



COLLECTIVE BARGAINING AGREEMENT

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11/15/2013

BETWEEN

**THE COUNTY OF CUYAHOGA, OHIO
MAINTENANCE DIVISION OF THE DEPARTMENT OF PUBLIC WORKS
2100 SUPERIOR VIADUCT
CLEVELAND, OHIO 44113**

AND

**TEAMSTERS LOCAL 436, AFFILIATED WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS
6051 CAREY DR.
VALLEY VIEW, OHIO 44125**

**For the term
Beginning January 1, 2012
Ending December 31, 2014**

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PREAMBLE

This Agreement is between the County of Cuyahoga, Ohio, as the public employer, (hereinafter the "County" or the "Employer"), and Teamsters Local 436 affiliated with the International Brotherhood of Teamsters, (hereinafter the "Union"). "County" and "Union" shall include all duly authorized agents and representatives of the County or Union as the case may be. Pursuant to the provisions of O.R.C. Ch. 4117, the parties have entered this Agreement in order to establish mutual rights, preserve proper employee morale, and to promote effective and efficient operations. The term "Division" as used herein shall refer only to the Maintenance Division of the Department of Public Works where the operations formerly known as the Cuyahoga County Engineer have been assigned.

ARTICLE I - UNION RECOGNITION

Section 1. The County recognizes the Union as the sole and exclusive bargaining agent for the purpose of collective bargaining in any and all matters relating to wages, hours and terms and conditions of employment for employees within the bargaining unit.

Section 2. The bargaining unit shall be composed of those employees assigned to the road/bridge and fleet units of the Maintenance Division of the Department of Public Works who hold the permanent position titles of Mechanic I, II, and III, HMO Light, Maintenance Laborer, Maintenance Laborer with CDL, Construction Laborer, Construction Laborer with CDL, Construction Foreman, Special Equipment Operator, General Welder Fabricator, and Sign Shop Technician.

Probationary employees shall be included in the bargaining unit. However, the Employer shall be free to terminate a newly-hired employee during the probationary period at its sole discretion without recourse by the Union or the probationary employee to the grievance and arbitration procedure of the contract or to any form of concerted action.

Section 3. Excluded from the bargaining unit shall be:

- (a) Employees solely hired for the summer for a period not to exceed 120 days.
- (b) All other personnel not listed in section 2 above.

ARTICLE II - MANAGEMENT RIGHTS

Nothing contained in this Agreement shall be interpreted to restrict any constitutional, statutory or inherent rights of the Division with respect to matters of managerial policy. The Division has the right and the authority to administer its operations and, in addition

to other functions and responsibilities, the Division has and will retain all of the full rights and responsibilities provided in O.R.C. 4117.08(c)(1)-(9), including but not limited to, the rights and responsibilities to direct the operations of the Division, to make rules and reasonable regulations and to otherwise exercise the rights of management, and more particularly, including but not limited to, the following:

1. To manage and direct its employees, including the right to select, hire, promote, assign and reassign, evaluate, lay off, recall, reprimand, suspend, discharge or discipline for cause, and to maintain discipline among employees;
2. To manage and determine the location, type and number of physical facilities, equipment, programs, and the work to be performed, to include the right to assign bargaining unit members to work on and maintain equipment of all Divisions of the Department of Public Works;
3. To determine the Employer's goals, objectives, programs and services, and to utilize personnel in a manner designed to effectively and efficiently meet these purposes;
4. To determine the size and composition of the work force and the Employer's organizational structure, including the right to layoff employees;
5. To determine the hours of work, work schedules and to establish the necessary work rules for all employees;
6. To determine when a job vacancy exists, the duties to be included in all job classifications, and the standards of quality and performance to be maintained;
7. To determine the necessity to schedule overtime and to determine the starting and quitting time for all employees in the bargaining unit;
8. To determine the budget and uses thereof;
9. To determine technological alterations by revising either process or equipment, or both;
10. To maintain the security of records and other pertinent information;
11. To determine and implement necessary actions in emergency situations;
12. To conduct and grade civil service and promotional tests, the rating of candidates and the establishment of eligible lists and subsequent appointments;

13. To consolidate, to merge or otherwise transfer any or all of its facilities, property, processes or work with or to any other municipality or entity or effect or change in any respect the legal status, management or responsibility of such property, facilities, processes or work, to include the right to assign bargaining members to work at the Sewer Maintenance Section and/or on Sewer Maintenance Section projects; as well as the right to assign Sewer Maintenance Employees to work in those areas and in those classifications falling within the jurisdiction of this Collective Bargaining Agreement on a temporary, as needed basis, not to exceed 120 calendar days unless the union agrees to an extension and the use of such employees does not result in reduction of regular work hours, overtime hours, furloughs or layoff of bargaining unit employees.

14. To maintain an effective and realistic Affirmative Action Program;

15. To terminate or eliminate all or any part of its work or facilities; and

16. To reserve the right to contract or subcontract out projects under his jurisdiction.

All rights and responsibilities of the Division not specifically modified or limited by this Agreement shall remain the function of the Division.

ARTICLE III - UNION SECURITY

Section 1. The County and the Union agree that membership in the Union is available to all employees occupying classifications as has been determined by this Agreement to be appropriately within the bargaining unit upon the successful completion of their probationary period.

Section 2. The County agrees to deduct periodic Union dues, initiation/re-initiation fees, and assessments once each month from the pay of any employee eligible for membership in the bargaining unit upon receiving written authorization signed individually and voluntarily by the employee. The signed payroll deduction form must be presented to the County by the employee and/or Local Union Office. Payroll deduction authorization shall be on a form provided by the Union and approved by the County.

Section 3. All new employees who do not become members within sixty (60) days following the beginning of employment shall be required to pay a Fair Share Fee as a condition of continued employment. The Fair Share Fee shall be established to cover the employee's pro-rata share of: (1) the direct costs incurred by the Union in negotiating and administering this Agreement and of settling grievances and disputes arising under this Agreement; and (2) the Union's expenses incurred for activities normally and reasonably employed to effectuate its duties as the exclusive representative of the employees in the bargaining unit covered by this Agreement. Fair

Share Fees shall be deducted and remitted during the same period as dues, provided the employee has received sufficient wages during the applicable pay period to equal the deduction. The deduction of The Fair Share Fee is automatic and does not require authorization by the employee, as outlined in Chapter 4117 of the Revised Code. All current employees, who are members of the Union on the date of execution of this Agreement, who thereafter withdraw from membership, shall be subject to the Fair Share Fee provision as provided for in this Article. Employees wishing to withdraw from membership may do so during the thirty (30) day period beginning one hundred twenty (120) days prior to the expiration of this Agreement and ending ninety (90) days prior to the expiration of this Agreement.

Section 4. Prior to the effective date of this Agreement and the anniversary date of each succeeding year for the term of this Agreement, the Union shall certify the proportionate amount of its total dues and Fair Share Fees that were spent on activities that could not be charged to the fees of non-members during the preceding year. Such certification of said proportionate amount shall be made by submitting to the County a statement of such proportionate amount from the Union's certified public accountant based on his examination of the Union's books and records of account. The amount of the Fair Share Fee 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 the Union, less each non-member's proportionate share of the amount of the Union's dues and fees spent on activities not chargeable to such fees in the prior year as certified by the Union's certified public accountant.

