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AGREEMENT BETWEEN
THE CITY OF UPPER ARLINGTON
AND
TEAMSTERS LOCAL UNION NO. 284
Affiliated with the International
Brotherhood of Teamsters

SERB Case No.
2011-MED-09-1103

Effective through December 31, 2014

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ARTICLE 1
AGREEMENT

Section 1.1. Parties. Agreement is made and entered into at Upper Arlington, Ohio, effective as of the date of execution by the parties (unless otherwise specified herein) by and between the City of Upper Arlington, hereinafter referred to as the “City” or “Employer”, and Teamsters Local Union No. 284, hereinafter referred to as “Local 284” or “the Union”, the representatives of the employees of the bargaining unit hereinafter referred to as “employees.”

Section 1.2. Purpose. The parties’ purpose in entering into this Agreement is to establish wages, hours, terms and other conditions of employment for bargaining unit employees as set forth in this Agreement, and this Agreement is also made for the purpose of promoting cooperation and harmonious labor relations between the City, employees of the bargaining unit, and Local 284.

Section 1.3. Grammar. Words, whether in the masculine, feminine or neuter genders, shall be construed to include all of those genders. By the use of either the masculine or feminine genders it is understood that the use is for convenience purposes only and not to be interpreted to be discriminatory by reason of sex.

Section 1.4. Past Practice.

- A. The City agrees to continue all past practices as defined herein, for the duration of this agreement, except as set out in Section 1.4.B. below. A past practice is defined as a policy, procedure, or practice, not otherwise referenced in this agreement, which has been in effect on or after January 1, 2000.
- B. A past practice as defined above may be modified or discontinued only after the City has 1) notified the Union of its intention to so modify or discontinue a past practice and 2) has provided an opportunity for the Labor-Management Committee to meet and provide input regarding the proposed change.

ARTICLE 2
UNION RECOGNITION

Section 2.1. Bargaining Unit. The Employer hereby recognizes Teamsters Local Union 284 as the sole and exclusive bargaining agent for the purpose of collective bargaining in this bargaining agreement for those employees in the bargaining unit certified in SERB Case No. 98-REP-07-0171, provided that:

- the Employer and the Union agree that the Employer shall create the new classification of “Service Worker”;
- the persons in the bargaining unit that are employed by the City in the classifications of Street Maintenance Worker or Utility Worker on the date that this Agreement is fully executed by the parties shall be assigned to that new classification of Service Worker;

- the parties agree that they will petition SERB to clarify or amend the bargaining unit to read as follows:

INCLUDED: All full-time and regular part-time employees in the classification of Service Worker.

EXCLUDED: All Supervisors, Clerical and Seasonal Employees.

Section 2.2. Exclusions. Notwithstanding the provisions of this Article, management, confidential, supervisory, part-time (i.e., part-time temporary and part-time seasonal employees), casual, temporary and seasonal employees, and employees not meeting the definition of “public employee” under Chapter 4117 of the Revised Code and all other employees in classifications not listed in classifications specified in this Article shall not be included in the bargaining unit.

ARTICLE 3 **DUES DEDUCTION**

Section 3.1. Deductions. The Employer agrees to deduct Union membership dues in accordance with this Article for all employees in the Union.

Section 3.2. Authorization. The Employer agrees to deduct regular Union membership dues once each month from the pay of any employees in the Union upon receiving written authorization signed individually and voluntarily by the employee. Upon receipt of the proper authorization, the Employer will deduct Union dues from the payroll check for the next pay period in which the authorization was received by the Employer.

- A. **Fair Share Fee:** Any employee who (1) has completed sixty (60) days of employment and (2) is not a member of Local 284 shall pay Local 284, through payroll deduction, a contract service fee or fair share for the duration of this Agreement. This provision shall not require any employee to become or remain a member of Local 284, nor shall the fee exceed the dues paid by members of Local 284 in the same bargaining unit. Local 284 is responsible for notifying the Employer of the proportionate amount, if any, of its total dues and fees that was spent on activities that cannot be charged to the service fees of non-members during the preceding year. The amount of service fees required to be paid by each non-member employee in the unit (during the succeeding year) shall be the amount of the regular dues paid by employees in the unit who are members of Local 284 less each non-member’s proportionate share of the amount of Local 284’s dues and service fees spent on activities not chargeable to such service fees during the prior year. If an employee challenges the propriety of Local 284’s use of such fee, deductions shall continue, but Local 284 shall place the funds in an interest bearing escrow account until a resolution of the challenge is reached pursuant to the provisions of ORC 4117.09(C) and other appropriate provisions of federal and state law and rules of the State Employment Relations Board. The Union agrees to provide, annually to the Employer, a copy of the fair share fee rebate procedure.

Section 3.3. Indemnification of Employer. The parties agree that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the

deduction of Local 284 dues. The Union hereby agrees that it will hold the Employer harmless from any claims, actions or proceedings by an employee arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to Local 284, their disposition thereafter shall be the sole and exclusive obligation and responsibility of Local 284.

Section 3.4. Cessation of Deduction. The Employer shall be relieved from making such individual dues "check-off" deductions upon an employee's: (1) termination of employment; (2) transfer to a job other than one covered by the bargaining unit; (3) layoff from work; (4) unpaid leave of absence; (5) revocation of the check-off authorization; or (6) resignation by the employee from Local 284.

Section 3.5. Legality of Deduction. The parties agree that neither the employees nor Local 284 shall have a claim against the Employer for errors in the processing of deductions, unless a claim of error is made to the Employer in writing within sixty (60) days after the date such error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that Local 284 dues deduction would normally be made by deducting the proper amount.

Section 3.6. Notification of Changes. The rate at which dues are to be deducted shall be certified to the Finance Director by the treasurer of Local 284 during January of each year. One (1) month advance notice must be given the Finance Director prior to making any changes in an individual's dues deductions. No change in an individual's dues deductions will occur unless the one (1) month's advance notice is given.

Section 3.7. Written Authorization. Except as otherwise provided herein, each eligible employee's written authorization for dues deduction shall be honored by the Employer for the duration of this Agreement.

Section 3.8. Payment to Local 284. All dues and fees collected shall be paid over by the City, once each month to Local 284. The City will not charge Local 284 any fee for collecting these monies.

Section 3.9. Insufficient Wages. The Employer shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of Local 284 dues.

ARTICLE 4

LABOR / MANAGEMENT COMMITTEE

Section 4.1. Purpose. It is the desire of the Employer and Local 284 to maintain the highest standards of safety and professionalism in the Public Services Department.

Section 4.2. Committee. The Employer and Local 284 shall each appoint two (2) employees to the Labor/Management Committee. No more than one employee will be appointed to the Union Committee from any one division. This committee will meet on a mutually agreed upon as needed basis to discuss any issues which either party wishes to raise relating to the Department. Either party may insist on at least one (1) meeting during any quarter year except that meetings will not ordinarily be scheduled during the summer quarter.

Section 4.3. Meetings. If the meeting occurs during regularly scheduled work time, committee members will be granted time off with pay for the normal schedule when meeting jointly with management but in no event shall an employee receive overtime.

Section 4.4. Agenda. At least seventy-two (72) hours before every meeting of the Committee the Employer and the Union representatives will each deliver an agenda to each other covering all matters proposed to be discussed. The Employer or Union may, but is not obligated to discuss any matter not listed on an agenda.

ARTICLE 5 **PROBATIONARY PERIOD**

Section 5.1. Length of Probationary Period. Every newly hired employee will be required to successfully complete a probationary period. The probationary period for new employees shall begin on the first day for which the employee receives compensation from the Employer. A newly hired probationary employee may be terminated any time during his probationary period without recourse to the grievance or arbitration procedure or the Upper Arlington Civil Service Commission (or its successor). All new hire probationary periods shall be for a period of one hundred-eighty (180) calendar days.

In the event that a probationary employee does not perform the regular duties of the position for an extended period (an accumulation of thirty [30] days or longer) as a result of sick leave, injury leave, light duty, disability leave or any other reason, the probationary period may be extended for a period equal to the length of time the regular duties were not performed.

An employee who has completed the new hire one hundred eighty (180) day probationary period as a permanent part-time employee, and who is promoted to a full-time position in the Service Worker classification shall be subject to a new forty-five (45) calendar day probationary period.

An employee who has received a promotion/transfer will have the right to return to the position held prior to the promotion/transfer if the employee is found to be unsatisfactory in the new position. In the event an employee returns to the position held prior to the promotion/transfer and the employee's old position has been filled, the Employer retains the right to lay off or probationarily remove or reduce the replacement employee or another employee in that classification who is even less senior in order to make room for the returning employee. If the employee's old position no longer exists, the Employer will treat the situation in the same manner as a layoff in the employee's old classification.

ARTICLE 6 **MANAGEMENT RIGHTS**

Section 6.1. Management Rights. The City retains the exclusive right to manage the operations, control the premises, direct the working force and maintain efficiency of operations. The City specifically retains the rights and responsibilities set forth in Section 4117.08(C) of the Ohio Revised Code to:

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

Section 6.2. Limitations. The exercise of the foregoing powers, rights, authority, duties and responsibilities, the adoption of reasonable policies, rules and regulations and practices in furtherance thereof, and the use of judgment and discretion in connections therewith shall be limited only by the specific and express terms of this Agreement. Pursuant to R.C. 4117.08(C), the City is not required to bargain with the Teamsters during the term of this Agreement on subjects reserved to its management and direction, except as it affects wages, hours, terms and conditions of employment and the continuation, modification or deletion of a provision of this Agreement.

ARTICLE 7 **DISCIPLINE**

Section 7.1. Work Rules. Except where limited by specific terms of this Agreement, the Employer shall have the right to, in connection with its function of maintaining discipline and directing the work force, publish, and from time to time, amend reasonable rules of employee conduct. These rules, and any revisions thereof, shall be presented to the Union for review and discussion at least twenty-one (21) calendar days in advance of the proposed effective date, except for unforeseen emergency situations which preclude compliance with this requirement, in which case such advance discussion as is reasonably practicable shall be conducted.

These rules and any penalties assessed for their violation shall be subject to challenge under the grievance procedures established by this Agreement. The reasonableness of the rule shall be subject to challenge the first time an application of the rule is grieved. Thereafter, no further

challenge to the rule's reasonableness shall be permitted, however, individual applications may later be grieved.

Section 7.2. Discipline Process. Where discipline is involved, the Employer may specify reasonable steps or corrective discipline depending upon the severity of the offense.

The Employer may take disciplinary action against any employee in the bargaining unit only for just cause as specified in this Agreement. Depending upon the severity of the offense, the steps may include some or all of the following:

1. Oral warning (which may include a written record);
2. Written reprimand;
3. Suspension; and/or
4. Discharge or demotion.

In determining the penalty for any offense, the Employer shall take into account the nature of the violation, the employee's record of discipline, and the employee's record of performance and conduct. Just cause for discipline includes, but is not limited to, the following:

1. falsification of City records including employment records, worker compensation, or sickness benefits;
2. mistreatment of a citizen, supervisor, or employee on work time;
3. willful or negligent inattention to duties or responsibilities;
4. deliberately creating unsafe or unsanitary conditions;
5. deliberate damage or misuse of City property;
6. illegal conduct;
7. the reporting to work under the influence, drunkenness, possession, use, sale, or dispensing of alcoholic beverages on work time;
8. the reporting to work under the influence, unauthorized usage, use, sale, dispensing, possession or disposal of controlled substances on work time;
9. willful disobedience, insubordination or failure to carry out job assignments;
10. possession or use of firearms or other weapons on City time, unless possession is job related and approved by the City Manager or designee;
11. dishonesty, making or publishing deliberate false or malicious statements regarding the City, deception, fraud, vending, soliciting, gambling or collecting gratuities for any purpose;

12. fraudulent obtainment of Worker's Compensation or sickness benefits;
13. willful interference with the work of other employees;
14. acts of unprovoked aggression;
15. illegal political activity;
16. any violation of the laws of the United States, State of Ohio, or City of Upper Arlington or of work rules or Upper Arlington Civil Service Rules (or their equivalent), unless specifically superseded by this contract;
17. discourteous treatment of the public.
18. failure to report to duty when directed or at the start of the shift; and
19. abuse of sick leave.

Section 7.3. Notification to Union. Copies of all disciplinary actions that are to be made a matter of record shall be forwarded promptly to the Union by mail, fax, or personal delivery to the Steward. The Steward shall have reasonable access to a fax machine. Upon written request by the employee, evidence of oral warnings and written reprimands in the employee's active personnel file shall not be considered after twenty-four (24) months, provided there occurs no intervening disciplinary action, and shall not be considered in future disciplinary matters. The City may determine that it is necessary to consider any disciplinary record(s) for a longer period of time based upon the nature of the offense, the pattern of conduct and/or the employee's overall work record since he was disciplined.

No record of disciplinary action can be removed from an employee's permanent record of employment.

Section 7.4. Personnel File. An employee shall be allowed to review the content of his/her personnel files at all reasonable times upon written request. Any unsubstantiated allegations of misconduct shall not be contained in any of the employee's personnel files. If such allegations exist, a memorandum explaining any document in his/her file may be added by the respective employee.

Section 7.5. Grievance Rights. Only discipline which results in time off without pay or termination may be advanced to Step Three of the grievance procedure (arbitration) within the time period provided in this Agreement. Oral warnings and written reprimands may be grieved, but may not be advanced to arbitration. Probationary non-renewals are not appealable to the grievance procedure.

Section 7.6. Discipline Procedure.

- A. The Employer shall not discharge, suspend or otherwise discipline any employee except for just cause.

- B. Whenever the Employer or his designee determines that an employee's conduct may warrant suspension or termination or removal from service, the employee shall be informed of the suspected employment misconduct prior to any investigative questioning of him by the Employer.
- C. The employee subject to investigation shall be provided a copy of any written statement he has allegedly made and/or any recorded statement he has allegedly given, which are to be used in any predisciplinary conference. The employee shall be provided at least three (3) working days, after receiving the above items, to review the materials prior to the predisciplinary conference.
- D. A predisciplinary conference shall be required prior to any suspension, demotion or removal from service and shall be scheduled to give the employee an opportunity to present the testimony of witnesses to the alleged misconduct and to offer an explanation of any alleged misconduct. An employee may be represented at this predisciplinary conference by a union representative or legal counsel. An employee may waive his right to a predisciplinary conference by submitting a signed statement indicating his desire to do so.
- E. If the employee is not represented by the Union at the predisciplinary conference, the Union has the right to have a representative (who may be a Steward) present but not representing.
- F. Said predisciplinary conference shall be held before a supervisory employee or other designated representative of the Employer. The affected employee and Union shall be notified of the Employer's decision within ten (10) work days after the conference.

