift or entire rotation exchanges with the approval of the Chief of Police. The scheduling officer will be notified five (5) days in advance for a single shift, and three (3) weeks in advance for an entire rotation exchange. The exchange must be agreed upon by the involved employees. Said exchanges shall not involve either employee incurring overtime as a result. Approval by the Chief shall not be unreasonably or arbitrarily withheld.

Section 13. Compensatory Time. At the option of each employee, compensatory hours may be accumulated in lieu of compensation. Said hours will be banked at the rate of one and one-half (1 ½) hours of compensatory time for every one (1) hour of overtime worked. Employees may utilize this bank of hours in increments of not less than one (1) hour with the prior approval of the scheduling officer. Such notification shall be given twenty-four (24) hours in advance whenever possible. Compensatory time off shall NOT be granted when such time off would require overtime compensation for another employee.

Employees may accumulate compensatory hours during a calendar year without limitation, however, the City will reduce each employee's compensatory time bank to a maximum of forty-eight (48) hours each December 31st by paying for all accrued, unused hours in excess of forty-eight (48) hours. Payment will be calculated at the employee's regular rate of pay as of December 31st. Such payment will be made on the last regular pay day of January during the following year.

Upon termination of employment, accrued compensatory time shall be paid at the employee's current basic hourly rate.

In the event an employee dies, accrued compensatory time shall be paid to the employee's estate at the employee's current basic hourly rate as of the date of death.

Section 14. Field Training Officer. Employees who are certified as field training officers and who spend four (4) hours or more during a shift training another officer, shall be paid one (1) additional hour of pay at their regular overtime rate.

Section 15 Officer in Charge. In the absence of the Chief or a Sergeant, an employee shall be assigned as the officer-in-charge of the shift and shall be required to comply with the duties directed by the Chief. The officer-in-charge shall be paid one (1) additional hour of pay at their regular overtime rate for each shift of four (4) hours or more spent as officer-in-charge.

ARTICLE 25 - BENEFIT TIME

Benefit time is the overtime caused by employees' use of vacation, personal or earned time off. The City agrees to offer all benefit overtime worked by bargaining unit employees (Sergeants), to other bargaining unit employees (Sergeants) at the rate of one and one-half (1 1/2) the employee's regular hourly rate of pay. No bargaining unit employee (Sergeant) will work more than forty (40) hours of benefit time per year. Additionally, bargaining unit employees will not work more than forty-eight (48) hours per week with one double-back shift per week permitted provided that the employee is off eight (8) hours between shifts.

ARTICLE 26 - SAVINGS CLAUSE

Section 1. In the event any one or more provisions of this Agreement is found to be contrary to law by a final, non-appealed decision of a court of competent jurisdiction, such provision or provisions shall be deemed severable from the rest of this Agreement, and the rest of this Agreement shall remain in full force and effect. In such event, the City and the OPBA will, at the request of either party hereto, promptly enter into negotiations relative to the particular provisions deemed invalid or unenforceable.

Section 2. The parties hereto shall agree on a side letter covering their obligations in the event the Ohio Public Employee Bargaining Law, Am. Sub. S.B. No. 133, is held to be unconstitutional in whole or relevant part.

ARTICLE 27 - HEALTH AND SAFETY/LABOR MANAGEMENT COMMITTEE

Section 1. The City shall provide safe working conditions, equipment, and departmental procedures with the health and safety of the employees in mind.

Section 2. The Union may appoint two (2) persons from the bargaining unit to serve on a Labor Management Committee. The Labor Management Committee will meet quarterly, or as agreed, to discuss workplace issues.

ARTICLE 28 - DURATION

This Agreement represents the entire agreement on all matters subject to bargaining between the City and the OPBA. This Agreement is effective January 1, 2011, and shall remain in effect for a period of three (3) years thereafter, up to and including December 31, 2013. If either party wishes to negotiate changes to take effect after December 31, 2013, written notice of the desire to negotiate shall be provided to the other party so as to be received by not later than

the close of business on November 1, 2013. If such notice is not given in a timely fashion, the Agreement shall be renewed for an additional year.

ARTICLE 29 – RANK SENIORITY

An employee shall have no seniority as a Sergeant (Rank Seniority), for the initial probationary period, but upon completion of the probationary period, the employee’s Rank Seniority shall be retroactive to the date of promotion. Employees may exercise their Rank Seniority for the following limited purposes: selection of benefit time and shift selection.

ARTICLE 30 – DRUG TESTING

The OPBA and City acknowledge the need to negotiate a drug and alcohol testing article that includes random testing. The parties shall negotiate in good faith a drug and alcohol testing article that qualifies the City for BWC discounts. If the parties cannot reach an agreement, the City’s current drug and alcohol testing policies will remain in place.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed this 5 day of July, 2012.

FOR THE OPBA
Scott Kent Flood #447

FOR THE CITY
[Signature]

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

SWORN TO BEFORE ME and subscribed in my presence this 5th day of July, 2012.

[Signature]
Notary Public

ANGELA MANCINI
Notary Public, State of Ohio
Recorded in Cuyahoga County
My Comm. Expires 05-27-15