Section 5. In the event that any employee who is required to pay a Fair Share Fee to the Union objects to the propriety of the Union's use of such fee, the entire amount of the objecting employee's fee shall be placed by the County in an interest-bearing escrow account, pending the exhaustion of the Union's internal rebate procedure and any determination by the State Employment Relations Board, pursuant to the provisions of O.R.C. 4117.09(c).

Section 6. It is specifically agreed that the County assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of Union dues and the Union hereby agrees that it will indemnify and hold the County harmless from any claims, actions or proceedings by any employee arising from deductions made by the County pursuant to this Article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

Section 7. The County shall be relieved from making such individual check-off deductions upon (a) termination of employment, or (b) transfer or promotion to a job other than one covered by the bargaining unit, (c) layoff from work, (d) an agreed leave of absence or (e) termination or expiration of this Agreement.

Section 8. The County shall not be obligated to make dues deductions from any employee who, during any dues month involved, shall have failed to receive sufficient wages to equal the dues deductions.

Section 9. It is agreed that neither the employees nor the Union shall have a claim against the County for errors in the processing of deductions unless a claim or error is made to the County in writing within sixty (60) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that the Union dues deduction will normally be made by deducting the proper amount.

Section 10. The names of employees and the rate at which Union dues are to be deducted shall be certified to the payroll department by the Union monthly. One (1) month advance notice must be given the payroll department prior to making any changes in the rate of dues deduction and in the amount of an individual's dues deduction. The County agrees to furnish the Union a warrant in the aggregate amount of the deduction.

Section 11. Deductions provided for in this Article are subject to the approval of the County Fiscal Officer and shall be made during one (1) pay period each month. In the event a deduction is not made for any Union member during any particular month, the County upon written verification of the Union, will make the appropriate deduction from the following pay period if the deduction does not exceed the total of two (2) months regular dues from the pay of any Union member. The County will not deduct more than one (1) month's regular dues for more than one (1) consecutive month.

Section 12. Each eligible employee's written authorization for dues deduction shall be honored by the County for the duration of this Agreement.

ARTICLE IV - STEWARDS AND ALTERNATES

Section 1. The Union may designate two (2) Stewards and one (1) Alternate per yard for all members of the bargaining unit at that yard. The Union shall submit the name of the Stewards and Alternate to the County within five (5) days of the effective date of this Agreement.

Section 2. Stewards and Alternates shall be appointed from among the Department's current employees. Stewards and Alternates shall be familiar with the terms of this Agreement, with the policies in the County's Policy and Procedures Manual, and with the duties of the positions within the bargaining unit.

Section 3. The authority of the Stewards and Alternates so designated by the Union shall be limited to, and shall not exceed the following duties and activities:

- (a) The investigation and presentation of grievances in the yard assigned to the Steward and Alternate in accordance with the provisions of the Collective Bargaining Agreement.

(b) The transmission of such messages and information which shall originate with and are authorized by the Union or its officers provided such messages and information have been reduced to writing.

Section 4. Stewards and Alternates shall perform a full day's work as County employees and shall not conduct Union activities during their regularly scheduled working hours except, if requested by the affected employee in their yard, to investigate and to present grievances on behalf of said employee, to attend a requesting employee's pre-disciplinary conference, to attend any other disciplinary conference for any other requesting person in the bargaining unit, and to attend such union meetings as are agreed to by the County. For the purposes of this section, "investigation" is limited to mean the opportunity to meet with the affected employee, if requested by the affected employee, before a pre-disciplinary conference or a grievance.

Section 5. Alternates shall act only in the absence of Stewards.

ARTICLE V - PERSONNEL FILES

Section 1. It is recognized by the parties that the County must prescribe regulations for the custody, use and preservation of the records, papers, books, documents, and property pertaining to the County. To the extent that any records, papers or other documents covering bargaining unit employees are legitimately considered available to review by such employees, every employee shall be allowed to review his or her personnel file at any reasonable time upon request. If any bargaining unit employee is involved in a grievance regarding a matter in which materials in his personnel file may be relevant, the affected employee's Union representative will be granted access to the employee's personnel file at reasonable times where such access is authorized, in advance, by the bargaining unit employee.

Section 2. A bargaining unit employee will be provided a copy of any disciplinary material placed in his personnel file after the effective date of this Agreement.

Section 3. If an employee, upon examining his personnel folder, has reason to believe that there are inaccuracies in those documents to which he has access, the employee may write a correspondence explaining the alleged inaccuracy to the Department of Human Resources. If, upon investigation, the County sustains such allegations:

(a) The employee's written correspondence may be attached to the material in question, and filed with it and the County shall note thereon its concurrence.; or

(b) The Director of the Department of Human Resources may remove the inaccurate material from the personnel folder if the Director determines that inaccuracies warrant such removal; or

- (c) The Director of the Department of Human Resources may remove and destroy the material if the County's Director of Law determines that this is permitted under Ohio Public Records Law and the Public Records Policy of the County and that no liability may result.

ARTICLE VI - ACCESS TO PREMISES

Section 1. Union representatives shall have access to the Division's buildings and facilities to meet with employees for the purpose of adjusting disputes, meeting individually with employees, holding a union meeting with employees and ascertaining that the Agreement is being adhered to, provided, however, that there is no interruption of the County's work.

Section 2. The County agrees to allow reasonable use of the buildings and facilities of the Division for the purpose of this Article upon obtaining prior approval and availability of space. Reasonable use shall mean use of facilities: (1) for a meeting not to exceed thirty (30) minutes immediately before the regularly scheduled workday and thirty (30) minutes before the end of the regularly scheduled workday; and (2) which does not interfere with the County's operations and responsibilities.

Section 3. Each Union representative shall report to the Management Representative of each yard or facility immediately upon arrival at the premises and upon departure from the premises.

Section 4. Union meetings with these employees shall not be more frequent than once every month unless otherwise approved by the Director of the Department of Public Works or his/her duly authorized designee in writing.

ARTICLE VII - BULLETIN BOARDS

Section 1. The County agrees to provide space on a bulletin board in a proper location of the department for use by the Union. The County shall not be obligated to purchase or relocate bulletin boards for the Union's use.

Section 2. All Union notices which appear on the bulletin board shall be signed, posted and removed by the local yard Steward during non-work time. Union notices relating to the following matters may be posted without the necessity of receiving the County's approval:

- (a) Union recreational and social meetings;
- (b) Notice of Union meetings;
- (c) Union appointments;

(d) Notice of Union elections;

(e) Results of Union elections.

Section 3. All other notices of any kind not covered in (a) through (e) above must receive prior approval of the County. The County has the right to remove any notice not receiving prior approval required by Section 2 above. It is also understood that no material may be posted on the Union bulletin board at any time which contains the following:

(a) Personal attacks upon any other member or any other employee;

(b) Scandalous, scurrilous, or derogatory attacks upon the administration;

(c) Attacks on any employee organization, regardless of whether the organization has local membership; and,

(d) Attacks on and/or favorable comments regarding a candidate for public office, or for office in any employee organization.