ARTICLE 8

GRIEVANCES

Section 8.1. Definition. A grievance is defined as a difference or dispute between the Union and the Employer or between the affected employees covered herein and the Employer over the specific violation of the provisions of this Agreement. Only a Steward or Union Business Representative may file a grievance on behalf of the Union. An honest and earnest effort will be made to settle grievances according to the following steps and procedures. All grievances shall be in writing on forms provided by the Union and shall set forth the article or section of the Agreement alleged to have been violated.

Section 8.2. Procedure. To be considered, a grievance must be filed in writing at the first step within five (5) working days of its occurrence. A grievance is considered filed when received by the affected employee's Service Manager or management designee as outlined in the Steps below. A group grievance can be filed with the Service Manager or management designee of any of the affected members. When an affected employee first becomes aware, or in the exercise of reasonable diligence should have become aware of the occurrence of a non-disciplinary grievance at a later date, the grievance must be filed within five (5) work days of such time, but in no case more than thirty (30) calendar days after the occurrence. It is understood that the grievant may be present at all steps of the grievance procedure.

Step 1. The grievance shall be taken up with the employee's Service Manager. Upon the request of either, the Steward shall be present. The appropriate management representative shall provide a written response to the grievant within seven (7) work days of the Step 1 meeting.

Step 2. If the grievance has not been adjusted at Step 1, it may be appealed in writing by the grievant or the Union on behalf of the grievant to a meeting between the grievant, the Steward and another representative of the Union, and the City Manager or designee. This meeting shall be mutually scheduled by the grievant, the business agent, and the Employer's representative within three (3) work days after the filing of the appeal and held within ten (10) work days after the filing of the appeal. Such appeal shall be submitted within ten (10) calendar days of the answer of the Employer at Step 1.

Step 3. If the grievance has not been adjusted at Step 2, it may be appealed by the Union Business Agent within seven (7) calendar days after completion of Step 2 to binding arbitration provided notice of such appeal is made in writing and submitted to the Employer. The party moving for arbitration shall be responsible for proper notification and scheduling arrangements.

Arbitration Procedure:

A. If a grievance is not satisfactorily resolved at Step 2, the Union Representative may submit a request to arbitrate the grievance to the City Manager within seven (7) calendar days following the date of the response to Step 2. Failure to request arbitration within the seven (7) day period shall render the grievance withdrawn.

The parties may mutually agree to mediate a grievance prior to arbitration.

B. A request to arbitrate a grievance involving a removal action against a member shall be submitted to a single arbitrator. The single arbitrator shall be selected as follows. The City Manager, or designee, and the Union Representative, or designee, each shall request the Federal Mediation and Conciliation Service (FMCS) to submit a list of nine (9) arbitrators (with offices in Ohio) from which the City and Union shall select one (1) by mutual agreement. If an agreement cannot be reached as to one (1) mutually acceptable arbitrator from the list, an arbitrator will then be selected by alternately striking names and selecting the final remaining name as arbitrator; provided that either party may once strike an entire list. The party striking the entire list shall pay the cost of the new list, and shall request the new list on the same day that the entire list is stricken.

C. A request to arbitrate a grievance involving any matter other than a removal action shall be submitted to an arbitration panel. The arbitration panel shall be selected as follows: The City Manager, or his designee, and

the Union Representative, or designee, each shall choose one (1) member of the Arbitration Panel. The panel shall be composed of the two (2) chosen members, who are residents of Upper Arlington and possess knowledge of labor relations, and one (1) member chosen by the two (2) Panel members who is a qualified Arbitrator and who shall be Chairman of the Panel. In the event these Panel members cannot reach agreement as to the Panel Chairman, by joint letter the parties shall request the FMCS to submit a list of nine (9) Arbitrators from which the City and Union shall select one (1) by mutual agreement. If an agreement cannot be reached as to one (1) mutually acceptable Arbitrator from the list, an Arbitrator will then be selected by the two (2) Panel Members, alternately striking names and selecting the final remaining name as arbitrator. No Panel member shall be an employee, official or member of a Board or commission of the City, a member or representative of the Union, or a member of the immediate family or household of any such persons. The parties shall establish a mutually agreeable date and time for the hearing.

- D. The Panel or Arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. The Panel or Arbitrator shall only consider and make a decision with respect to the specific issue or issues of contract interpretation or application appealed to arbitration, and shall have no authority to make a decision on any other issues not so submitted. The question of arbitrability of a grievance may be first raised by either party before the Arbitration Panel or Arbitrator, on the grounds that the matter is nonarbitrable or beyond the jurisdiction of the Panel or Arbitrator.
- E. The Panel or Arbitrator shall submit in writing an arbitration decision to the City Manager and the Union Representative, or their designees, within thirty (30) days following the close of the hearing, unless the parties agree to an extension thereof.
- F. A majority or unanimous vote of the Panel decides the grievance. The decision of the Panel or Arbitrator shall be final and binding, subject only to appeal under Chapter 2711 of the Ohio Revised Code. The panel or Arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement.
- G. Both the Union and the City shall share equally in the cost of the arbitration proceedings. Each party shall be responsible for compensating its own Panel members and its own representatives and witnesses. The cost of a transcript shall be shared if the necessity of a transcript is mutually agreed upon between the parties.
- H. Member witnesses shall be allowed release time with pay for the purpose of giving testimony if the arbitration hearing is held during regular work time and advance notice has been given to the City's representative.

Section 8.3. Accelerated Grievance for Discharge. Grievances for discharge shall immediately proceed to Step 2. The Employer shall respond in writing at each step of the above procedure within ten (10) work days after the meeting held at each step to consider a grievance. In the event that the Employer fails to respond within the ten (10) day period, unless such period is extended by mutual consent, a grievance shall be considered denied at that step and may be appealed by the Union to the next step of the grievance procedures.

ARTICLE 9 **SENIORITY AND JOB ASSIGNMENT**

Section 9.1. Accrual of Seniority. Seniority, for purposes of this contract only, shall be based on service with the City of Upper Arlington in a full-time/40 hour bargaining unit position, uninterrupted by resignation, retirement, discharge for cause or any other separation from City employment. Full-time employees will also be credited with part-time service on a prorated basis, i.e., based on the number of hours in service as a part-time employee. Military leave, approved leave resulting from injury in the line of duty not to exceed the limits in Section 12.5 of this Agreement, leave for approved disability coverage, authorized leave without pay or administrative leave without pay for periods of six (6) weeks or less are not considered breaks in seniority, nor is approved family and medical leave a break in seniority. This definition of seniority shall be applied where the term is used elsewhere in this Agreement, unless a different definition of seniority is specified for some particular purpose.

Section 9.2. Laid Off Employee. Employees laid off shall retain their seniority for the period of their layoff up to three (3) years. That is, the seniority for laid-off employees shall be “frozen” as of the date of layoff unless the employee is not recalled from layoff in the recall period set forth in the layoff Article. Failure to return to work after notice of recall from layoff shall constitute a break in seniority and deemed an abandonment of the job.

Section 9.3. Posting of Seniority List. The Employer shall post, at least once every twelve (12) months, a seniority list. Employees may, within ten (10) work days of the posting, submit a written challenge to the list to the Employer stating reasons why the employee believes the list to be inaccurate. A copy of the seniority list will be mailed to the Union.

ARTICLE 10 **HOURS OF WORK AND OVERTIME**

Section 10.1. Normal Work Week. The normal work week for full-time employees shall be forty (40) hours per week (Monday through Friday) and a normal work day shall be eight (8) hours per day, however, this shall not constitute a guarantee that the work week shall be forty (40) hours. Those employees who are normally scheduled for thirty-two (32) hours per week shall be considered regular part-time employees.

Section 10.2. Definition of Day. The normal work day for employees shall be eight and one half (8-1/2) consecutive hours with one-half (1/2) hour unpaid for lunch.

Section 10.3. Lunch and Rest Periods. Employees shall have a one-half (1/2) hour unpaid lunch period and two (2) fifteen (15) minute paid rest periods per day. The rest periods may be taken

as at present. The lunch period may be taken at the end of the day only with supervisory approval.

Section 10.4. Consecutive Assignment. An employee, including those who operate equipment or drive a truck in their assignment, shall not be required to work more than sixteen (16) consecutive hours or more than sixteen (16) hours in a twenty-four (24) hour period. If an employee is unable to work his regularly scheduled shift because of the sixteen (16)-hour restriction, he shall be paid for those hours which he cannot work during his regular shift due to this restriction.

Section 10.5. Assignment of Overtime. Whenever the Employer determines to offer voluntary or mandatory overtime to bargaining unit employees, the Employer shall attempt to equally distribute offerings of emergency overtime among eligible, qualified bargaining unit employees. In non-emergency overtime assignments, full-time employees will be offered overtime by seniority before part-time employees. However, if an employee is already performing a job, the city will not call him off and replace him.

When the Employer determines to offer non-emergency overtime assignments to bargaining unit employees, the following rules shall also apply regarding how overtime is assigned to those bargaining unit employees:

1. The Employer shall offer the overtime in seniority order to qualified employees. When offering overtime opportunities among bargaining unit employees by seniority (including special events overtime), each time an opportunity arises the Employer will start at the top of the seniority list rather than starting where the Employer left off last time. If there are insufficient volunteers, the Employer may by inverse seniority assign the least senior employee(s).
2. For the term of this 2012–2014 Agreement, the parties incorporate the Settlement Agreement of November 15, 2005 on leaf pick-up regarding that specific work. The Settlement Agreement is attached as Appendix C to this Agreement.

The mere fact that this language is added is not meant to expand, reserve, or reduce the work that is assigned to bargaining unit employees, or to address in any way how overtime is distributed to non-bargaining unit employees, but rather to clarify how overtime is distributed among bargaining unit employees when it is offered to them.

Section 10.6. First Call. The Employer will provide and pay for cell phones and/or pagers for those employees on first-call. It will be the responsibility of the employee to have the cell phone and/or pager with him. Employees may use the cell phones for personal use, consistent with the Employer's current Cell Phone policy. Employees on first-call are those who are paid an additional one hundred dollars (\$100.00) per week to be available to work unscheduled overtime on short notice. These will be chosen by management among volunteers by seniority. If insufficient volunteers are available, management will assign appropriate personnel in reverse seniority order. An employee on first call may choose to receive four (4) hours of compensatory time per week in lieu of one hundred dollars (\$100.00) per week.

Section 10.7. Payment for Overtime. An employee shall be paid overtime at the rate of one and one-half (1-1/2) hours for all hours actually worked or on approved vacation in excess of forty (40) straight-time hours in any pay week (Thursday through Wednesday). The City may defer the changes in overtime calculation until a date after the Agreement takes effect that coincides with the beginning of a pay period. Employees may elect to receive cash payment for overtime or compensatory time up to a maximum of two hundred forty (240) hours. The use of compensatory time shall be approved in advance. Compensatory time will be paid off as of November 1 of each year and may not be carried over from year to year (i.e., comp time accrued through the end of the pay period that includes Nov. 1 will be paid off, and comp time earned after that pay period may be carried over until the end of the pay period that includes Nov. 1 of the next year).

Section 10.8. Rescheduling up to Sixteen Hours of Excused Time for Part-Time Employees. If the Employer excuses a part time employee from work, the Employer will offer the employee an opportunity to make up the time when the Employer determines that scheduling the employee would be in the best interests of the City. This rescheduling will be limited to sixteen (16) hours per calendar year, and in any case the employee will be rescheduled within three hundred and sixty-five (365) days of the excused absence.

ARTICLE 11 **LAYOFF AND RECALL**

Section 11.1. Layoff and Recall.

- A. Whenever any layoff of bargaining unit employees is anticipated, the Employer shall notify the Union of the impending layoff. The Employer and the Union shall meet to discuss possible alternatives and the impact of the layoff on bargaining unit employees. Job classification, as used in this Article, means the Service Worker classification.
- B. Subject to the provisions of this Agreement, the decision to implement a layoff shall be at the discretion of the Employer. However, the Employer may not lay off employees for disciplinary reasons. If a layoff is implemented, the Employer shall lay off the lowest seniority employee(s) within the Service Worker job classification provided those retained have present job skills and abilities to perform the task(s) required. If such employees do not have the requisite skills and abilities, they may be laid off and less senior employees retained. Recall from layoff shall be in reverse order of layoff within job classification provided those recalled have present job skills and abilities to perform the task(s) required.
- C. Employees shall be laid off within the Service Worker classification in accordance with their qualifications to perform the work available and seniority, beginning with:
 - 1. Seasonal/temporary employees, including part-time seasonal and part-time temporary;
 - 2. Regular part-time employees;

3. Probationary full-time employees; and
4. Non-probationary full-time employees.

A full-time employee who is probationary because of a promotion/transfer and who is laid off under this Article will have the right to return to the position held prior to the promotion/transfer. In the event an employee returns to the position held prior to the promotion/transfer and the employee's old position has been filled, the Employer retains the right to lay off or probationarily remove or reduce the replacement employee or another employee in that classification who is even less senior in order to make room for the returning employee. If the employee's old position no longer exists, the Employer will treat the situation in the same manner as a layoff in the employee's old classification.

- D. Upon certified receipt of a recall notice from the Employer, each recalled employee will be allowed five (5) work days from the date of the signed certification to return to work. If the certified mailing of the recall notice is returned unsigned for any reason, the Employer may send the notice regular mail and the employee shall have eight (8) days from the date the regular mail notice was sent to return to work. It shall be the employee's responsibility to maintain on record with the Employer a correct mailing address at all times. If the employee notifies the Employer within the five (5) day period (or the eight [8] day period if the certified mailing was returned unsigned), the employee will be allowed a reasonable time extension of up to two (2) weeks due to extenuating circumstances such as illness, temporarily out of state, or need to give present Employer proper reasonable notice.

- E. Employees shall have recall rights for three (3) years.

ARTICLE 12

INJURY LEAVE

Section 12.1. Injury Leave with Pay. A full-time employee shall be granted injury leave with pay not to exceed 240 hours per injury. Injury leave shall be charged at the rate of one (1) hour for each work hour absent.

Section 12.2. Conditions.

- A. Injury leave may be granted to any employee only for injuries or other disabilities which are incurred in the performance of City employment and which are determined by a competent physician to have so disabled such member that the duties of his/her position cannot be performed.

The City, at its expense, may require an independent medical examination for any employee requesting injury leave. The City shall provide the employee a copy of the physician's report.

Pending approval of his/her injury leave request, an employee may use sick leave or other paid leave, which paid leave shall be re-credited to the employee upon injury leave approval.

In the event the City denies an employee's request for Injury Leave, the decision is not subject to the grievance procedure. In the event a final decision under the Ohio Workers Compensation Law determines the injury in question was incurred by the employee in the performance of his/her City employment, the employee's leave banks will be adjusted accordingly. A decision is not final until all administrative and judicial appeals have been exhausted.