Section 4. No Union related materials of any kind may be posted anywhere in the County's facilities or on the County's equipment except on the bulletin board designated for use by the Union.

Section 5. Any employee found to be violating the provisions of this Article may be subject to disciplinary action.

ARTICLE VIII - APPOINTMENTS AND PROMOTIONS

Section 1. When the notice of a job vacancy is posted for a position within the classes enumerated in this Agreement, a copy of the notice will be sent to the Union.

Section 2. Any employee in the Unit wishing to apply for the posted vacancy must submit his application in writing to the Department of Human Resources by the end of the posting period in order to be considered for the position.

Section 3. Appointments and promotions to positions within the bargaining unit that are in the civil service of the County shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive evaluations.

Section 4. Promotions to construction foreman will be based primarily on a written test, which shall be conducted as needed. When a construction foreman's position becomes available, which would normally be filled based on the written test results, all current construction foreman shall be provided with the opportunity, based on their seniority, to

laterally transfer into the open foreman's position. After a reasonable period of time, not to exceed one week, the promotion into the open foreman's position shall be based on the written test. This shall in no way limit management's rights as set forth in Article II.

Acting foreman will rotate among qualified list of individuals with the list similarly generated by written test. With regard to an acting foreman, the Employer shall determine the number of acting foremen at respective sites and such acting foreman will be selected from individuals assigned at the respective site based upon that sites test results. Any employee appointed as Acting Foreman will be paid an amount equal to the then wage for a Construction Foreman.

Section 5. Any employee may be appointed provisionally to fill a vacancy in a position within the bargaining unit that is not an entry level position. Within one month of such provisional appointment, the County shall post a notice pursuant to his testing procedure for that position and shall conduct a competitive examination for that position.

Section 6. If an employee is temporarily assigned to work in a different class within the bargaining unit for a period of more than forty-five (45) consecutive work days, and there is no eligible list for that class, the County shall conduct a test to create an eligible list for that class.

Section 7. When a temporary assignment is to be made to a higher class and an eligible list exists for that class, the appointment shall be given to the employee who is the highest on the eligible list. When a temporary assignment is to be made to a higher class, and either no eligible list exists for that class or no employee from that yard is on the eligible list, then the County may temporarily assign any employee to that class.

ARTICLE IX - SENIORITY

Section 1. Each employee in a class shall be placed on a seniority list for that class. Seniority in each class shall be determined by length of continuous service with the Division. Among those with the identical length of continuous service, seniority shall be determined by the length of service within the class.

Section 2. Within thirty (30) days of the date of this Agreement, and during January of each year of the term of this Agreement, the County shall post a seniority list in the various yards. Employees shall have 15 days from the date of posting to protest any alleged errors in the list. If no such protest is made during the 15 day period, the list as posted shall be conclusive and no grievance may be filed thereafter concerning an employee's position on the list.

Section 3. Except as specifically provided below, seniority shall be the governing factor in all matters affecting layoff, recall, and vacation preference provided all other

qualifications are equal. Seniority shall also be a factor in shift assignments and in promotions.

ARTICLE X – LAYOFFS AND RECALL

Section 1. When the County determines that it is necessary to lay off employees in a job classification within the bargaining unit, the employees in the affected classification shall be laid off in reverse order of seniority.

Section 2. An employee who is laid off or who is displaced as a result of a layoff shall have the right to displace the employee with the least seniority in the classification the laid-off or displaced employee previously held, provided (1) he/she is otherwise qualified for the previous classification and is able to perform all job duties without greater than normal supervision and training, (2) he/she successfully completed his probationary period in the previous classification.

If a position does not exist in the bargaining unit classification held by the employee immediately prior to his current classification or if a laid-off or displaced employee is prevented from displacing in a previously held bargaining unit classification because he/she does not meet the minimum qualifications of the previously held classification or is unable to perform the job duties without greater than normal supervision and training, then the employee may displace in any previously held bargaining unit classification subject to the provisions above.

Section 3. Laid off employees shall remain on a recall list for twelve (12) months from their last day of work. Recall from layoff shall be made from the list in order of seniority, providing that the recalled employee is qualified and able to perform the available work without greater than normal supervision and without greater than normal training. The County shall notify the employee by regular mail sent to the last place of residence shown on County's records. If the employee has not accepted the offer of recall within ten (10) days of the date of mailing, the offer shall lapse and the employee shall be removed from the seniority list.

Section 4. In the event that an employee in the class of Special Equipment Operator is laid off, or the County ceases the use of an employee's piece of special equipment, such employee shall not have the right to displace another employee in the position of Special Equipment Operator, except as otherwise mutually agreed upon in writing.

ARTICLE XI - BREAK IN SERVICE

When used in this Agreement, "break in service" occurs when an employee (1) is discharged for just cause, (2) retires, (3) is laid off for more than twelve (12) months, (4)

resigns, or (5) fails to accept an offer to return to work following a layoff, (6) is absent without leave and fails to notify the Employer for three (3) or more consecutive work days.

A break in service does not occur when an employee remains in an active payroll status or when the employee is on one of the following absences: (1) an approved unpaid leave of absence, (2) a layoff of less than twelve (12) months duration, (3) a resignation where the employee is reemployed or reinstated by the County within a 30 day period, (4) any pending grievances on a discharge, or (5) a suspension for discipline purposes.

ARTICLE XII - SEPARATION OF EMPLOYMENT

Upon discharge or quitting, the County shall pay all money due the employee, including vacation pay on the payday of the next scheduled pay period in accordance with the procedures of the County.

ARTICLE XIII - CORRECTIVE ACTION

Section 1. Corrective action shall be for just cause and may include: (a) verbal reprimand; (b) written reprimand; (c) suspension with or without pay; or (d) discharge from employment.

Section 2. The County agrees that principles of progressive corrective action will be followed with respect to offenses as determined by the County.

Section 3. Progressive discipline shall be applied by the County, taking into account the nature of the violation, the employee's record of past discipline as filed, and the employee's record of performance, attendance and conduct.

Section 4. Records of disciplinary action shall no longer be used for the purpose of determining the severity of subsequent progressive action if the effective date of the action is beyond twenty-four (24) months, unless same or similar offenses have reoccurred during that time.

Section 5. If a holiday occurs during a period of suspension, the holiday shall be considered as one of the suspension days.

Section 6. During an unpaid suspension an employee will not accrue any benefits.

Section 7. Any disciplinary action which affects a bargaining unit employee whether verbal and/or written may be grieved by the Grievance Procedure in this Agreement.

Section 8. An employee shall be given a copy of any verbal or written reprimand, or any other written disciplinary action entered on his personnel record.

Section 9. Any employee who has been disciplined by suspension or discharge will be given a written statement describing the reason or reasons for which he has been suspended or discharged.

Section 10. The County may remove employees for just cause.

ARTICLE XIV - GRIEVANCE PROCEDURE

Section 1. A grievance is an employee or union complaint alleging that management has violated or misinterpreted a term or terms of this written Agreement.