- B. At the time of the incident, employees shall report to their immediate supervisor all accidents that have resulted in an injury. The supervisor shall send a notice, via E-mail or telephone to the Resource Assistant, of the pending injury report. As soon as possible, the supervisor shall forward to the City Manager's office a completed accident report and questionnaire form.
- C. For an employee to receive injury leave, he/she must agree to:
 - 1. complete the appropriate accident/injury report forms at the time of accident or injury; and
 - 2. contact the Human Resources Assistant monthly regarding status.

Section 12.3. Coordination with Worker's Compensation. An employee may be required to make appropriate filings for reimbursement from the Workers' Compensation program for any work related injury. Such filings shall include requests for any available compensatory program designated to compensate workers for lost wages. Thereafter, the employee is required to endorse over to the City any Workers' Compensation temporary total disability benefits he/she receives which extend over the same period for which the employee was paid injury leave. In furtherance of these provisions and in compliance with the rules and regulations of the Ohio Bureau of Workers' Compensation, the employee will be required to execute a written agreement reflecting the provisions of this Section. As a matter of clarification, an employee is not entitled to both paid injury leave and lost wage benefits or other paid leave for the same hours.

Section 12.4. Exhaustion of Injury Leave. When, by nature of a disability which extends beyond the time frame in which injury leave pay is granted, an employee becomes entitled to benefits under the Workers' Compensation Program, the employee shall be granted a leave of absence without compensation from the City during the time in which the employee receives workers' compensation benefits after the exhaustion of injury leave. In the event an employee, who is entitled to injury leave, uses the maximum allowable injury leave and is still prohibited by a physician's statement from a return to active duty, the employee may, regardless of eligibility for workers' compensation benefits, with the requisite approval of the City Manager, utilize any accrued paid leave to his/her credit before being placed upon a leave of absence without pay.

Section 12.5. Limitation on Injury Leave. No injury leave payments or compensation which the member would otherwise become eligible for under Workers' Compensation will be made to an employee who is actually working for another employer where such work involves or requires the performance of the same or similar duties as those regularly performed by the employee, or where the job involves duties and/or physical demands which would conflict with the employee's medical condition, or where the employee refuses to perform modified duty as outlined in Section 12.7.

Section 12.6. Return to Duty. An employee shall return to full duty when a full release is given by the employee's physician. The City may require the employee to be examined by a physician of the City's choice at no cost to the employee where the City has reason to dispute the employee's ability to return to duty. If the employee and the City's physician do not agree, the employee and the City will select a third physician, who may be a specialist in the injury at issue, to resolve the dispute.

Section 12.7. Modified Duty. When an injury is such that would allow a employee to perform modified duty, a employee on injury leave may be required to perform such modified duty with the approval of the employee's physician and subject to the following conditions:

- A. The duty is medically suitable; and
- B. The modified duty is transitional, and therefore intended to be temporary in nature.

The status of an employee placed on modified duty will generally be reviewed at thirty (30) day intervals unless the nature of the employee's condition requires a shorter review period. An employee may be on modified duty while the extent of the injury is in dispute or unknown, the employee is participating in a rehabilitation program, or has a disability retirement application pending.

Section 12.8. Reporting. At the time of the initial physician's visit for work-related injury, the employee shall report to the physician that the injury occurred during the performance of employment.

ARTICLE 13 **VACATION LEAVE**

Section 13.1. Vacation Year. The vacation year for employees shall be January 1 through December 31 of a given calendar year.

Section 13.2. Vacation Accrual. All full-time employees shall begin accrual of vacation upon completion of two (2) full weeks of regular work based upon the following schedule:

- 1. At the rate of 3.077 hours per full pay period worked after two (2) weeks of continuous service for an annual rate of eighty (80) hours;

2. At the rate of 4.615 hours per full pay period worked after five (5) years of continuous service for an annual rate of one hundred twenty (120) hours;
3. At the rate of 5.385 hours per full pay period worked after ten (10) years of continuous service for an annual rate of one hundred forty (140) hours;
4. At the rate of 6.154 hours per full pay period worked after thirteen (13) years of continuous service for an annual rate of one hundred sixty (160) hours;
5. At the rate of an additional 0.308 hours per pay period for each additional three (3) years of continuous service for an annual rate of an additional eight (8) hours.

An employee may not use any accrued vacation until after completion of the initial probationary period of employment with the City.

Section 13.3. Vacation Carry Over. An employee at his/her option shall be permitted to carry over from one (1) calendar year to another a maximum of three hundred sixty (360) hours of accrued vacation or the amount permitted by the personnel rules applicable to non-bargaining unit employees, whichever is greater.

Any accrued vacation leave in excess of the appropriate above stated annual standard maximum carryover limits standing to the credit of the employee on December 1 shall become void on December 31 unless used by the employee or carried over to the subsequent calendar year following submission to and approval of such request by the appointing authority on December 1. Approval of such requests shall be limited to instances where factors beyond the employee's control or directly related to the operational needs of the City prevented the employee from using the accrued vacation.

Any employee having accrued vacation in excess of the three hundred sixty (360)-hour limit shall be paid for all vacation hours in excess of the three hundred sixty (360)-hour limit within thirty (30) days of the implementation of this limitation, in accordance with the terms in this Article.

Section 13.4. Additional Considerations.

- A. All vacation hours shall be paid at full pay at the applicable straight time rate; however, if an employee is ordered to work while on approved vacation leave, the employee shall be paid at one and one-half (1-1/2) times for all hours worked.
- B. An employee who resigns or is separated from City service for any reason shall be paid for all unused vacation leave to his/her credit at the rate in effect on the date of separation.
- C. When an employee dies while in paid status, any unused vacation leave to his/her credit shall be paid in a lump sum to his/her surviving spouse, or secondarily to his/her estate.

- D. All vacation leave shall be taken at such time or times at the discretion of and as approved by the City Manager or his designee.
- E. If an employee becomes sick while on vacation leave, the employee may substitute sick leave for vacation leave for the period of time the employee is actually hospitalized.

ARTICLE 14
SPECIAL LEAVE

Section 14.1. Jury Duty Leave.

- A. A full-time employee, while serving upon a jury in any court of record, will be paid his/her regular wages for each work day during the time so served. Jury duty fees paid to the employee by the court shall be returned to the City. The employee shall keep his/her supervisor apprised on a regular basis as to the expected continued duration of the leave.
- B. The employee, upon notice of jury service, shall present such notice to his immediate supervisor. A copy of such notice shall be filed in the employee's personnel file.
- C. Jury service requiring less than four (4) hours of the employee's regular work day as verified by the time report, shall require the employee to report to his supervisor for completion of his/her regular work day with the City.

Section 14.2. Bereavement Leave. A full-time employee shall be entitled to take three (3) consecutive work days, with pay, for bereavement leave for a death in the employee's immediate family, provided that the approval is obtained. This leave may be extended an additional two (2) days by use of sick leave upon approval. Immediate family is defined for purposes of this Section as spouse, children, parents, brother, sister, parents-in-law, brother-in-law, sister-in-law, grandparents, spouse's grandparents, grandchildren and legal guardian. Documentation of the reason for bereavement leave shall be provided for any use other than a spouse, parent or child.

Section 14.3. Leave of Absence. The City Manager may authorize an employee to be absent, without pay, for personal reasons for a period or periods not to exceed six (6) weeks at which time any request for additional leave must be made.

Section 14.4. Military Leave. Any bargaining unit employee who is a member of the Ohio Organized Militia, Ohio National Guard, U.S. Air Force Reserves, U.S. Army Reserves, U.S. Marine Corps Reserves, the U.S. Naval Reserves, or other Reserve Components of the Armed Forces of the United States shall be granted military leave of absence with pay, for the purpose of performing service in the uniformed services for a period of time not to exceed one hundred seventy-six (176) hours during a calendar year. The employee shall be reimbursed by the City for his/her regular city compensation without any offset for receipt of military pay. In order to receive such reimbursement, the employee shall be required to produce an order or statement from the appropriate military commander as evidence of duty and such military service pay records as may be deemed necessary by the Finance Director. With the approval of the City Manager, up to ninety (90) hours of military leave may be granted to attend military schools or training. Approval or disapproval of additional leave shall not be grievable. Excused absence

without pay may also be granted an employee for attendance at reserve functions where paid military leave is not available.

Section 14.5. Family and Medical Leave Act. The Family and Medical Leave Policy (per Article 29) shall be applicable to all employees, subject to the qualifying provisions of the Family and Medical Leave Act.

ARTICLE 15 **SICK LEAVE WITH PAY**

Section 15.1. Accrual. All full-time employees shall accrue sick leave with pay at a rate of 4.615 hours for each complete pay period in which an employee is in paid status. Paid sick leave shall be charged at the rate of one (1) hour for each work hour absent. Sick leave shall accrue without limitation.

Section 15.2. Sick Leave Use. Sick leave may be granted only upon the approval of the City Manager or designee for the following reasons:

- A. Sickness or injury of the member. The employee must give the reason for his/her sick leave and the location of his/her convalescence, if different than the home address.
- B. Sick leave may be used to keep medical, dental and optical appointments, limited to reasonable travel time and appointment time for the employee, spouse, or children.
- C. Sickness or injury in the immediate family (defined for purposes of this Section as spouse, parents, children, brother, sister, grandparents, parents-in-law, and legal guardian, requiring the presence of the employee).
- D. Quarantine of an employee because of exposure to contagious disease, provided that a medical certificate is obtained prior to payment.
- E. No continuous sick leave in excess of four (4) working days shall be allowed except upon submission of a medical certificate to the City Manager no later than five (5) days after the commencement of the use of sick leave, which certificate shall state the nature of the illness and probable length of the sick leave use. Additional certificates may be required by the City Manager or designee in cases of prolonged illness.
- F. In a calendar year during which an employee has more than four (4) separate occurrences of sick leave use of a single day, or more for which no medical certificate is obtained, the employee may be required to present a medical certificate to receive pay for each subsequent absence due to sick leave in the remainder of the calendar year. Notification of this requirement will be made to the employee by the City Manager or designee in writing. Nothing shall require an employee with a "serious health condition" within the meaning of the FMLA to provide a "medical certificate" or similar document more frequently than allowed by the FMLA. The employee may utilize the Grievance Procedure to dispute the City Manager's notification.

G. As used in this Section, “medical certificate” means a certificate from the attending, licensed medical practitioner.

Section 15.3. Payment Upon Retirement. All members shall, at the time of their retirement from service with the City, receive payment in a lump sum of one (1) hour of pay for each four (4) hours of accumulated and unused sick leave to his/her credit up to and including one thousand nine hundred twenty (1,920) hours. Such payment eliminates all accrued and unused sick leave credited to the employee.

Section 15.4. Payment Upon Death. When an employee dies while on paid status, all unused sick leave to his/her credit shall be paid in a lump sum to his/her surviving spouse, or secondarily to his or her estate, at the rate set forth above.

ARTICLE 16 **CALL-IN PAY**

Section 16.1. Call-In Pay. When an employee is called in to work outside his regular working hours, he shall be guaranteed a minimum of three (3) hours at the applicable rate (this three (3) hours minimum shall be in addition to pay for regularly scheduled hours). This provision shall be applicable to work performed prior to the commencement of the regular shift but shall not be applicable to work performed subsequent to the conclusion of the regular shift if the employee is paid without interruption between the regularly scheduled shift and the extra work.

ARTICLE 17 **NEW / CHANGED JOBS AND SUBCONTRACTING**

Section 17.1. New and Changed Jobs. The Employer shall have the right to determine job content and from time to time change job content. When a new job is created or an existing job is changed, the Employer shall notify the Union and shall, at the same time or promptly afterwards, notify the Union of the proposed rate of pay. The Union shall have the right to meet and negotiate with the Employer concerning the rate of pay. If no agreement on rate of pay can be reached between the parties, they will submit it to the grievance procedure at the third step before a mutually agreed upon arbitrator. When a job description/class specification is changed, a copy of the new description will be given to the employee.

Section 17.2. Subcontracting. In the event that the Employer contemplates the subcontracting, transfer, assignment, or any other method of relinquishment of substantial work customarily performed by bargaining unit members with the reasonable expectation that such relinquishment of work will result in the layoff of bargaining unit members, the Employer will give the Union thirty (30) days’ notice. Following notification by the Employer and the making of a demand on the Union, the parties shall meet and confer to consider proposed methods or procedures for the possible retention of the subject work by bargaining unit employees and the avoidance of layoffs. The Employer will not replace an existing full-time employee with one (1) or more part-time employee(s).

The Letter of Agreement attached as Appendix D to this Agreement is incorporated here as if fully rewritten herein.

Section 17.3. The Employer retains the right to permanently reduce and not fill a vacant position.

ARTICLE 18
HOLIDAYS

Section 18.1. Paid Holidays and Personal Days.

A. All full-time employees shall be given nine (9) paid holidays and five (5) personal days for use in the calendar year. The holidays and personal days are as follows:

New Year's Day, January 1
Martin Luther King Day, Third Monday in January
President's Day, Third Monday in February
Memorial Day, Last Monday in May
Independence Day, July 4
Labor Day, First Monday in September
Veteran's Day, November 11
Thanksgiving Day, Fourth Thursday in November
Christmas Day, December 25
5 Personal Holidays, Member selected, approved by the Director of Public Services.

B. When any holiday listed above falls on Saturday, the preceding work day shall be considered the holiday. When the holiday falls on a Sunday, the following work day shall be considered the holiday.

C. In order for an employee to be entitled to a holiday, he must have actually worked on the day before and the day after the holiday unless utilizing permissible leave times such as vacation, sick leave (see sick leave policy), bereavement leave, jury duty, or personal day.

D. When any holiday listed above falls while an employee is on approved vacation time, such holiday shall not be charged against vacation leave.

E. Each full-time employee who is required to work on a day designated as a holiday, shall in addition to receiving eight hours pay for the holiday, be paid at the rate of one and one-half times his hourly rate of pay for all hours worked on the holiday.

F. If an employee's work schedule is other than Monday through Friday, he shall be entitled to holiday pay for holidays observed on his day off regardless of the day of the week on which they are observed.

Section 18.2. Special Holiday. Any official special holiday proclaimed by the President, Governor of Ohio or Mayor of Upper Arlington, when all affected governmental offices are to be closed also shall be a designated paid holiday. When a full-time employee works the special

holiday, he/she shall be paid at one and one-half (1-1/2) times his/her regular rate of pay. Each full-time employee who does not work shall receive eight (8) hours of pay. Each full-time employee who does not work shall receive eight (8) hours pay if the day is a regularly scheduled workday.

Section 18.3. Personal Leave.

- A. Each full-time employee shall be credited with forty hours (40) of personal leave each year. An employee, after approval by his supervisor, may use personal leave, for absence due to mandatory court appearances, legal or business matters, family emergencies, unusual family obligations, medical appointments, weddings, religious holidays, or any other matter of a personal nature.
- B. When personal leave is used, it shall be deducted from the unused balance in increments of one hour.
- C. A newly appointed full-time employee shall receive personal leave based on the following schedule:
 - 1. If appointed on or before February 28, forty (40) hours.
 - 2. If appointed on or after March 1 but before May 1, thirty-two (32) hours.
 - 3. If appointed on or after May 1 but before July 1, twenty-four (24) hours.
 - 4. If appointed on or after July 1 but before September 1, sixteen (16) hours.
 - 5. If appointed on or after September 1 but before November 1, eight (8) hours.
 - 6. If appointed on or after November 1, zero (0) hours.
- D. Any unused personal leave remaining after the last payroll of the same fiscal year or when an employee terminates his/her employment shall lapse.

ARTICLE 19
HEALTH AND SAFETY

Section 19.1. Cooperation Between Employer and Union. The Employer agrees to maintain adequate provisions for the health and safety of its employees during the hours of their employment. The Union and all employees agree to cooperate with the Employer on all matters pertaining to safety.

Section 19.2. Medical Examination Returning from Leave of Absence. Employees returning from a leave of absence because of illness or injury, shall be required to submit City-approved return to work form, may be required to undergo a medical examination by, and receive the approval of the Employer's physician at the Employer's expense before being permitted to return to work.

Section 19.3. Medical Examination in Interest of Health and Safety. In the interest of health and safety and if the Employer has reason to believe that the employee's condition jeopardizes his or others health or safety or his job performance, the Employer may require a medical examination of an employee at the Employer's expense at any time.

If a physician's determination discloses that the employee's condition jeopardizes his health or safety or that of other employees, or his job performance, the Employer may relieve the employee from active employment or extend his absence.

If the employee disagrees with the Employer's physician, he may obtain and present a statement from his own physician within five (5) days from his relief from active employment or extension of his absence.

An employee shall return to full duty when a full release is given by the employee's physician. The City may require the employee to be examined by a physician of the City's choice at no cost to the member where the City has reason to dispute the employee's ability to return to duty. If the employee and the City's physician do not agree, the member and the City will select a third physician, who may be a specialist in the injury at issue, to resolve the dispute. Upon selection of the third physician, his examination of the employee and submission of his final decision shall be done as expeditiously as possible.

During the period of time the employee is relieved from active employment or while his absence is extended, he shall be permitted to use leave, or use unpaid leave in the event no leave is available. In the event it is determined that the employee was able to work, leave time used will be reinstated. If employee was in unpaid leave status, they will be given back pay for time lost.

Section 19.4. Right to Report Unsafe Conditions. An employee who believes he is working under unsafe conditions shall have the right to report such conditions to his immediate supervisor. If not corrected, the employee may immediately report the matter to the City's Safety Coordinator or designee (other than the employee's immediate supervisor). If not corrected, he may file a grievance. Such grievance may be filed directly in Step 2 of the grievance procedure and in such event shall be discussed in a meeting between the Department Head and the Union Business Representative within twenty-four (24) hours after filing.

Section 19.5. Safety Committee. The Employer shall actively maintain a City-wide Safety Committee. Two (2) members may be selected by the Union for participation in the Safety Committee. The bargaining unit representatives shall receive their basic hourly rate of pay for time spent in committee meetings.

ARTICLE 20

TEMPORARY AND SEASONAL ASSIGNMENTS

Section 20.1. Assignment and Compensation. The City shall have the right to assign employees to supervisory positions or a position in a higher classification. Where the assignment is for four (4) hours or more, the employee shall be paid the minimum applicable rate of the classification to which he is transferred, or seven percent (7%) above the employee's present rate, whichever is higher up to the top of the range to which assigned, for all hours worked in the classification.

Section 20.2. Roster. The City shall maintain a roster of employees qualified to perform temporary assignments in each classification. The exclusion of an employee from any classification on this temporary assignment roster shall be subject to the grievance procedure.

ARTICLE 21
NO STRIKE / NO LOCKOUT

Section 21.1. Strikes Prohibited. During the term of this Agreement, Local 284 shall, in the event any employee(s) engage in an unauthorized or illegal job action or strike, do whatever it can to prevent or stop unauthorized acts, including the preparation of a letter addressed to the Employer stating “the strike action is not sanctioned and all employees should return to work immediately,” signed by the ranking Local 284 officer of the Local.

Section 21.2. Violations. In addition to any other remedies available to the Employer, any employee or employees, either individually or collectively, who violate Section 21.1 of this Article are subject to discipline or discharge by the Employer.

Section 21.3. Lockout Prohibited. During the term of this Agreement, the Employer shall not cause, permit, or engage in any lockout of its employees unless those employees shall have violated Section 21.1 of this Article.

Section 21.4. Available Remedies. Nothing in this Article shall be construed to limit or abridge the Employer’s right to seek other available remedies provided by law to deal with any unauthorized or unlawful strikes.

ARTICLE 22
CONFLICT, AMENDMENT, PRACTICE AND SEVERABILITY

Section 22.1. Conformity. This Agreement is meant to conform to and should be interpreted in conformation with the Constitution of the United States, the Constitution of the State of Ohio, and all applicable federal and state laws and regulations. Should any provision or provisions of the Agreement be invalid by operation of law, or be declared invalid by any tribunal of competent jurisdiction, all other provisions of the Agreement shall remain in full force and effect.

This Article shall not be interpreted to add substantively to any other section of this Agreement or to specifically incorporate into this Agreement any matter not otherwise covered herein.

In the event of invalidation of any portions of the Agreement by a court of competent jurisdiction, and upon written request of either party, the parties to this Agreement shall meet at mutually convenient times in an attempt to modify the invalidated provisions by good faith negotiations.

Amendments and modifications of the Agreement may only be made by mutual written agreement of the parties to this Agreement, subject to ratification by the bargaining unit and City Council.

**ARTICLE 23
(Reserved)**

**ARTICLE 24
DRUG AND ALCOHOL POLICY**

Section 24.1. Use, Possession Prohibited. No employee shall use, possess, distribute, manufacture, or sell controlled substance or drug of abuse as defined in Ohio Revised Code §§ 3719.01 and 3719.011 (hereafter referred to as drug or drugs); prescription medications taken pursuant to the instructions of a valid prescription are not drugs of abuse.

Section 24.2. Use, Possession on the Job Prohibited. No employee shall use, possess, distribute, manufacture or sell alcohol while on the job.

Section 24.3. Under the Influence Prohibited. No employee shall be under the influence of drugs and/or alcohol or a combination thereof while on the job, on City premises, or on or while using City equipment.

Section 24.4. Convictions to be Reported. Any employee convicted of an offense under a criminal drug statute for an offense occurring within the workplace must report the conviction to the City Manager no later than five (5) working days after the conviction. Any employee, whose duties and responsibilities primarily involve driving, convicted of a traffic offense involving alcohol or drugs with restrictions on driving privileges must report the same.

Section 24.5. Violation of Rules. A violation of these rules is cause for disciplinary action up to and including termination of employment.

Section 24.6. City Policy of Rehabilitation. Recognizing that drug and alcohol abuse are treatable illnesses which should be dealt with initially by treatment and education, it is the City's policy to prevent and rehabilitate rather than terminate the employment of workers who are alcohol and/or drug dependent. No employee will be discharged for voluntarily seeking assistance for a substance abuse problem; however, co-occurring performance, attendance or behavioral problems may result in disciplinary action up to and including termination of employment. Employees are encouraged to use the Employee Assistance Program (EAP), but involvement in that program does not prevent the City from disciplining an employee if there are co-occurring performance, attendance or behavioral problems. Furthermore, involvement in the EAP does not preclude the City from discharging a probationary employee during the employee's original period of probation. The City shall not be obligated to retain an employee on active status throughout a period of rehabilitation if it is appropriately determined that the employee's current use of alcohol or drugs prevents such individual from safely performing his or her duties and whose continuance on active status would constitute a direct threat to property or safety.

Section 24.7. Alcohol and Drug Testing Policy. In furtherance of the goals set forth above, the City adopts the alcohol and drug testing policy and procedures which follow. The testing policy shall be implemented in a consistent, nondiscriminatory manner. All employees will be provided with a copy of the testing policy prior to its implementation and will be provided information concerning the impact of the use of alcohol and drugs on job performance. Employees and

supervisors will be trained to recognize the symptoms of alcohol and drug abuse, impairment and intoxication.

Section 24.8. Applicants for Employment. Applicants for employment with the City who have been conditionally offered a position with the City, shall be required to submit to testing to determine the presence of alcohol and/or drugs. Pre-employment testing protocol shall be determined by the Civil Service Commission. Standards for the administration of the tests set forth in Section 24.11 of this policy are not applicable to pre-employment testing. An employee during the employee's original period of probation, who tests positive or otherwise violates this policy may be terminated.

Section 24.9. New Employees. All new employees will receive the policy and procedure information on their initial hire date. No employee shall be tested, except for pre-employment, until this information is provided to the employee. An acknowledgement sheet shall be filed in new and existing employee's personnel file indicating receipt of the policy and procedure. Failure to sign the acknowledgement sheet may result in termination.

Section 24.10. Random Drug Testing. Random drug testing will not be permitted under any circumstances except to those employees whose duties require a C.D.L. Drug and alcohol testing may be administered only where there is reasonable suspicion to believe that the employee to be tested is impaired by the use of an alcoholic beverage and/or drugs, or in the event of a vehicular accident involving bodily injury or serious property damage as determined by a supervisor based on standards established by the City.

This policy is not to be utilized for criminal law enforcement purposes. However, this policy does not prevent criminal law enforcement investigation of illegal activity. For example, an employee charged with operating a motor vehicle under the influence of alcohol and/or drugs of abuse (OVI) may be required to submit to testing as part of the criminal investigation and the procedures of this policy would not be applicable to that investigation. Furthermore, evidence derived in a criminal investigation, including drug and alcohol testing, may be used as evidence in a disciplinary proceeding.

The term "reasonable suspicion" shall for the purposes of this policy be defined as follows:

Aberrant or unusual on-duty behavior of an individual employee which:

- A. Is observed on duty by another City employee, confirmed in writing by the observing employee, and whenever reasonably possible corroborated by the observation of a witness other than the person alleging the impairment. If a citizen complaint is brought, the complaint must be in writing, signed by the citizen and verified by the employee's supervisor. The employee suspected of impairment shall be permitted to contact a person of the employee's choosing by telephone, however, the inability of the employee to reach that person will not delay testing.
- B. Is the type of behavior which is recognized and accepted as symptomatic of intoxication or impairment caused by drugs and/or alcohol.

- C. To the satisfaction of the employee's supervisor and the City Manager, is not reasonably explained by other factors than impairment by drugs and/or alcohol.
- D. Reports of drug abuse or abnormal behavior shall be forwarded immediately to the employee's supervisor. The supervisor shall investigate the report and document his findings. Reports which are not documented in writing by the employee's supervisor shall not constitute reasonable suspicion.

No alcohol or drug testing may be conducted without authorization of the City Manager's Office. The City Manager's Office must document in writing, who is to be tested and why the test is ordered including the specific objective facts constituting reasonable suspicion and the names of any witness or sources of information. A copy of this documentation shall be given to the employee. The employee must have the reasons for testing referral explained by a member of City management prior to referral for testing. As used in the previous sentence, a member of City management is a supervisor in the employee's division or a member of the City Manager's Office.

If the City Manager's Office, after a review of the facts, also has a reasonable suspicion that the employee may be intoxicated or impaired, then by written order signed by the City Manager's Office, the employee may be ordered to submit to a urine and/or blood test designed to detect the presence of alcohol and/or drugs. A verbal order may be issued by the City Manager's Office with a written order to follow within twenty-four (24) hours.

Failure to follow any of the above steps shall result in the invalidation of the test results as if no tests were administered, and test results will not be used for disciplinary purposes. However, failure to follow the above steps does not prevent disciplinary action based upon other evidence.

Refusal to submit to testing after being properly ordered to do so may result in disciplinary action up to and including termination. As the employee is not under arrest during the testing process, an employee subject to testing should not be restrained or prevented from leaving during any part of the test process. However, an employee who fails to properly complete the test process is subject to disciplinary action up to and including termination.

Except as provided herein, testing shall be done in accordance with 49 CFR Part 40 as amended from time to time by a facility which is certified under Department of Health and Human Services (DHHS) standards and shall consist of tests which detect the presence of the following: Alcohol, Amphetamines, Cannabanoid (Marijuana) Metabolites, Cocaine Metabolites, PCP, Benzodiazepine, Barbiturates, Opiates, Methodone, and Propoxyphene.

The employee shall be transported to the drug testing site by a member of the City Manager's office or a person designated by the City Manager. After sample collection, the employee shall be transported home by a member of City Management or designee. The employee shall be relieved of duty, without pay from the time of arrival home. The employee remains on a paid status until his arrival at home. If drug testing results are negative, the employee shall be compensated for the period of leave of absence without pay unless other work rule violations are proven to have occurred.

Referral for drug testing, if approved, should normally occur within two (2) hours of the supervisor's observation. In no case will more than four (4) hours elapse from the time of supervisor's observation to the time of sample collection; unavailability of a person whom the employee wishes to consult with prior to testing will not delay testing. Where more than four (4) hours have elapsed, test results will be declared invalid and documentation shall be so noted by the City Manager. Invalidation of the test results does not prevent disciplinary action based on other evidence. Testing may be requested and performed during all shifts (24 hours a day; 7 days/week).

Section 24.11. Test Procedure. The following test procedure shall apply to tests administered to employees.

The City will request urine and/or blood samples for testing for controlled substances. Both samples shall be collected at the laboratory or health care facility specified by the City. Chain of custody standards as specified in the DHHS standards shall be followed. The City may request a blood test, urine test or a breath test for alcohol testing. If a breath test is requested, only breath testing instruments approved in Ohio Administrative Code (OAC) 3701-53-02 may be used. Breath testing will not be conducted by the Upper Arlington Police to protect the privacy of the employee.

In the event that a urine sample cannot be produced, or that a sufficient quantity cannot be produced, then the blood sample above shall be analyzed for all other drugs as specified in this procedure.

The employee shall not be observed when the urine specimen is given, but stringent specimen alteration and/or substitution procedures will be followed by the sample collection site staff. Sample collection specimen containers shall be in sealed containers prior to use and after collection of specimen shall be sealed with evidence tape and labeled in the presence of the employee and person transporting the employee on behalf of the City.

The City shall choose the sample collection site and laboratory to be utilized for testing.