Section 2. The parties agree on a grievance procedure as follows:

PRELIMINARY STEP - An employee having any grievance will first attempt to resolve it informally with his immediate supervisor or manager within (five) 5 working days after the events giving rise to the grievance occurred or after the grievant knew or reasonable should have known of the events upon which the grievance is based. If the employee is not satisfied with the response from his supervisor/manager, he may then proceed to Step 1.

STEP 1 – If the grievance is unresolved at the preliminary step, the employee shall present the written grievance to the Department Director or his/her designee within five (5) working days after the response of the supervisor or manager. The grievance form shall set forth details of the grievance, the date filed, the article(s) violated, and relief requested, and shall be dated and signed by the employee. The County's Step 1 designee shall meet with the employee and his representative, if any, within ten (10) working days thereafter in an attempt to adjust the grievance. Within ten (10) working days after the Step 1 meeting, the County's Step 1 designee shall give a written answer to the employee.

STEP 2- If the grievance is not satisfactorily settled in Step 1, the employee shall present it in writing to the designee of the Department of Human Resources within three (3) working days after the Step 1 answer.

The designee of the Department of Human Resources shall meet with the Employee and his representative, if any, within Fifteen (15) working days thereafter in an attempt to adjust the grievance. Within Fifteen (15) working days after the Step 2 meeting, the designee of the Department of Human Resources shall give a written answer to the employee.

If the grievance is not satisfactorily settled at Step 2, the Union may proceed to Arbitration as provided herein on behalf of the affected employee.

Section 3. Where the alleged grievance is of a nature that qualifies for investigation or appeal under the rules of the Ohio Civil Rights Commission, or the Equal Employment Opportunity Commission, such matter shall not be appealed through the grievance procedure. However, the employee and his union representative may meet with the County to discuss the matter prior to the appeal to the outside agency. Any grievance that was filed prior to the appeal or charge to the outside agency shall be automatically withdrawn and dismissed under the grievance procedure.

Section 4. A grievance may be brought by any employee covered by this Agreement. Where a group of bargaining employees desire to file a grievance involving an incident affecting several employees in the same manner, one employee shall be selected by the group to process the grievance. Each employee who desires to be included in such grievance shall be required to sign the grievance.

Section 5. All grievances must be processed at the proper step in order to be considered at subsequent steps.

Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at each step to lapse without further appeal. Any grievance which is not processed by the employee within the time limits provided shall be considered resolved based upon management's last answer.

Any grievance not answered by management within the stipulated time limits may be advanced by the employee to the next step in the grievance procedure. All time limits on grievances may be extended upon mutual written consent of the parties.

Section 6. The County need not pay for any grievance where the amount in controversy is \$15.00 or less.

ARTICLE XV - ARBITRATION

Section 1. Should a grievant, after receiving the written answer to his grievance at Step 2 of the Grievance Procedure, still feel that the grievance has not been resolved to his satisfaction, he may, through the Union, request that it be heard before an arbitrator. The Union must make written application to the Director of the County's Department of Law for arbitration within 30 working days of the written answer at Step 2. Any grievance not submitted within such time period shall be deemed settled on the basis of the last answer given by the County.

Section 2. Arbitration Procedure.

(a) Upon receipt of a request for arbitration, the Director of the Department of Law or his designee and the representative of the Union shall attempt to agree on an arbitrator. In the event that the County and the Union are unable to agree on an arbitrator, the County and the Union shall, within ten (10) working days following the request for arbitration, select an arbitrator from a panel of seven (7) arbitrators obtained from the Federal Mediation and Conciliation Service using the strike method. The remaining arbitrator shall hear the grievance. The requested panel shall be limited to members of the National Academy of Arbitrators from the FMCS Sub-Region for Northern Ohio.

(b) The arbitrator shall hold the arbitration hearing promptly and issue his decision within a reasonable time thereafter. The arbitrator shall limit his decision strictly to the interpretation, application or enforcement of those specific articles and/or sections of this Agreement which are in question. The arbitrator's decision shall be consistent with applicable law.

Section 3. The arbitrator shall not have the authority to add to, subtract from, modify, change or alter any provision of this Agreement, nor add to or subtract from or modify the language therein in arriving at his determination on any issue presented that is proper with the limitations expressed herein. The arbitrator shall expressly confine himself to the precise issues submitted for arbitration and shall have no authority to determine any other issues not so submitted to him or to submit observations or declarations of opinion which are not directly essential in reaching a decision on the issue in question.

Section 4. The arbitrator shall be without power or authority to make any decision that is:

(a) Contrary to, inconsistent with, changing, altering, limiting, modifying any practice, policy, rules or regulations presently or in the future established by the County so long as such practice, policy, rules or regulations do not conflict with this Agreement.

(b) Concerning the establishment of wage rates not negotiated as part of this Agreement.

Section 5. The arbitrator shall not recommend any right or relief on an alleged grievance occurring at any time other than the contract period in which such right originated or to make any award based on rights arising under any previous Agreement, grievance or practices. In cases of discharge or of suspension the arbitrator shall have the authority to recommend modification of said discipline. In the event of a monetary

award, the arbitrator shall limit any retroactive settlement to the date the grievance was presented to the Engineer in Step 1 of the grievance procedure.

Section 6. The question of arbitrability of a grievance may be raised by either party before the arbitration hearing of the grievance, on the grounds that the matter is non-arbitrable or beyond the arbitrator's jurisdiction.

Section 7. The first question to be placed before the arbitrator will be whether or not the alleged grievance is arbitrable. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same arbitrator.

Section 8. The decision of the arbitrator will be final and binding upon the Union, the employee, and the County. The decision of the arbitrator resulting from an arbitration of grievances hereunder shall be in writing and sent to the Director of the Department of Law or his/her designee, the Union, and the grievant.

Section 9. All costs directly related to the services of the arbitrator, the cost of any proofs produced at the direction of the arbitrator, the fee of the arbitrator, and the rent, if any, for the hearing rooms, shall be paid by the losing party.

Section 10. Expenses, if any, of any witnesses shall be borne by the party calling the witness. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a court reporter's recording, or request a copy of any transcript.

ARTICLE XVI - APPLICATION OF STATE CIVIL SERVICE LAWS

No current section of the Civil Service Laws contained in Ohio Revised Code Chapter 124 shall apply to employees in the bargaining unit, and it is expressly understood that the Ohio Department of Administrative Services, the State Personnel Board of Review and the Cuyahoga County Human Resources Commission shall have no authority or jurisdiction as it relates to employees in the bargaining unit.

ARTICLE XVII - LEAVES OF ABSENCE WITHOUT PAY

Section 1. Pregnancy Leave. An employee requiring a Leave of Absence for circumstances resulting from the employee's pregnancy, or from his wife's pregnancy, may request an unpaid leave of absence for up to six (6) months. Pregnancy leave runs concurrently with Unpaid Medical Leave and Family Medical Leave.

Section 2. Unpaid Medical Leave (UMLA). If an employee or a member of his/her immediate family, which for purposes of this Section shall be defined as spouse, parent

or child, is ill and the employee has used all of his/her paid leave, the employee may request a maximum of six (6) months of unpaid Medical Leave. As part of the request, an employee must submit a physician's certificate stating the probable time period and nature of the illness/injury. Unpaid Medical Leave runs concurrently with Pregnancy Leave and Family Medical Leave.

Section 3. Disability Leave. If an employee's illness continues or if an employee is otherwise disabled after the employee's other leaves have expired, the employee may request an unpaid disability leave for a maximum of two years, inclusive of all other unpaid time taken off for the disabling illness/injury. As part of the request, an employee must submit a physician's certificate stating the probable time period and nature of the illness/injury. If the employee is unable to return and to perform the essential functions of his/her job following disability leave, he/she shall be disability separated.

Section 4. Educational Leave. Leave may be granted for a maximum period of two (2) years for purposes of education, training or specialized experience which would be of benefit to the Engineer by improved performance on any level. Upon completion of such a leave of absence, the employee shall be returned to the position which (s)he formerly occupied, or to a similar position if his/her former position no longer exists. (S)he may be returned to active pay status prior to the originally scheduled expiration of the leave, if earlier return is agreed to by the County.

Section 5. Voluntary Service Leave. An employee may request up to two (2) years leave for voluntary service in any program sponsored by the government. Upon completion of such a leave of absence, the employee shall be returned to the position which (s)he formerly occupied, or to a similar position if his/her former position no longer exists. (S)he may be returned to active pay status prior to the originally scheduled expiration of the leave, if earlier return is agreed to by the County.

Section 6. Active Military Leave. All eligible employees shall be granted a leave of absence for military duty in accordance with federal and state law. an employee of the employer, who is a member of the Ohio National Guard, Ohio Defense Corps, Naval Militia, or members of other reserve components of the Armed Forces of the United States, shall be entitled to a leave of absence for his respective duties without loss of pay for such time as he is in military service and field training or active duty for periods not to exceed thirty-one (31) days in any calendar year.

Section 7. Personal Court Leave. If an employee appears in court or similar hearing as a party or voluntarily, the employee may request Personal Court Leave. An employee may request Vacation Leave if (s)he desires to be paid for this time.

Section 8. Unpaid Administrative Leave. The authorization of a leave of absence without pay is a matter of administrative discretion and may be granted by the County

for a maximum duration of six (6) months for any personal reason. Such request for leave shall be in writing and shall state the specific purpose of such leave. An employee who is granted an extended leave may be returned to the same or similar position which the employee held immediately prior to the start of the leave.

ARTICLE XVIII – FAMILY AND MEDICAL LEAVE ACT (FMLA)

The Employer shall have the right to administer FMLA Leave to the full extent permitted by Federal Law, including, but not limited to, its coordination with any other leaves and other benefits.

ARTICLE XIX – LABOR/MANAGEMENT MEETINGS

Section 1. In the interest of sound labor/management relations on a mutually agreeable day and time at the request of either party, but not more frequently than monthly, the Director of Public Works and/or his/her designees shall meet with not more than three (3) representatives of the Union to discuss those matters addressed in Section 2. Additional representatives may attend by mutual agreement and shall not be unreasonably denied.

Section 2. An agenda will be furnished and/or exchanged at least five (5) working days in advance of the scheduled meetings with a list of the matters to be taken up in the meeting and the names of those Union representatives who will be attending. The purpose of such meetings shall be to:

- (a) discuss the administration of this Agreement;
- (b) notify the Union of changes made by the County which affect bargaining unit members;
- (c) discuss the grievances which have not been processed beyond Step 2 of the Grievance Procedure but only when such discussions are mutually agreed to by the parties;
- (d) disseminate general information of interest to the parties;
- (e) discuss ways to increase productivity and improve efficiency;
- (f) give the Union representatives and the County the opportunity to share the views of their members/employees on topics of interest to both parties; and
- (g) to discuss health and safety matters relating to employees.

Section 3. It is further agreed that if labor/management meetings have been requested, and mutually agreed upon, they shall be convened as soon as feasible.

Section 4. Employee representatives who are scheduled to be at work during the time of this meeting shall receive no loss of pay.

ARTICLE XX - EXAMINATIONS

Section 1. Physical, mental and/or other examinations may be required by the County as permitted by the law and any directive regarding such examination shall be promptly complied with by all the members of this bargaining unit, provided, however, the County shall pay for all such examinations. Examinations are not to exceed one (1) in any one (1) year for the same illness or disability, unless the employee has suffered serious injury or illness during the year. Substance abuse testing is not subject to this limitation. Employees will be required to take examinations during their working hours.

Section 2. The County reserves the right to select its own medical examiner or physician; and the Union may, if it believes an injustice has been done an employee, have said employee re-examined at the Union's expense. In the event of a disagreement between the doctor selected by the County and the doctor selected by the Union, the County and the Union doctors shall together select a third (3rd) doctor within thirty (30) days, whose opinion shall be final and the cost of the third opinion shall be borne equally by the Union and the County.

Section 3. If the County has reason to believe an employee is physically or mentally incapable of performing the essential functions of his/her position, the County may require an employee to take an examination, conducted by a licensed physician, to determine the employee's physical or mental capability to perform the essential functions of the employee's position. The County shall pay for such examination. If found not qualified, the employee may be placed on sick leave, medical leave, disability leave, or make application for disability retirement.

Section 4. Notwithstanding the foregoing, the County may conduct any examination mandated by Ohio and/or federal law.

Section 5. Hepatitis B shots and boosters will be provided by the County for those requesting the same due to work hazards.

ARTICLE XXI - PROBATIONARY PERIOD

Section 1. The probationary period for newly hired employees is one hundred-eighty days (180). The probationary period for promoted employees is 90 days.

Section 2. The County shall be free to terminate a newly hired employee during the probationary period at his sole discretion without recourse by the Union or the probationary employee to the grievance and arbitration procedure of the contract or to any form of concerted action.

Section 3. If, during the probationary period, the County determines the promoted employee is unable to perform the duties of his new position, the employee shall be returned to his former position without recourse by the Union or the probationary employee to the grievance and arbitration procedure or the contract or to any form of concerted action.

ARTICLE XXII - LEAVES OF ABSENCE WITH PAY

A. Sick Leave:

Section 1. Sick leave of 4.6 hours is earned for each 80 hours of active payroll status. Sick leave is not earned during hours of overtime worked. Sick leave is cumulative without limits.

Section 2. No employee may be granted more sick leave than he has accumulated. If any employee has an extended illness which causes him to use up his accumulated sick leave, accrued vacation time may, with his permission, be applied to the time absent in order to allow him to continue to receive pay. If the employee declines to use such time, he may then be placed on a medical leave of absence.

Section 3. To notify the County of his illness, an employee must notify his yard at least one (1) hour prior to his regular starting time. Failure to so notify the yard may result in the disallowance of sick pay.

Section 4. Sick pay must be used in consecutive days. Employees who are not otherwise in active payroll status cannot take one (1) sick day periodically in order to maintain active payroll status.