The following standards shall be used to determine what levels of detected substances shall be considered positive: The City shall amend the levels of detectable substances consistent with the Federal Register.

| Initial test analyte | Initial test cutoff concentration | Confirmatory test analyte | Confirmatory test cutoff concentration |
|-------------------------------|-----------------------------------|---------------------------|--|
| Marijuana metabolites | 50 ng/mL | THCA ¹ | 15 ng/mL |
| Cocaine metabolites | 150 ng/mL | Benzoylcegonine | 100 ng/mL |
| Opiate metabolites | | | |
| Codeine/Morphine ² | 2000 ng/mL | Codeine | 2000 ng/mL |
| | | Morphine | 2000 ng/mL |

¹Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

²Morphine is the target analyte for codeine/morphine testing.

| | | | |
|---------------------------|---|------------------------------|----------------|
| 6-Acetylmorphine | 10 ng/mL | 6-Acetylmorphine | 10 ng/mL |
| Phencyclidine | 25 ng/mL | Phencyclidine | 25 ng/mL |
| Amphetamines ³ | | | |
| AMP/MAMP ⁴ | 500 ng/mL | Amphetamine | 250 ng/mL |
| | | Methamphetamine ⁵ | 250 ng/mL |
| MDMA ⁶ | 500 ng/mL | MDMA | 250 ng/mL |
| | | MDA ⁷ | 250 ng/mL |
| | | MDEA ⁸ | 250 ng/mL |
| PCP | 25 ng/ml | | 25 ng/ml GC-MS |
| Barbiturates | 300 ng/ml | | 300 ng/ml |
| Benzodiazepine | 300 ng/ml | | 300 ng/ml |
| Methadone | 300 ng/ml | | 300 ng/ml |
| Propoxyphene | 300 ng/ml | | 300 ng/ml |
| Alcohol | .04 of 1% or more by weight of alcohol in the subject's blood — blood test no confirmatory test necessary; or | | |
| | .04 grams or more by weight of alcohol per 210 liters of the subject's breath — breath test no confirmatory test necessary; or | | |
| | .056 of 1 gram or more by weight of alcohol per one hundred milliliters of the subject's urine — urine test no confirmatory test necessary. | | |

For City employees that are required to have a commercial driver's license, the following levels constitute a positive test:

.02 of 1% or more by weight of alcohol in the subject's blood
— blood test no confirmatory test required; or

.02 grams or more by weight of alcohol per 210 liters of the
subject's breath — breath test no confirmatory test necessary;
or

.028 of 1 gram or more by weight of alcohol per one hundred
milliliters of the subject's urine — urine test no confirmatory
test necessary;

³Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

⁴Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

⁵To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

⁶Methylenedioxymethamphetamine (MDMA).

⁷Methylenedioxyamphetamine (MDA).

⁸ Methylenedioxyethylamphetamine (MDEA).

a test of .04 (blood alcohol level) or more is considered to be impairment in all cases; the impairment of employees registering below .04 is to be determined by an analysis of all relevant factors (ex. blood alcohol level, physical signs displayed by the employee, what the employee is required to do on the job, etc.)

Tests which are below the levels set forth above, with the exception of alcohol tests, shall be determined as negative.

At the time the urine specimen is collected, sufficient quantity for two (2) samples will be taken. The two (2) samples will be sent to the laboratory to be tested at the employer's expense. In order to be considered positive, both samples must be tested separately, in separate batches and show positive results. The initial screening shall be done using RIA/EMIT Methodology and the confirmatory test shall be done using mass spectrograph -- gas chromatography methodology. All test results are to be reviewed by a toxicologist or physician before being released. No confirmatory test is necessary for alcohol screening.

A portion of the second sample will be stored in a separate container and shall be sealed in the presence of employer's representative and employee. Employer's representative and the employee will sign the evidence tape. This sample shall be made available to the employee for testing by a laboratory chosen by the employee. The employee's option of requesting an independent test by another laboratory must be exercised within ten (10) days of the employee's notification of positive test results and the laboratory selected must be DHHS certified with chain of custody standards followed. The sample shall be stored at the laboratory testing site until notified by the employee of testing instructions or for one year (1) whichever is longer. The cost of testing this sample shall be borne by the employee.

All test results shall be treated as confidential to the extent allowed by law. All test results must be retained in a secure file separate and apart from the employee's personnel file. The City Manager, or designee shall communicate drug testing results to the employee and employee's supervisor and department head. For a first time positive test, results will be disclosed to the employee, employee's supervisor and department head, and the City's Employee Assistance Program, with a provision for monitoring of compliance through the City Manager's Office. In the case of a second positive drug test, results will be disclosed to the employee, employee's supervisor and department head, and only those additional people with a specific need to know because of subsequent disciplinary action which may be taken.

If the results of the tests administered by the employer on the two (2) samples show that the employee while on duty, was positive:

- A. The employee shall be given a copy of the laboratory report by the City Manager, or designee before discipline is imposed.
- B. The employee shall have the right to present the employer with different results from the test of the third sample conducted by a DHHS certified laboratory chosen by the

employee. Failure of the employee to have a third test performed shall not be used against the employee as a basis for discipline.

- C. The employer may discipline the employee after consideration of all tests presented provided: that any discipline imposed for the first offense in any thirty-six (36)-month period shall be held in abeyance pending completion by the employee of an approved substance abuse treatment program. In the event an employee enters a treatment program as a result of a positive drug test, a release of information authorization is to be completed by the employee so that the employer can monitor compliance. If the employee successfully completes such a program and is not disciplined for substance abuse for thirty-six (36) months following the initial charge, the discipline shall be revoked and it shall not be used as a basis for any other disciplinary action in the future.

Notwithstanding the foregoing, an employee may be disciplined for the first positive drug test, if there are co-occurring work rule violation(s) sufficiently serious to warrant the action. The second positive drug test shall result in disciplinary action up to and including job termination. Probationary employees may be discharged for any violation of this drug and alcohol policy and need not be offered rehabilitation in lieu of discipline.

Section 24.12. Voluntary Assistance. Employees who seek voluntary assistance for drug or alcohol abuse may not be disciplined for seeking such assistance. All requests from employees for assistance shall remain confidential. Employees shall be entitled to take accrued sick leave, vacation, compensatory time or leave without pay during absences required as part of the rehabilitation process. Any leave of absence is governed by C.O. § 155.10.

Section 24.13. Test Results. Unless the City has complied substantially with all safeguards and procedures specified herein are followed, test results may not be relied upon or serve as a basis of any discipline or referral to rehabilitation. Minor or trivial deviations that do not affect the integrity and reliability of the testing process shall not invalidate the test results.

Section 24.14. Return-to-Duty Testing. Before an employee who has been found to be in violation of the prohibitions set out in this Article, may return to duty, the employee must successfully undergo testing for alcohol and controlled substances. The results of the alcohol test must be less than 0.02 and the controlled substance test must be negative.

Any employee whose return to duty test results are greater than 0.02 grams of the employee's breath for alcohol or positive for controlled substances shall be terminated from employment.

Any costs associated with these tests shall be the responsibility of the employee at the time the test is administered and shall be subtracted from the employee's last pay.

Section 24.15. Follow-up Testing. When an employee has been found to be in violation of the prohibitions set out in this Article, and the SAP has determined that the employee needs assistance in resolving alcohol or substance abuse problems, the employee will be subject to a minimum of six (6) unannounced follow-up tests over twelve months for thirty-six (36) months or as directed by the SAP.

Any employee whose follow-up test results are greater than 0.02 grams of the employee's breath for alcohol or positive for controlled substances shall be terminated from employment. Any costs associated with these tests are the responsibility of the employee at the time the test is administered.

ARTICLE 25 **INSURANCE**

Section 25.1. Coverage Provided. The City shall continue to provide health and dental insurance coverage for all full-time employees and any eligible members of his/her immediate family, as defined by the City's health and dental insurance programs. The coverage, co-pays, and deductibles offered shall be the same as that offered to other eligible full-time employees of the City. An employee may choose coverage either (1) for himself/herself, or (2) for himself/herself and eligible members of his/her immediate family. The City shall pay premium costs for health and dental insurance coverage, except for any premium costs to be paid by the employee as set forth in Section 25.2.

Section 25.2. Member Premium Costs. Through at least December 31, 2011 employees shall continue to pay the current contribution of nine percent (9%) of the premium for dependent coverage or ninety dollars (\$90) per month, whichever is lesser. Employees will incur an increase in their contribution only if all other eligible City employees covered by insurance incur an increase in contributions, including those employees represented by other labor organizations.

In the event that all other eligible City employees covered by insurance incur an increase in contributions, employees will incur the same increase that all other City employees incur; provided that for year 2012 the premium will not exceed the lesser of nine percent (9%) or one hundred and five dollars (\$105) per month, and on or after January 1, 2013 until December 31, 2013 the premium shall not exceed the lesser of ten percent (10%) or one hundred and twenty dollars (\$120) per month.

Section 25.3. Member Co-Pays.

Any member co-pay (e.g., prescription co-pay, other co-pay) may be increased provided that the same increase(s) would be applicable to all other groups of represented employees and to all groups of non-represented employees by Ordinance.

Section 25.4. Life Insurance. The City shall provide life insurance and pay the premiums for coverage with a death benefit of forty thousand dollars (\$40,000), of group term life insurance for a full-time employee less than sixty-five (65) years of age. Such coverage shall include double indemnity for accidental death and disability, including where an employee is killed in the line of duty.

Section 25.5. Administration.

- A. The Health, Dental, Life and Liability Insurance Programs shall be administered by the City Manager or designee, who is authorized to make such reasonable rules and regulations as may be found necessary, from time to time, for its proper administration.
- B. The City, at its discretion, may designate an insurance agent, carrier consultant, or third party administrator for the purpose of administering and/or obtaining health, dental, life and liability insurance programs.
- C. The City shall maintain substantially the same level of benefits (e.g., eligibility requirements, spousal exclusions, covered procedures, pharmaceutical schedules, charges, fees, deductibles, copayments, etc.) applicable to all other groups of represented employees and to all groups of non-represented employees by Ordinance; however, the City is not financially obligated to absorb any cost which would result from administrative program changes, cost containment measures, or other uniform changes, as such changes or measures would be approved by the Ohio Department of Insurance to be made by insurance carriers or their agents, and over which the City has no control.
- D. The City may, at its discretion, change insurance carriers for the purpose of providing substantially the same level of benefits to bargaining unit employees, or to effect cost-containment measures which permit the continuation of such level of benefits. The City shall not be liable for premiums or other changes for the benefit of an employee removed for disciplinary reasons.

ARTICLE 26
DISABILITY SEPARATION

Section 26.1. Medical and Psychological Examination.

- A. The City Manager or designee may require that an employee submit to a medical or psychological examination. Such examination shall be conducted by a licensed practitioner approved in advance by the Human Resources Administrator. Prior to the examination, the City Manager shall supply the examining practitioner with facts relating to the perceived disabling illness, injury, or condition, and shall supply additional information including physical and mental requirements of the employee's position; duty statements; job classification specifications; and position descriptions. The cost of the examination shall be paid by the City. Both the City Manager and the employee or the employee's designated doctor shall receive the results of that examination and related documents.
- B. Employee's failure to appear for examination. An employee's refusal to submit to the examination, the unexcused failure to appear for an examination, or the refusal to release the results of an examination amounts to insubordination, punishable by the imposition of discipline up to and including removal.

Section 26.2. Involuntary Disability Separation.

- A. The City Manager or his designee shall request that an employee submit to a medical or psychological examination, conducted in accordance with Section 26.1 of this Article, prior to involuntary disability separating the employee unless the employee is hospitalized at the time such action is to be taken. If the employee's physician disagrees with the opinion of the City's physician, the City and the employee will select a third physician who is a specialist in the area at issue.
- B. When the City Manager has received the results of a medical or psychological examination determining that an employee is incapable of performing the essential job duties of the employee's assigned position due to a disabling illness, injury, or condition, the City Manager may institute pre-separation proceedings. The City will not institute pre-separation proceedings if the member's condition is unknown, the member is participating in a rehabilitation program or has a disability application pending. In any event, under those proceedings, a hearing shall be scheduled and advance written notice of at least seventy-two (72) hours shall be provided to the employee. If the employee does not waive the right to a hearing, then at that hearing the employee has a right to examine the City's evidence of disability, to rebut that evidence, and to present testimony and evidence on the employee's own behalf.
- C. If the City Manager determines, after weighing the testimony presented and evidence admitted at the pre-separation hearing, that the employee is capable of performing his or her essential job duties, then the involuntary disability process shall cease and the employee shall be considered fit to perform his or her essential job duties. If the City Manager determines, after weighing the testimony presented and the evidence admitted at the pre-separation hearing, that the employee is unable to perform his or her essential job duties, then the City Manager shall issue an involuntary disability separation order. Prior to this a reasonable attempt will be made to return the member to his/her former position.

Section 26.3. Voluntary Disability Separation. An employee who is unable to perform the essential job duties of his or her position due to a disabling illness, injury, or condition may request a voluntary disability separation. A voluntary disability separation occurs when an employee does not dispute his or her inability to perform the essential job duties of his or her position due to a disabling illness, injury, or condition.

- A. The City Manager may grant an employee's request for voluntary disability separation or may require the employee to submit to a medical or psychological examination pursuant to 26.1. If the examination supports the employee's request, the City Manager shall grant the employee's request for voluntary disability separation. If the medical examination does not support the employee's request, the City Manager shall not approve the employee's request for voluntary disability separation.

Section 26.4. Right to Reinstatement.

- A. Right to reinstatement. An employee that is granted a voluntary disability separation or is involuntarily disability separated shall retain the right to be reinstated to his or her position for one (1) year from the date that the employee is no longer in active work status due to a disabling illness, injury, or condition upon satisfactory proof that the

employee can perform the essential functions of the position. The City shall reinstate the employee to his or her former position if said position is still open. The decision to reinstate is subject to the same criteria and procedures as an initial determination of disability. An employee may submit a written request for reinstatement from a voluntary disability separation with the City Manager or his designee within the one (1) year period.

- B. The effective date of separation, for the purpose of reinstatement, shall be based on the date in which the employee was no longer in active work status due to the disabling illness, injury, or condition. The total continuous time of absence due to the disabling illness, injury, or condition shall not exceed one (1) year for purposes of reinstatement rights under this section.

ARTICLE 27

SHORT TERM AND LONG TERM DISABILITY

Section 27.1. Eligibility. Each full-time employee is eligible for the short-term medical disability program and each full-time non-vested employee is eligible for the long term medical disability program for non-work related illnesses and injuries. Such illnesses and injuries include, but are not limited to serious diseases; disabilities caused by pregnancy, child birth, or related medical conditions or physical impairment due to accidents. The City may require certification of an employee's continuing illness or disability by a physician.

Section 27.2. Short-Term Program. The short term program provides for payment to the member from the forty-sixth (46th) day of accident or illness for a maximum of one hundred eighty (180) days, at sixty percent (60%) of the employee's gross wages.

Section 27.3. Long-Term Program. The long-term program provides for payment to the employee from the one hundred eighty-first (181st) day of the accident or illness for a maximum of two (2) years at sixty percent (60%) of the employee's gross wages in effect at that time.