Section 5. Sick leave may be used, upon approval of the County, (a) for an illness or injury of the employee or of an immediate member of the employee's family, (b) attendance by the employee at a funeral or wake, (c) medical, dental or optical examination, or treatment of an employee or a member of his/her immediate family, or (d) pregnancy and/or mothering and/or fathering after the birth of the employee's child.

Sick leave for a funeral or wake can be used in the following amounts: (a) up to one (1) day for the death of an individual not in your immediate family, (b) up to five (5) days for the death of an individual who is a member of your immediate family. In unique circumstances, additional time may be used at the discretion of the County.

Section 6. Immediate family includes: spouse, child, mother, father, sister, brother, grandparent, grandchild, sister-in-law, brother-in-law, mother-in-law, father-in-law, daughter-in-law, son-in-law, and a person for whom the employee is a guardian.

Section 7. Previously unused accumulated sick time of an employee who has been separated from public service shall be credited to him up to a maximum of 30 days upon employment with the County, provided that employment takes place within ten (10) years from his last terminated date of public service.

Section 8. Upon return from any illness of three days or longer, an employee shall be required to submit a doctor's or hospital's statement as to the nature and duration of the illness for such absence. Any abuse or patterned use of sick leave shall be sufficient cause for disciplinary action.

Section 9. In case of an illness which exceeds fourteen (14) consecutive calendar days, the employee shall be required to report additional absences to his immediate supervisor, or other designated person. The policy for notification shall be as follows:

(a) In cases where institutionalization or hospitalization is required, the employee must notify his immediate supervisor, or other designated person, upon admission and upon discharge and provide physician's statement.

(b) In cases where convalescence is required at home, the employee must notify his immediate supervisor or other designated person upon start and upon termination of convalescent period and provide a physician's statement.

Section 10. The County may initiate investigation where he suspects that a sick leave privilege is being abused and disciplinary action may be initiated if abuse is found.

Section 11. In the case of an extended sick leave, a physician's statement specifying the employee's inability to report for work and the probable date of recovery shall likewise be required. If unable to state the recovery date, then a statement from the physician will be filed for each month in question. It will also be the responsibility of the employee to file a Request for Leave form for each pay period with the respective department. This will be attached to the payroll submission in the Fiscal Department. In the absence of such documentation, the Department Head shall not authorize a payroll submission for wages to be received.

Section 12. Upon retirement when eligible for a full Public Employee Retirement System pension, or upon death, the County shall pay the retired employee, or the estate of the deceased employee, a lump sum in an amount equal to fifty percent (50%) of the employee's unused accumulated sick leave up to a maximum payment equal to sixty (60) days. This payment shall be made irrespective of the number of years the employee worked for the County. An employee hired on or after the effective date of this Agreement shall receive a lump sum in an amount equal to 25% of the employee's accumulated sick leave up to a maximum payment equal to 30 days.

B. Vacation Leave:

Section 1. Full-time employees shall be entitled to vacation with pay after one (1) year of continuous service. The amount of vacation leave to which an employee is entitled is based upon his length of service with the County as follows:

- a) After one (1) year of service up to five (5) years of service: 2 weeks of vacation;
- b) From five (5) years of service up to fifteen (15) years of service: 3 weeks of vacation;
- c) From fifteen (15) years of service up to twenty-five (25) years of service: 4 weeks of vacation;
- d) 25 years service or more: 5 weeks of vacation.

Section 2. Entitlement to vacations under this Section shall be determined as of the employee's anniversary date each year.

Section 3. Vacation is credited each bi-weekly pay period at the following rates:

<u>Annual Vacation</u>	<u>80 Hr. pay period</u>	<u>64 Hr. pay period</u>
2 weeks	3.1 hours	2.4 hours
3 weeks	4.6 hours	3.7 hours
4 weeks	6.2 hours	4.9 hours
5 weeks	7.7 hours	6.1 hours

Section 4. In the event that an employee dies while (s)he is employed, his/her accrued vacation credit, if any, shall be paid according to law in one lump sum for accrued as well as earned but unused vacation. Upon separation from service and upon retirement,

an employee will be paid in one lump sum for accrued as well as earned but unused vacation.

Section 5. Vacation leave is accrued only to determine an employee's benefits upon his retirement or upon separation from service. Upon separation from service and upon retirement, an employee will be paid in one lump sum for accrued as well as earned but unused vacation.

Section 6. An employee's rate of accrual of vacation leave shall be based on all service credit earned with the county or any political subdivision of the State of Ohio.

Section 7. Generally, vacation leave shall be taken by an employee between the year in which it was accrued and the next anniversary date of employment. The County may, in special circumstances, permit an employee to accumulate vacation from year to year. This accumulation of vacation time must be approved in advance and must be in response to special circumstances.

Section 8. Employees may carry their vacation leave from year to year, up to a maximum of three years. Once an employee accumulates the maximum allowable vacation balance for the employee's current accrual rate, the employee has a period of one (1) year from the date on which the maximum balance was attained to use the accrued time in excess of the maximum allowable balance. Upon the end of the year period, any time over the maximum amount shall be forfeited.

Section 9. Employees will take their vacation during the year at the convenience of the County and upon approval in advance. During the first quarter of each calendar year, employees will be given an opportunity to indicate, on a form provided, their vacation leave preferences, and promptly thereafter a written vacation schedule will be prepared. Seniority shall be a factor in determining schedule. Once a vacation schedule is determined, it shall not be changed without the consent of the involved employees, except in response to an operational emergency or if at the time the leave is to be used, the employee does not have sufficient vacation leave to cover the request. Any employee who fails to make his vacation application during the appropriate period will be given his vacation leave without regard to seniority.

Section 10. Vacations shall be scheduled in advance and may be taken in one hour increments. Such request shall not be unreasonably denied.

Section 11. Vacations for Watchpersons may be taken at any time during the year provided the scheduling of vacation does not interfere with the work schedule.

C. Court Leave with Pay:

Section 1. The County shall grant full pay for regularly scheduled working hours on any day when an employee is subpoenaed for any court or jury duty by the United States, the State of Ohio, or a political subdivision to which the employee is not a party or does not have an interest in the court proceedings. All compensation received for such court or jury duty is to be remitted by the employee to the Department of Human Resources.

Section 2. If an employee is cited for a violation while operating a County vehicle, the time of court appearance shall be deducted from his vacation accrual, provided that the citation did not occur as the result of defects in the vehicle.

Section 3. When an employee is released from court/jury duty prior to the end of his scheduled work day, he shall report to work for his remaining scheduled hours. When an employee is required to report for court/jury duty after the start of his regularly scheduled work day, he shall report to work and shall be released from work in sufficient time to appear at court.

Section 4. In order to be eligible for payment under this section, the subpoenaed employee (employee not a party to the action or has an interest) must notify his/her supervisor within twenty-four (24) hours after receipt of subpoena or of notice of selection for jury duty and must furnish a written statement from the appropriate court official showing the date served and the amount of pay received.

ARTICLE XXIII - HOLIDAYS

Section 1. All employees in the bargaining unit shall be entitled to the following paid holidays:

- | | |
|---------------------------|----------------------------|
| 1) New Year's Day | 6) Labor Day |
| 2) Martin Luther King Day | 7) Columbus Day |
| 3) President's Day | 8) Veterans Day |
| 4) Memorial Day | 9) Thanksgiving Day |
| 5) Independence Day | 10) Day after Thanksgiving |
| | 11) Christmas Day |

It is understood that in the event "General Election Day" is re-instated as a paid day off by the County for non-bargaining employees of the division during the term of this CBA, the bargaining unit employees covered by this Agreement shall also be entitled to said day off with pay under the same terms as non-bargaining employees.

In addition to the above holidays, the employee may select one (1) day as a personal day off with pay. He shall schedule his personal day off by arrangement with the Yard Supervisor at his assigned yard. The County reserves the right to cancel the personal day and to reschedule the time off for operational purposes. The personal day, if not

used, may not be accumulated nor carried over into a subsequent year.

Section 2. Holidays falling on a weekend shall be observed in accordance with the County's holiday schedule which shall be published in January of each year. An employee who works on a recognized holiday will be paid at one and one-half times (1 1/2) his base rate of pay.

Section 3. To be eligible for holiday pay as specified in this Article, the employee must work the last scheduled workday prior to and the next scheduled workday immediately following each of the holidays herein listed. It is understood that if the holiday falls during the employee's vacation period, he shall be paid for the holiday.

ARTICLE XXIV - TEMPORARY ASSIGNMENTS

When an employee is assigned duties other than those of his appointed position, and he performs those duties for less than a full work day, he will perform such duties as assigned and shall be paid the same wages as those of his appointed position. When required by exigencies of the work place, the Employer retains the right to assign employees below their regularly assigned classification. Such assignments to a lower classification shall not result in any loss of regular pay to the employee.

When an employee is assigned duties other than those of his appointed position, and he performs those duties for a full workday, he will perform such duties as assigned and shall be paid as follows:

- (a) If the rate of pay for such reassignment is lower than his regular rate, he shall receive his regular rate of pay for such hours worked.
- (b) If the rate of pay for such reassignment is higher than his regular rate, he shall be paid the higher rate of pay of the reassigned position for such hours worked.

ARTICLE XXV - REPORTING PAY/MINIMUM CALL-IN

Section 1. Whenever an employee is called to work at a time other than his regular work schedule, thereby necessitating additional travel to and from work, he shall be guaranteed four (4) hours pay at the overtime rate.

Section 2. It is understood that any call-in which starts prior to the regular shift and continues into the employee's regular shift or time worked immediately following the regular shift, shall not be eligible for the minimum as provided in Section 1 above.

Section 3. An employee called in to rectify his own error shall not be eligible for payment under the terms of this Article.

ARTICLE XXVI - WASH UP TIME

Section 1. Employees shall be permitted a reasonable time at the end of each work day before quitting time for wash-up and a reasonable time immediately prior to lunch for wash-up, provided facilities are available at the work location. Wash-up time shall be utilized for personal clean-up and shall not be considered free time which the employee can use for any other purpose. Wash-up time is not cumulative and will only be allowed when the work schedule permits.

Section 2. As used in this Article, a "reasonable time" means an amount of time not to exceed fifteen (15) minutes at all of the yards.

Section 3. The Employer will provide gloves and goggles to bargaining unit employees as determined appropriate by the County.

ARTICLE XXVII - HOURS OF WORK/OVERTIME

Section 1. This article is intended to define the normal hours of work per day or per week in effect at the time of execution of this Agreement. Nothing contained herein shall be construed as preventing management from restructuring the normal work day or work week for the purpose of promoting efficiency or improving services; from establishing the work schedules of employees; or establishing part-time positions. This article is intended to be used as the basis for computing overtime and shall not be construed as a guarantee of work per day or per week.

Section 2. The standard work week for all full time employees covered by the terms of this Agreement shall be forty (40) hours, exclusive of a one-half (1/2) hour lunch period that is unpaid. The workweek shall be computed between 12:01 a.m. on Sunday of each calendar week and 12 o'clock midnight the following Saturday. Prior to establishing normal work schedules that include Saturdays and/or Sundays, the County shall first seek volunteers within the affected job classification and, if an insufficient number of employees volunteer, the County shall select employees within the affected job classification in inverse order of bargaining unit seniority. Four-day ten-hour schedules shall not include Saturdays and Sundays.

Section 3. When an employee is required by the County to be in active pay status for more than forty (40) hours in a standard work week as defined above, he/she shall be paid overtime pay for all time worked in excess of forty (40) hours. Overtime pay shall be paid at the rate of one and one-half times the employee's regular hourly rate of pay.

When an employee is required by the County to be in active pay status for more than eight (8) or ten (10) hours in a workday, he/she shall be paid overtime pay for all time worked in excess of eight (8) or ten (10) hours, depending on the number of hours that

the employee is regularly scheduled to work (i.e., five 8 hour days or four 10 hour days). overtime pay shall be paid at the rate of one and one-half times the employee's regular hourly rate of pay. For the purpose of this subsection, a "work day" begins at 12:01 A.M. and ends at the next 12 o'clock midnight.

Section 4. Each employee of the bargaining unit shall be granted a one-half (1/2) hour unpaid meal period during each regular work shift as scheduled by his immediate supervisor.

Section 5. The regular workday shall begin and end at the yard assigned unless the project is for a certain period of duration at which time management will designate the work location.

Section 6. Each employee shall be granted a fifteen (15) minute rest period with pay which will be scheduled whenever practicable approximately midpoint in the first one-half of the employee's regular work shift and in the second one-half of the shift. Employees who extend their rest period shall be subject to disciplinary action. Rest periods should be taken at a time and in a manner that does not interfere with the efficiency of the work unit. The rest period is intended to be a recess to be preceded and followed by an extended work period; thus, it may not be used to cover an employee's late arrival to work or early departure, nor may it be regarded as cumulative if not taken.

Section 7. During winter months for snow and ice detail, employees, if needed, shall stay beyond their shift and be required to work reasonable additional hours if the weather is such that an emergency exists.

Section 8. For the purpose of calculating hours worked in the standard workweek, paid sick leave shall not be considered time worked.

ARTICLE XXVIII - ASSIGNMENT AND DISTRIBUTION OF OVERTIME

Section 1. The County shall be the sole judge of the necessity of overtime. The County will endeavor to offer overtime to employees within the classification, within the same shift involved.

Section 2. Overtime may initially be refused, but if sufficient employees do not voluntarily accept, the County shall have the right to assign the overtime, on a rotational basis, to the least senior employee on duty, with the next least senior and so forth being mandated on subsequent occurrences. If sufficient employees do not voluntarily accept, or if an emergency situation exists, the County shall then have the right to offer the overtime to bargaining unit employees outside the classification, and/or shift or the

County may require, on a rotational basis, that the least senior employee in the classification report to work, with the least senior employee being first and the next least senior and so forth being mandated on subsequent occurrences.

Section 3. An employee may not claim overtime pay with another form of premium pay for the same hours of work. (Pyramiding)

Section 4. The County shall endeavor to offer overtime of an equitable basis.

Section 5. Employees who are offered overtime and for any reason refuse or fail to work the overtime shall be credited as if they had worked the overtime for the purpose of overtime distribution.