Section 27.4. Use of Accumulated Sick Leave. The employee may elect to use all or part of his accumulated sick leave in order to make up any difference between one hundred percent (100%) of his gross wages and the amount which he receives under the disability programs.

Section 27.5. Exhaustion of Sick Leave. If an employee exhausts all sick leave benefits, other approved leave may be granted by the City Manager.

Section 27.6. Reduction of Compensation. If, while receiving payments for short-term or long-term disability, the employee performs work for the City or another employer, the amount of payment under the disability program shall be reduced by the compensation which he receives during that time period.

Section 27.7. Step/Merit Increases During Disability. While an employee is paid short-term or long-term disability benefits pursuant to this section, step/merit increases would not be awarded until returning to work. The City shall maintain applicable insurance benefits for the employee.

Section 27.8. Return to Work. Upon returning to work following a short or long-term medical disability leave, an employee must present written certification from a physician attesting to the employee's ability to perform the duties listed in the job description.

Section 27.9. Denial of Disability Claim. In the event that a disability claim is denied by the Third Party Administrator, the employee may follow the appeal process in the Employee Benefit Plan in the Employee Handbook.

Section 27.10. Administration of Program. The City Manager or his designee shall be responsible for the administration of the short-term and long-term disability programs.

ARTICLE 28 **WAGE AND BENEFITS**

Section 28.1. Wages. For the term of this Agreement, wages shall be paid according to the documents marked "Appendix A" attached hereto.

Section 28.2. Increases. Employees in the bargaining unit shall receive wage increases as set forth in the documents marked "Appendix A" and attached hereto.

The wage scales in Appendix A reflect the following:

Effective as of the beginning of the pay period that includes January 1, 2012, the Street Workers and Utility Workers shall be combined into one classification of Service Worker, the wage scale that applied to Utility Worker shall then apply to the Service Workers, and Street Workers that are in steps shall be placed on the scale at their existing step (e.g., Step 3 Street Worker would go to Step 3 Service Worker). The wage scale shall then be adjusted as follows:

Also effective the beginning of the pay period that includes January 1, 2012, the base wage rate will be increased by one percent (1%).

Also, effective the date the fringe benefit OPERS pick up being paid by the City to OPERS is reduced from ten percent (10%) to six percent (6%), the pay scale shall be increased by another four percent (4%) (but not compounded on the 1%). That date is anticipated to be the beginning of the first full pay period following ratification of this Agreement by the parties. See Article 32 Retirement herein.

Effective the beginning of the pay period that includes January 1, 2013, the base wage rate will be increased by one percent (1%).

Also, effective the date the fringe benefit OPERS pick up being paid by the City to OPERS for the bargaining unit employees is reduced from six percent (6%) to three percent (3%), the pay scale shall be increased by three percent (3%) (but not compounded on the 1%). That date shall be the beginning of the pay period that includes January 1, 2013. See Article 32 Retirement herein.

Effective the date the fringe benefit OPERS pick up being paid by the City for the bargaining unit employees is reduced from three percent (3%) to zero percent (0%), the pay scale shall be increased by three percent (3%). That date shall be the beginning of the pay period that includes January 1, 2014. See Article 32 Retirement herein.

Where the Agreement provides for an annual increase due to a reduction in OPERS fringe benefit pickup and another general increase in the pay scale for that year, they shall be added together, but not compounded on each other.

Newly hired employees shall be paid the wages in Step 1 of the classification in which they are hired. On January 1st of each year, these employees shall receive the increase in their current Step, as set forth in Appendix A. On their anniversary date, these newly hired employees shall be paid the wages indicated in the next Step for the applicable year, as set forth in Appendix A. For example, an employee hired on June 1, 2012 as a full-time Service Worker shall be paid the hourly wage indicated on Appendix A at 2012, Step 1 (\$16.9627). On January 1, 2013, this employee's hourly wage will increase to the wage indicated on Appendix A at 2013, Step 1 (\$18.3399) On June 1, 2013, the employee's anniversary date, his/her hourly wage shall increase to the wage indicated on Appendix A at 2013, Step 2 (\$19.2602), etc.

Part-time Service Workers shall be paid as follows:

| | |
|--|-----------|
| Pay period including January 1, 2012 | \$18.6042 |
| Pay period 2012 OPERS swap implemented | \$19.3410 |
| Pay period including January 1, 2013 | \$20.1146 |
| Pay period including January 1, 2014 | \$20.7181 |

In addition to the above, the City plans to conduct performance evaluations of all employees in the bargaining unit on their anniversary hire date. Those employees receiving an unsatisfactory evaluation will be subject to discipline in accordance with this Agreement.

Section 28.3. Application of Pay Rates. The rates of pay set forth in Section 28.1 are based on full-time employment of forty (40) hours in a work week and shall be used to calculate salaries for hours actually worked or in paid status of the appropriate pay range.

Section 28.4. Uniforms. The parties agree to abide by the uniform policy in effect at the time of execution of this Agreement, subject to amendment through the Labor Management Committee. In amending the policy in the Labor Management Committee, the parties shall provide: that the Employer will provide employees with an initial issue of uniform including shoes and any other items suitable to the season in the Employer's judgment; and that employees may be reimbursed for shoes and pants and any other items that the parties agree to include within this clause, up to the value of any same type of item on the Employer's contract list and subject to the Employer's approval. Employees who are hired will be required to sign an agreement agreeing to reimburse the Employer for outerwear items that are not returned once the employee is no longer employed by the City. The annual uniform allowance shall be \$328 and is for maintenance of the uniform after the first year of employment per the policy.

Section 28.5. The City shall provide a direct deposit program. All bargaining unit employees shall be required to participate in the direct deposit program.

ARTICLE 29
FAMILY AND MEDICAL LEAVE

Section 29.1. Statement of Policy. In accordance with the Family and Medical Leave Act (FMLA), effective August 5, 1993 and amended January 16, 2009, the City of Upper Arlington will grant job protected unpaid family and medical leave to eligible male or female employees for up to twelve (12) weeks per twelve (12)-month period, measured forward from the date any first FMLA leave begins. FMLA provides for such leave for any one or more of the following reasons:

- A. For incapacity due to pregnancy, prenatal medical care or child birth, to care for such child after birth or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the twelve [12]-month period following the child's birth or placement with the employee); or
- B. In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or
- C. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.
- D. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status, including a member of the National Guard or Reserves, in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- E. To care for a covered servicemember with a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation or therapy; or is in outpatient status; or is on the temporary disability retired list. Employees in this category are eligible for up to twenty-six (26) weeks in a single 12-month period, which includes the regular FMLA twelve (12) weeks.

During FMLA leave, the employer will maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA, most employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Section 29.2. Definitions.

- A. "*Child*": Means a child either under eighteen (18) years of age, or eighteen (18) years of age or older who is incapable of self-care because of a mental or physical disability. An

employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.

- B. "Spouse": Does not include unmarried domestic partners. If both spouses work for the City, their total leave in any twelve (12)-month period may be limited to an aggregate of twelve (12) weeks if leave is taken for either the birth or placement for adoption or foster care of a child or to care for a sick parent.
- C. "12-Month Period": Means a twelve (12) month period measured forward from the employee's first FMLA leave request.
- D. "Serious Health Condition": Means an illness, injury, impairment, or a physical or mental condition that involves one of the following:
 - 1. Hospital Care: An overnight stay (inpatient) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care; or
 - 2. Absence Plus Treatment: Any period of incapacity requiring absence from work for more than three (3) calendar days (including any subsequent treatment or period of incapacity relating to the same condition) AND that involves continuing treatment by a health care provider; or
 - a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under the direct supervision of the health care provider, or by a provider of health services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or
 - b. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
 - 3. Pregnancy: Any period of incapacity due to pregnancy, or for prenatal care.
 - 4. Chronic Conditions Requiring Treatments: A chronic serious health condition which:
 - a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under the direct supervision of a health care provider;
 - b. Continues over an extended period of time (including recurring episodes of a single underlying condition): and,
 - c. May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.)

5. Permanent/Long-term Conditions Requiring Supervision: A period of incapacity, which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. (Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.)
 6. Multiple Treatments (Non-Chronic Conditions): Any period of absence to receive multiple treatments (including any period of recovery from) by a health care provider or by a provider of health care services under orders of or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc), severe arthritis (physical therapy), and kidney disease (dialysis).
- E. "Continuing Treatment": Means a regimen that includes, for example, a course of prescription medicine (e.g. an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated with a visit to a health care provider.
- F. "Incapacity": Means the inability to work, attend school or perform other regular daily activities due to serious health condition, treatment therefore, or recovery therefrom.
- G. "Treatment": Includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations or dental examinations.
- H. "Military Caregiver Leave": Means twenty-six (26) work weeks in a single 12-month period of FMLA job-protected leave available to eligible employees who are family members of covered service members to care for a service member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty and active duty.
- I. "Qualifying Exigency Leave": Twelve (12) workweeks of FMLA job protected leave available to eligible employees with a covered military member serving in the National guard or Reserves to use for "any qualifying exigency" arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation. Qualifying exigencies may include short-notice deployment, attending certain military events and related activities, arranging for alternative childcare and school activities, addressing certain finance and legal arrangements, attending certain counseling sessions, rest and recuperation attending post-deployment reintegration briefings, and additional activities not encompassed in other categories, but agreed to by employer and employee.

Section 29.3. Coverage and Eligibility.

To be eligible for family/medical leave an employee must:

- A. Work at a worksite which has fifty (50) or more employees or be within seventy-five (75) miles of a worksite that has fifty (50) or more employees;
- B. Have worked for the City for at least twelve (12) months; and
- C. Have worked at least one thousand two hundred fifty (1,250) hours over the previous twelve (12) month period.

Section 29.4. Intermittent or Reduced Leave.

- A. An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when "medically necessary."
 - 1. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. Medical certification must be provided by the employee within fifteen (15) days after requested, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
 - 2. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.
 - 3. Employee must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operation.
- B. An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the department's consent.
- C. Leave due to qualifying exigencies may be also taken on an intermittent basis.
- D. For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a pro rata basis. A weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave will be used for calculating the employee's normal workweek.

Section 29.5. Substitution of Paid Leave Time.

- A. Employees may choose or the City may require an employee to substitute accrued paid leave (sick leave, vacation leave, personal leave, or comp time) time for any part of a family/medical leave taken for any reason normal leave policies apply. If an employee uses

paid leave time as part of their family/medical leave, it will be counted as part of the total twelve (12) weeks or twenty-six (26) weeks, whichever is permitted under the FMLA eligibility requirements.

- B. When an employee has used accrued paid leave time for a portion of family/medical leave, the employee may request an additional period of unpaid leave which may be granted, provided the total of paid and unpaid leave provided does not exceed twelve (12) weeks or twenty-six (26) weeks, whichever is permitted under the FMLA eligibility requirements.
- C. In order to use paid leave for FMLA leave, the employee must comply with the City's normal paid leave policies.

Section 29.6. Notice Requirement.

- A. An employee is required to give thirty (30) days notice in the event of a foreseeable leave. A "Request for Family/Medical Leave" form (available in the City Manager's office) should be completed by the employee and returned to the City. In unexpected or unforeseeable situations, an employee should provide as much notice as soon as practicable, usually verbal notice within one (1) or two (2) business days of when the need for leave becomes known, followed by a completed "Request for Family/Medical Leave" form.
- B. If an employee fails to give thirty (30) days notice for a foreseeable leave with no reasonable excuse for the delay, the leave may be denied until thirty (30) days after the employee provides notice.
- C. Employee must provide sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include, but is not limited to, that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave.
- D. Employee must inform the City if the requested leave is for a reason for which FMLA was previously taken or certified. Employee may be required to provide a certification and periodic recertification supporting the need for leave.

Section 29.7. Medical Certification.

- A. For leaves taken because of the employee's or a covered family member's serious health condition or for military leave, the employee must submit a completed Department of Labor applicable certification form (available in the City Manager's office) and return the certification to the Deputy City Manager-HR. Medical certification must be provided by the employee within fifteen (15) days after requested, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
- B. The City may require a second or third opinion (at its own expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.

- C. All documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.

Section 29.8. Effect on Benefits.

- A. An employee granted a leave under this policy will continue to be covered under the City's group health insurance plan, life insurance plan and long-term disability plan (if applicable) under the same conditions as coverage would have been provided if they had been continuously employed during the leave period.
- B. Employee contributions will be required either through payroll deduction or by direct payment to the City Manager's Office. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
- C. If an employee's contribution is more than thirty (30) days late, the City may terminate the employee's insurance coverage.
- D. If the City pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the City for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.
- E. If the employee fails to return from unpaid family medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within thirty (30) days of failure to return for either reason), the City may seek reimbursement from the employee for the portion of the premiums paid by the City on behalf of the employee (also known as the employer contribution) during the period of leave. It shall be considered an unauthorized absence if the employee does not return from FMLA on the date the physician approved as the employee's "return to work" date.
- F. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave but will not lose anything accrued prior to leave.
- G. Worker's Compensation: If the employee is on FMLA leave as a result of an on-the-job accident and/or injury, the provisions of the Worker's Compensation laws shall apply and the leaves shall run concurrently.

Section 29.9. Job Protection.

- A. If the employee returns to work within twelve (12) weeks or twenty-six (26) weeks, whichever is applicable, following a family/medical leave, he/she will be reinstated to

his/her former position or an equivalent position with equivalent pay, benefits, status and authority.

- B. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.
- C. If the employee fails to return within twelve (12) weeks or twenty-six (26) weeks, whichever is applicable, following a family/ medical leave, the employee may be reinstated to his/her same or similar position, only if available, in accordance with applicable laws. While the City observes all applicable laws, employment may be terminated at that time or thereafter.

Section 29.10. Family and Medical Leave Act (FMLA) Forms to Be Submitted By the Employee.

- A. Employee shall be required to complete the following forms when requesting FMLA and upon return to duty from an FMLA qualifying event.
 - 1. The Request for Family Medical Leave
 - 2. Fitness for Duty Certification
- B. The U.S. Department of Labor permits an employer to require employees and their family to submit a timely, complete, and sufficient certification to support a request for FMLA and to obtain or retain the benefit of FMLA protection. 29 U.S.C. §§ 2613, 2614(c) (3). Failure to provide a complete and sufficient medical certification may result in a denial of the FMLA request. 20 C.F.R. § 825.313. The employee must return the certification form to the employer within at least 15 days. 29 C.F.R. §825.305(b).
 - 1. Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)
 - 2. Certification of Health Care Provider for Family Member's Serious Health Condition (Family and Medical Leave Act)
 - 3. Certification of Qualifying Exigency for Military Family Leave (Family Medical Leave Act)
 - 4. Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave (Family Medical Leave Act)
- C. The City shall notify employees whether the employee is eligible under FMLA. If the employee is eligible, the City's notice shall specify any additional information required as well as the employee's responsibilities. If the employee is not eligible, the City must provide a reason for the ineligibility. The City shall inform the employee if the requested leave will be designated as FMLA-protected and the amount of leave counted against the employee's

leave entitlement. If the City determines that leave is not FMLA-protected, the City will notify the employee.

1. Notice of Eligibility and Rights & Responsibilities (Family and Medical Leave Act)
2. Designation Notice (Family and Medical Leave Act)

ARTICLE 30 **CDL ALCOHOL AND DRUG TESTING POLICY**

Section 30.1. Questions Regarding Policies. Any questions regarding these policies or procedures should be directed to the Assistant City Manager. For purposes of this policy, the “Employer” is the City of Upper Arlington. This Article will be considered amended as necessary from time to time to comply with applicable state and federal law and regulations.

Section 30.2. Operators of Commercial Motor Vehicles. All employees who operate a commercial motor vehicle (CMV) are subject to this policy. This includes, but is not limited to:

1. Full-time regularly employed drivers; casual, intermittent, or occasional drivers.
2. For the purposes of pre-duty testing only, the term “driver” includes a person applying to the Employer to drive a CMV.
3. Employees promoted or transferred into a position requiring the operation of a CMV are treated as new hires for the purposes of this policy and pre-employment testing requirements.

Section 30.3. Safety Sensitive Functions. For purposes of this policy, safety sensitive functions include:

1. all time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the Employer;
2. all time inspecting equipment as required or inspecting, servicing, or conditioning any CMV at any time;
3. All time spent at the driving controls of a CMV in operation;
4. All time, other than driving time, in or upon any CMV;
5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time spent by the driver performing functions relating to accidents;

7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Section 30.4. Prohibited Actions. Drivers covered by this policy are prohibited from engaging in the following:

1. Reporting to duty, remaining on duty, or performing a safety sensitive function while having an alcohol concentration of 0.02 or greater;
2. Reporting to duty, remaining on duty, or performing a safety sensitive function while using a controlled substance (including prescription drugs, unless the physician has advised the driver that the substance does not adversely affect the driver's ability to operate a CMV) or if the driver tests positive for controlled substances;
3. Possessing alcohol while on duty or operating a CMV;
4. Using alcohol or controlled substances while on duty;
5. Performing safety sensitive functions within four (4) hours after using alcohol;
6. Using alcohol for eight (8) hours following an accident in which the driver is required to take a post-accident alcohol test or until the driver undergoes a post-accident alcohol test, whichever occurs first;
7. Refusing to submit a post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance test.
8. Engaging in conduct to manipulate or falsify any alcohol or drug testing.

Section 30.5. Violations of Prohibitions. If a driver/employee violates any of the prohibitions listed in Section 30.4 of this policy, the following consequences will result:

1. The driver may be disciplined up to and including termination. However, any discipline may, at the sole discretion of the Employer, or his/her designee, be mitigated by the willingness of the employee to complete the recommended rehabilitation program. In no event shall an employee be permitted more than one (1) chance at rehabilitation. A second offense under this policy shall result in the employee's termination from employment.
2. The driver shall be immediately removed (taken out of service) from the safety sensitive position.

If the driver's employment is not terminated, the driver may be required to apply for Family and Medical Leave in accordance with the procedures set forth in that policy. A driver will not be permitted to return to work until all required

evaluations, treatment, and/or rehabilitation are completed. At the Employer's discretion, a driver may be permitted to perform non-safety sensitive functions if the Employer determines that such a position is available. If no such non-safety sensitive position is available, the employee will be permitted to apply for accumulated paid leave (e.g., sick, vacation, compensatory, personal, etc.) If no paid leave is available, the employee may make a written request to the City Manager with justification for an unpaid leave of absence (e.g., Family and Medical Leave, disability leave, personal leave, or other unpaid leave of absence) in accordance with this policy. Request must be made prior to the expiration of paid leave.

3. The driver shall be provided with information regarding the services available for alcohol and substance abuse.
4. The driver shall be evaluated by a substance abuse professional (SAP), and may not perform safety sensitive functions until all recommended counseling and treatment is completed.

The driver may be required to sign a release form allowing the SAP to release information regarding the driver's evaluation, treatment plan, and progress to the City.

Any costs associated with the evaluation and prescribed counseling, treatment, or rehabilitation program are the responsibility of the employee unless otherwise covered by the Employer-sponsored medical benefit plan to which the employee belongs.

Failure to complete or participate in prescribed counseling rehabilitation program shall result in the employee's termination.

5. The driver will be subject to re-evaluation, return-to-duty testing, and unannounced follow-up testing. Any costs associated with these tests shall be the responsibility of the employee at the time the test is administered.

Section 30.6. Use of Medication. A driver is required to report the use of any prescription or non-prescription medicines containing alcohol or any of the prohibited controlled substances listed in Section 30.8, below, to the Deputy City Manager-HR (and must immediately tell immediate supervisor that use of medicine was reported to HR, but not which medicine). At the time the medication is prescribed, the driver, shall inquire as to whether the medication will impair the driver's ability to perform safety sensitive functions. The driver shall be required to produce a signed statement from the treating physician stating whether the medication does or does not impair the driver's ability to perform safety sensitive functions and/or interfere with the safe performance of the driver's job.

If the treating physician determines that the medication will impair the driver's ability to perform safety sensitive function, at the Employer's discretion, the employee may be permitted to perform non-safety sensitive functions, if the Employer determines that such a position is

available at that time. If no such position is available, the employee will be permitted to use accumulated paid leave and the employee may be required to follow the Employer's FMLA policy and procedures if the absence qualifies. If the driver does not have sufficient paid leave to cover the period of absence, the driver may make a written request to the City Manager with justification for unpaid leave in accordance with this agreement. Request must be made prior to the expiration of paid leave.

Section 30.7. Submission to Testing. A driver will be required to submit to testing for alcohol and/or controlled substances under the following circumstances:

1. **Pre-duty testing:** Prior to the first time a driver performs a safety sensitive function, the driver will be tested for controlled substances. The driver will not be permitted to perform safety sensitive functions unless the controlled substance test results are negative.

The Employer shall arrange the time and location for the preemployment test. The applicant is responsible for reporting to the collection site for the test. The Employer will be responsible for only the cost of the test itself. The applicant/employee is responsible for any other costs associated with the test at the time the test is administered. These same requirements shall apply when an existing employee moves from a non-driver position into a position requiring a CDL.

2. **Post-accident testing:** As soon as practicable following: (a) an accident in which a fatality occurs, (b) an accident in which an injury is treated away from the scene and the driver/employee receives a citation for a moving violation arising from the accident, or (c) an accident in which a vehicle is required to be towed from the scene and the driver/employee receives a citation for a moving violation arising from the accident; the driver shall be tested for alcohol and controlled substances. The Employer shall cease attempts to administer the test eight (8) hours following the accident for alcohol and after thirty-two (32) hours for controlled substances.

The driver shall be transported to the collection site by a representative of the City. Following the test shall not be permitted to perform safety-sensitive functions until a negative controlled substance test result is reported.

Following a breath alcohol test which shows no detectable amount of alcohol, the driver shall return to work, however he/she will not be permitted to perform safety sensitive functions until the controlled substance test results are available.

Following a breath alcohol test which shows a detectable level of alcohol of 0.02 to 0.039, the driver will be taken home and permitted to apply for accumulated paid leave. The driver may not perform safety sensitive functions for a minimum of twenty-four (24) hours. An employee with a breath alcohol test of less than 0.04 shall also be subject to appropriate disciplinary measures in accordance with City policy.

Following a breath alcohol test result indicating a concentration of 0.04 or greater, or following a positive controlled substance test result, if the driver's employment is not terminated, the driver may apply for accumulated paid leave or unpaid leave of absence, and the consequences listed in Section 30.5, above, shall result.

3. Random testing: A minimum number of drivers (currently 25% for alcohol and 50% for controlled substances) annually will be randomly selected using a scientifically valid method in which each driver will have an equal chance of being tested each time selections are made. The dates for testing shall be unannounced and spread throughout the calendar year. When a driver is selected for testing, he/she shall cease doing the safety sensitive function and proceed to the test site immediately. If a driver is randomly selected for an alcohol test and that driver is not currently performing, just about to perform, or just finished performing a safety sensitive function, the driver's selection will be kept confidential until the next time that driver performs a safety sensitive function.

Following a breath alcohol test which shows a detectable level of alcohol of 0.02 to 0.039, the driver will be taken home and permitted to apply for accumulated paid leave. The driver may not perform safety sensitive functions for a minimum of twenty-four (24) hours. An employee with a breath alcohol test of less than 0.04 shall also be subject to appropriate disciplinary measures in accordance with this agreement.

Following a breath alcohol test result indicating a concentration of 0.04 or greater, or following a positive controlled substance test result, if the driver's employment is not terminated, the driver may apply for accumulated paid leave or unpaid leave of absence, and the consequences listed in Section 30.5, above, shall result.

4. Reasonable suspicion testing: A trained supervisor or official may require a driver to undergo testing for alcohol or controlled substances based upon specific, contemporaneous, articulable observation concerning the appearance, behavior, speech, or body odors of the driver. If a driver is required to undergo testing under this section, the driver must immediately cease to perform the safety sensitive function and he/she will be transported to the collection site by a representative of the City. If a driver is required to undergo reasonable suspicion controlled substance testing, such employee shall not be permitted to perform safety sensitive functions until a negative controlled substance test result is reported.

Following a reasonable suspicion controlled substance test, the driver will be permitted to apply for accumulated paid leave or an unpaid leave of absence until the test results are available. If both the alcohol and the controlled substance test results are negative, and no other work rule violation(s) have occurred, the employee shall be returned to his/her position and credited for the used paid leave or compensated for the period of leave without pay at the employee's regular hourly rate of pay.

Following a breath alcohol test which shows a detectable level of alcohol of 0.02 to 0.039, the driver will be taken home and permitted to apply for accumulated paid leave. The driver may not perform safety sensitive functions for a minimum of twenty-four (24) hours. An employee with a breath alcohol test of less than 0.04 shall also be subject to appropriate disciplinary measures in accordance with this agreement.

Following a breath alcohol test result indicating a concentration of 0.04 or greater, or following a positive controlled substance test result, if the driver's employment is not terminated, the driver may apply for accumulated paid leave or unpaid leave of absence, and the consequences listed in Section 30.5, above, shall result.

The Employer will cease attempts to administer the test eight (8) hours after the observation was made.

5. Return-to-duty testing: Before a driver who has been found to be in violation of the prohibitions section of this policy, set out in Section 30.4, may return to duty in a position requiring the performance of safety sensitive functions, the driver must undergo testing for alcohol and controlled substances. The results of the alcohol test must show less than 0.02 concentration if the offense involved alcohol and the controlled substance test must be negative if the offense involved controlled substances. Any driver whose return to duty test results are 0.02 or greater for alcohol or positive for controlled substances will be terminated from employment. Any costs associated with these tests shall be the responsibility of the employee at the time the test is administered.
6. Follow-up testing: When a driver has been found to be in violation of the prohibitions section of this policy, set out in Section 30.4, and the SAP has determined that the driver needs assistance in resolving alcohol or substance abuse problems, the driver will be subject to a minimum of six (6) unannounced follow-up tests within the first twelve (12) months as directed by the SAP. Any driver whose follow-up test results are 0.02 or greater for alcohol or positive for controlled substances will be terminated from employment. Any costs associated with these tests are the responsibility of the employee at the time the test is administered.

Section 30.8. Definition of Controlled Substances. Controlled substances for the purpose of this policy include all legal, illegal and prescription drugs containing marijuana, cocaine, opiates (e.g., codeine, morphine, etc.), PCP, and amphetamines. All drug screening and confirmation tests shall be conducted by a laboratory certified under the DHHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs." The Employer and the laboratory shall have a clear and well-documented procedure for collection, shipment, and accessing of urine specimens. The Employer, the collection site, and the laboratory shall follow the procedures in 49 CFR Part 40, including an evidentiary chain of custody and control and split sample collection and testing. All costs associated with split sample testing are the responsibility of the employee. The collection site person is responsible for maintaining the integrity of the specimen collection and transfer

process. All procedures shall be outlined in writing and provided to Employer representatives and donors.

Section 30.9. Administration of Breath Tests. All alcohol breath tests shall be administered by a trained breath alcohol technician (BAT) or a law enforcement officer certified to conduct such tests. Only evidential breath testing (EBT) devices shall be used along with the prescribed breath alcohol testing form. The Employer and the testing facility shall follow the procedures in 49 CFR Part 40.

Section 30.10. Refusal to Submit to Test. Refusal to submit to any of the alcohol or controlled substance tests required by this policy will be treated as a positive result and insubordination and will result in the driver's termination from employment. Actions constituting a refusal to submit to a test include:

1. Failing to provide adequate breath for alcohol testing;
2. Failing to provide adequate urine for controlled substance testing;
3. Engaging in conduct that clearly obstructs the testing procedure (e.g., adding substance to the test or body to dilute or falsify the test results);
4. Failing to remain readily available for a post-accident test;
5. A failure to produce adequate breath or urine for testing shall be treated as a positive test. However, the employee may voluntarily submit a blood specimen as a vehicle for rebutting the presumption.

Section 30.11. Positive Test. Drivers who have been tested for alcohol with the results showing a concentration of 0.02 but less than 0.04 will not be permitted to perform safety sensitive functions for twenty-four (24) hours following administration of the test. Discipline may be administered in accordance with City policy. Employees may be required to submit to an evaluation, counseling, and/or treatment or rehabilitation for subsequent violations of this section.

Section 30.12. Availability of Information. Information regarding the effects of alcohol and controlled substance use on an individual's health, work, and personal life, and information about drug and alcohol counseling, rehabilitation, and employee assistance programs is available through the City Manager's Office, and will be periodically provided to employees.

Employees are encouraged to voluntarily admit problems with drugs and alcohol prior to violating Employer policies. If an employee voluntarily enters into counseling or rehabilitation he/she will be permitted to apply for accumulated paid leave, FMLA leave and/or leave without pay. Any costs associated with a voluntary counseling or rehabilitation program are the responsibility of the employee, unless otherwise covered by the Employer-sponsored medical benefit plan to which the employee belongs.

Section 30.13. Copies Provided. Upon written request from the driver, the Employer will promptly provide copies of any records pertaining to the driver's use of alcohol or controlled

substances including the results of any tests. The Employer may charge a reasonable fee for copies, however access to this information will not be contingent upon payment for records other than those specifically requested.

Section 30.14. Other Policies. All employees subject to this policy remain subject to all other policies, procedures, rules, regulations, and collective bargaining agreements established by the Employer under its independent authority which are not inconsistent with the requirements herein. All employees also remain subject to all other relevant federal, state, and local laws and regulations.

ARTICLE 31 **UNION REPRESENTATION**

Section 31.1. Consultation. Full-time Union, non-employee representatives of the Union may consult with employees in designated areas before the start of and at the completion of the day's work, and in addition, they shall be permitted access to work areas with prior Employer permission (which shall not be unreasonably denied) at reasonable times only for the purposes of adjusting grievances, assisting in the settlement of disputes, and for the purpose of carrying into effect the provisions and aims of this Agreement. This privilege is extended subject to the understanding that work assignments are not, in fact, interfered with.

Section 31.2. Stewards.

- A. The Employer shall recognize up to two (2) employees selected at large by the Union to act as stewards.
- B. The employee can choose one (1) steward to represent him at the Step 1 grievance proceeding.
- C. The duties of the stewards shall include, but in no way be limited to:
 - 1. investigation and processing of grievances reduced to writing;
 - 2. attending grievance hearings when requested by the aggrieved employee or the Employer;
 - 3. attending labor-management meetings or other meetings authorized by the Employer and/or this Agreement;
 - 4. any duties of the stewards or union officers as contained within the Agreement; and
 - 5. representation of an employee at a disciplinary conference when requested by the employee or the Employer.
- D. In the event an employee or Union steward attends a meeting scheduled by the Employer on an employee/steward's regularly scheduled work day, the purpose of which is to

resolve disputes arising under this Agreement or to address labor-management issues between the parties to this Agreement (i.e., predisciplinary meetings, meetings for the issuance of discipline, grievance meetings, labor-management meetings), time spent in such meeting shall be considered time worked for purposes of overtime. However, if the meeting is scheduled/rescheduled outside the steward's regularly scheduled work day at the Union's or steward's request, the time shall not be considered time worked for purposes of overtime.

Section 31.3. Bulletin Boards. The City shall provide space on bulletin boards for use by the Union to enable employees of the bargaining unit to see notices posted thereon when reporting to or leaving their work stations, or during their rest periods, with management approval of location and size. All notices shall be posted by an officer of the Local and shall relate to items of interest to the members. Union notices relating to the following matters may be posted without the necessity of receiving the Employer's prior approval:

- A. Union recreational and social affairs;
- B. Notice of Union meetings;
- C. Union appointments;
- D. Notice of Union elections;
- E. Results of Union elections;
- F. Reports of standing committees of the Union;
- G. Rulings or policies of the International Union or other labor organizations with which the Union is affiliated;
- H. Final results of grievance procedures; and
- I. Documents relating to the Union or Union business of its members.

All other notices of any kind not covered by (a) through (i) above must receive the prior approval of the Employer. Political information, including union election campaign information, or offensive, inflammatory, or derogatory material may not be posted on the bulletin board.

ARTICLE 32 **RETIREMENT**

Section 32.1. Method of Payment of Salary and Benefits. The City's method of payment of salary and the provision of fringe benefits to the employees covered by this Agreement who are participants in the Ohio Public Employees Retirement System (OPERS) are as follows:

1. In addition to the total annual salary and salary per pay period which is otherwise payable to each full-time and regular part-time employee the amount of the statutorily required employee contributions to OPERS that shall be picked up and paid as a fringe benefit by the City is set forth in Subsection 32.1(2) below. The remaining amount of the statutorily required employee contributions to OPERS shall be withheld from the employee's gross pay and picked up by the City, commonly referred to as a salary reduction pick up.

- | | | |
|----|---|--|
| 2. | Effective Date of: <u>Revised Pickup:</u> | % of Employee's "Salary" City <u>Will Pay to OPERS as Fringe Benefit:</u> |
| | Start of first full payroll following ratification of this CBA ⁹ by the parties | six percent (6%) |
| | Start of pay period that includes January 1, 2013 | three percent (3%) |
| | Start of pay period that includes January 1, 2014 | zero percent (0%) |
3. The amount picked up by the City shall not be included in the employee's total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any similar purpose.
 4. The pickup shall be designated as public employee contributions and shall be in lieu of contributions to OPERS by each employee. No person subject to this pick up shall have the option of choosing to receive the statutorily required contribution to OPERS directly instead of having it picked up by the City or of being excluded from the pick-up. The City shall, in reporting and making remittance to OPERS, report that the public employee contribution for each person subject to the pickup has been made as provided in the statute. Therefore, contributions, although designated as employee contributions, are employer-paid, and employees do not have the option to receive the contributions directly. All contributions are paid by the employer directly to OPERS.
 5. If the pick-up of employee retirement contributions should no longer be permitted by state and federal law or regulations, employees shall be paid in cash for the amounts that otherwise would have been picked up under this provision.

ARTICLE 33
SERVICE CREDIT COMPENSATION

Section 33.1. Additional Compensation. As compensation for years of City service, each full-time employee shall be entitled to additional compensation based upon years of service completed anytime within the calendar year as follows:

Upon completion of five (5) years of service, the compensation shall be five hundred dollars (\$500.00), and shall increase by fifty dollars (\$50.00) for each additional year of service up to a maximum of two thousand five hundred dollars (\$2,500.00).

Section 33.2. Termination of Employment in Good Standing. An employee who terminates City service in good standing for any reason shall be paid 8.33% of the appropriate annual compensation for each month worked of the calendar year.

Section 33.3. Service Credit While on Disability. Full-time employees shall receive service credit compensation when on short or long term disability.

⁹“this CBA” means this collective bargaining agreement.

ARTICLE 34
ENTIRE AGREEMENT

Section 34.1. **Provisions.** This Contract contains the entire agreement between the parties hereto and neither party shall be bound by any agreement made prior to the execution hereof and not set forth herein; except that the parties agree to be bound by (1) the Settlement Agreement entered into by the parties in State Employment Relations Board Case No. 2003-ULP-04-0223, approved by SERB in their October 24, 2003 Directive in that case, and (2) the Memorandum of Understanding on Pay for Part-Time Employees Who Become Full-Time executed by the parties on or about October 2, 2002; and (3) the memoranda, waivers, and/or agreements that the City, the Union, and the employees signed in 2008 relating to the contracting out of Solid Waste operations.

ARTICLE 35
DURATION

Section 35.1. **Length of Agreement.** This Agreement shall be effective as provided in Section 1.1 of this Agreement and remain in effect until December 31, 2014.

SIGNATURE PAGE

This Agreement signed by the parties as of Oct 29, 2012.

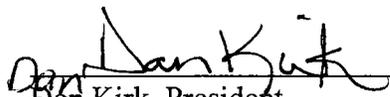
FOR THE CITY OF UPPER ARLINGTON,
OHIO

FOR TEAMSTERS LOCAL UNION NO.
284



Theodore J. Staton City Manager
City of Upper Arlington, Ohio

Joseph Valentino
on behalf of City Manager



Ben Kirk, President
Teamsters Local Union No. 284



Don Mann, Recording Secretary
Teamsters Local Union No. 284

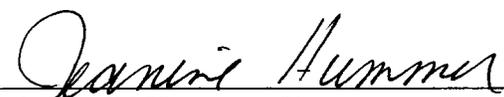


Troy Legg, Member
Teamsters Local Union No. 284



Michael Corney, Member
Teamsters Local Union No. 284

APPROVED AS TO FORM:



Jeanine Amid Hummer, City Attorney
City of Upper Arlington, Ohio

APPENDIX A

| Service Worker Effective Dates | Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | Step 6 |
|---------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| January 1, 2012 | 16.9627 | 17.8139 | 18.6651 | 19.5041 | 20.3552 | 21.2065 |
| Upon 2012 OPERS swap | 17.6345 | 18.5194 | 19.4043 | 20.2766 | 21.1614 | 22.0463 |
| January 1, 2013 | 18.3399 | 19.2602 | 20.1805 | 21.0876 | 22.0078 | 22.9282 |
| January 1, 2014 | 18.8901 | 19.8390 | 20.7859 | 21.7202 | 22.6681 | 23.6160 |

The above scales include the increases given to employees in return for their paying more for their share of OPERS.

To clarify: on each of the January 1 dates listed above, an employee will receive the rate shown for the step he or she is in at that time. An employee who was hired or promoted after January 1, 2003 will remain in that step and will advance to the next step (if any) for his or her classification on his or her anniversary date (for promotions, the anniversary date is the date of promotion). An employee who was hired on or before December 31, 2002 and is still in the classification he/she held on December 31, 2002 will continue to advance to the next step (if any) in his or her classification on January 1. In other words, the changes in Article 28 and in this Appendix A are only intended to increase the pay scale, not to change how and when an employee advances through the steps. Furthermore, the changes from Utility Worker or Street Worker to Service Worker are not considered promotions.

| | Effective Jan. 1, 2012 | Upon 2012 OPERS Swap | Effective Jan. 1, 2013 | Effective Jan. 1, 2014 |
|--------------------------|-------------------------------|-----------------------------|-------------------------------|-------------------------------|
| Part-time Service Worker | 18.6042 | 19.3410 | 20.1146 | 20.7181 |

APPENDIX B
(Reserved)

APPENDIX C
SETTLEMENT AGREEMENT

This Settlement Agreement (hereinafter "Agreement") is entered into by and between the City of Upper Arlington (hereinafter "the Employer") and Teamsters Local Union No. 284 (hereinafter "the Union") for the purpose of reaching a mutually agreeable understanding regarding the assignment of overtime for leaf collection. By entering this Agreement, neither party is conceding that its prior interpretation of the assignment of overtime language in the collective bargaining agreement is incorrect. Rather, the parties recognize that, in light of the ongoing disputes concerning the assignment of overtime for leaf collection, it is in the best interest of both parties to reach agreement on the process of assigning this overtime.

It is understood that the decision as to whether there is a need for overtime lies solely and exclusively with the Employer. In the event that the Employer determines that there is a need to schedule overtime for the performance of leaf collection and related duties, the Employer shall offer overtime by seniority to eligible, qualified bargaining unit employees in the Streets Division. If there are insufficient bargaining unit employees within the Streets Division to cover the overtime and the City decides to offer additional overtime, the Employer shall offer the overtime by seniority to all other qualified City Public Services employees (including both union and non-union, non-supervisory employees). The Employer may utilize supervisors and the superintendent in the Streets Division or their substitutes for supervision and assistance in the performance of leaf collection at all times. The City may also add additional supervisors to supervise and perform leaf-pick-up to maintain a supervisor to non-supervisory ratio of 1/6 (e.g. for every 6 additional employees called to work, the City may call 1 supervisor). The Traffic Supervisor may only be assigned overtime for leaf pick-up as a "substitute" or as an "additional" supervisor to maintain stated ratios.

*SOT 3/10/05
PAK
Traffic
Superintendent*

In leaf collection overtime assignments, full-time employees shall be offered overtime by seniority before part-time employees. However, if an employee (including part-time employees) is already performing a job, the Employer will not call him/her off to replace him/her.

This Agreement shall have no effect on other types of overtime assignments.

In consideration of the utilization of the foregoing overtime assignment procedures for leaf collection, the Union shall withdraw any and all pending grievances regarding the assignment of overtime for leaf collection. All costs of the arbitrator for the pending matter shall be split equally between the parties.

Agreed on this 15th day of November 2004.

FOR THE CITY:

Jeanette Thomas
Virginia Barney

FOR THE UNION:

Don Manna
Mike Eagle
Thomas Stenberg

APPENDIX D

Letter of Agreement 06-001

Teamsters Local No. 284 (hereinafter, "the Union") and the City of Upper Arlington (hereinafter, "the Employer") hereby enter into this Letter of Agreement (hereinafter, "Letter") effective April 10, 2006.

WHEREAS, the collective bargaining agreement (hereinafter, "the Agreement") in effect between the Union and the Employer provides the Employer with the right to subcontract;

WHEREAS, the Employer has informed the Union that it intends to study the manner in which certain public services, including solid waste removal, are delivered to the public;

WHEREAS, the Employer and the Union share a commitment to delivering public services efficiently and in a cost-effective manner;

WHEREAS, the Employer and the Union recognize that information sharing and study may lead to more efficient and cost-effective delivery of public services, including solid waste removal;

THEREFORE, BE IT RESOLVED:

1. Notwithstanding the Employer's rights set forth in Article 17.2 of the Agreement, the Employer agrees that it will not enter into any subcontracting agreements that would result in layoffs of bargaining unit employees that would take effect prior to January 1, 2008. (January 1, 2008 refers to the date of layoff, not to the date of subcontracting.)
2. The Employer will, as elaborated below, provide the Union with an opportunity to provide input, offer suggestions, and present the views of the bargaining unit members. That does not mean the Employer is required to agree with such suggestions.
3. In furtherance of paragraph 2 above, management representatives of the Solid Waste Division, bargaining unit employees appointed by the Union, and authorized representatives of the Union will meet through the Labor/Management Committee for the purpose of discussing and developing ways bargaining unit employees can deliver solid waste removal services in a more efficient and cost-effective manner.
4. If the City Council appoints a task force or committee to study the method or manner by which solid waste removal services are delivered to the public, the Union will be given an opportunity to provide information to that task force or committee and to appear before that task force or committee to present their information and suggestions at a time and location to be determined by the task force or committee. Such opportunity to make a presentation is not meant to be a bargaining session between the Union and the task force or committee, since this Letter of Agreement is the result of the Employer and Union already fulfilling their bargaining obligations with regard to the matter of subcontracting.

{3/16/2006 AGUPACI 00029132.DOC}

5. The Employer will, upon request, make available to authorized Union representatives studies or reports developed by the Employer or its agents or consultants that are presented to the task force or committee and that are a matter of public record, in order to assist the Union and the bargaining unit employees in making informed suggestions for increasing the efficiency and cost-effectiveness of public services delivered by bargaining unit employees.
6. Nothing in this letter shall alter the Employer's rights with respect to changing equipment or technologies, provided such change does not result in the layoff of bargaining unit employees prior to January 1, 2008.
7. Nothing contained in this Letter shall modify the Employer's rights under Article 17.3 of the Agreement.
8. Nothing contained in this Letter shall alter the Employer's rights under Article 17.2 of the Agreement, except as specifically modified by this Letter during the period prior to January 1, 2008.
9. Nothing contained in this Letter shall prevent the Employer from evaluating, planning, or taking preliminary actions related to subcontracting so long as such actions do not result in a layoff of bargaining unit employees prior to January 1, 2008.
10. This Letter shall be effective as of the effective date of the Agreement and shall expire on December 31, 2008.
11. The terms of this Letter shall not be modified or terminated during its term except by mutual consent

FOR THE UNION:

Don Mann

May __, 2006

FOR THE CITY OF UPPER ARLINGTON:

Virginia Barney
Virginia Barney, City Manager
City of Upper Arlington, Ohio

July 24
May __, 2006

APPROVED AS TO FORM:

Jeanine A. Amid Hummer
Jeanine A. Amid Hummer, City Attorney
City of Upper Arlington, Ohio