Section 6. A record of all overtime hours worked by each employee shall be recorded on a list by the supervisor and all employees, including the Steward, shall have a list made available upon request. All overtime hours shall be recorded on a daily basis. Each year the overtime list shall be re-set effective May 1.

Section 7. Notwithstanding the above, when the County determines it necessary for there to be a continuous extension of the regular workday, the employees at the work site may be required to complete the work without regard to the provisions set forth in this article for up to one hour.

Section 8. The Department agrees to maintain overtime rosters which shall be made available to the Union Steward or employee upon request. Said rosters shall include a list of overtime hours worked, refused, negative contact and total hours of overtime offered.

An employee who is offered, but is unavailable or refuses, an overtime assignment shall be credited on the roster with the amount of overtime refused. Where the amount of overtime refused was two (2) hours or less, the employee will be charged with refusing two (2) hours.

It is agreed where special skills are required, employees possessing such skills will be assigned to the overtime work involved.

Section 9. When the County fails to properly assign overtime, and, as a consequence, an employee is improperly passed for an overtime opportunity, the employee shall file a grievance within the proper time period. If, after reviewing the grievance, the County determines that the employee was improperly passed for an overtime opportunity, then the employee shall be paid an amount equal to the amount that the employee would have earned had the employee been called for the overtime. Any time for which the employee is paid shall be counted toward the overtime opportunity in the records maintained for the equalization of overtime guidelines.

ARTICLE XXIX – HEALTH CARE BENEFITS

Section 1. An eligible employee is defined as a full time employee covered by this Agreement. The Flex Count Plan (the plan) is defined as the section 125 or cafeteria plan, which is provided by the Employer for health care benefits for County employees. The Employer shall provide eligible employees the opportunity to enroll in the plan once during each plan year at its annual open enrollment period. The plan year commences on January 1, and ends on December 31 of the calendar year, but is subject to change.

Section 2. Effective the first day of the first month following full execution of this Agreement, bi-weekly employee contributions for medical, prescription drug, and ancillary (dental and vision) benefits shall be determined as follows:

- A) **METROHEALTH PLAN** The County shall offer a plan through the MetroHealth System at no cost to employees.
- B) **OTHER BENEFIT PLANS** The Employer shall pay 90% of plan costs and the employees shall pay 10% of plan costs.
- C) **DENTAL AND VISION** The Employer shall pay 90% of plan costs and the employees shall pay 10% of plan costs.

Section 3. The costs of the medical and prescription drug plans will be determined through an actuarially certified process that is verified through an outside party and that includes reserves necessary to sustain the plans. In successive plan years, the Employer may add to or delete plans and/or providers offered. Employees may be offered additional plans with reduced or increased benefit levels.

Section 4. The Employer shall be entitled to increase the cost containment features of the Flex Count plans which may include, but are not limited to deductibles, co-insurance, and spousal exclusions.

Section 5. The Employer may implement or discontinue incentives for employees to participate in Employer sponsored wellness programs, including, but not limited to, the right to offer the opportunity to reduce employee contributions through participation in wellness programs as determined by the Employer.

Section 6. The Employer may offer incentives to encourage use of low cost providers/plans (including HSA plans) which may be discontinued or modified by the Employer in future plans years with notification to the Union.

Section 7. A waiting period of no more than 120 calendar days may be required before new employees are eligible to receive health and/or other insurance benefits. During the waiting period, the Employer may require employees who desire coverage to

purchase it through a third party vendor instead of participating in the County plans that are offered to regular full-time employees. New employees shall be eligible to participate in the County plans on the first date of the first month following completion of the waiting period.

Section 8. Implementation following negotiations: an open enrollment period for medical benefits shall occur following execution of the Agreement. Employees who do not make a selection during this special open enrollment will default to their current provider. Employees who do not make a selection during normal open enrollment will default to the MetroHealth Plan. The County shall make a good-faith effort to also allow employees to change their flexible spending account allocation during the open enrollment period.

ARTICLE XXX - TAX DEFERRAL – EMPLOYEE CONTRIBUTION TO P.E.R.S.

As soon as possible or within a period not to exceed sixty (60) calendar days following the execution of this Agreement, the County will take the necessary steps to cause employee contributions to the Public Employees Retirement System to be excluded in the calculation of the employees' gross taxable income subject to Federal and State income taxes.

ARTICLE XXXI – WAGES

Section 1. There shall be a 1% wage increase, effective January 1, 2012, a 2% wage increase, effective January 1, 2013, and a 2% wage increase effective January 1, 2014.

Effective January 1, 2012, the wage rates for all bargaining-unit classifications are as follows:

<u>Position</u>	<u>Rate</u>
Watchperson	\$19.22
Maintenance Laborer (Hired prior to 1 Jan 03)	\$19.68
Maintenance Laborer	\$18.16
Maintenance Laborer with CDL	\$18.41
HMO Light	\$20.48
Construction Laborer	\$20.22
Construction Laborer with CDL	\$20.47

Mechanic I	\$21.04
Sign Shop Technician	\$20.57
Sign Shop Technician with CDL	\$20.83
Special Equipment Operator	\$21.76
Mechanic II	\$22.19
Tire Repairman	\$21.92
Construction Foreman	\$23.18
General Welder Craftsman	\$24.15
Mechanic III	\$24.15
Lead Mechanic	\$25.66

Section 2. In addition to the above wages, an employee shall be paid a ninety cent (.90) hourly premium in addition to the wages listed above for all hours while performing work on scaffolding two (2) "bucks" or higher, or similar working conditions at a height in excess of ten (10) feet and for assist sandblasting.

In the event that an employee is eligible for premium pay in accordance with this section and Section 4, below, the employee shall be entitled to the higher of the applicable premium, but not both.

Section 3. The County shall grant a tool allowance to employees holding the position of Mechanic I, Mechanic II, Mechanic III, General Welder Craftsman, and Tire Repairman for tools purchased which are used in their employment with the County. The tool allowance amount shall be Five Hundred Dollars (\$500.00) per year. The County shall implement a procedure for the method of the total allowance which will be paid to eligible employees in December each year.

Section 4. All employees, excluding Special Equipment Operators (SEO), who perform job duties with the "Snooper", "Krafco" and "Manlift" equipment shall be paid an hourly premium of one dollar (\$1.00). All employees assigned to the crew who perform these duties will receive the stipend with a guaranteed four (4) hours. If such employees are required to perform such duties in the afternoon the crew will receive an additional four hours.

Section 5. Employees who operate the striper shall receive a premium of 75 cents per hour for time spent operating the equipment.

Section 6. It is understood that if during the term of this CBA, the Division re-instates a performance bonus program for non-bargaining members, the same program shall be extended to the bargaining unit employees covered by this Agreement under the same terms and conditions. Such bonus payments shall not be added to the employee's base pay. The determination of performance bonuses shall not be grievable or arbitrable.

Section 7. Effective upon full execution of this Agreement, any bargaining unit member ("Member") hired after 1 January 2007 shall be paid a rate equivalent to 80% of the then existing contract rate for the relevant job classification ("Contract Rate"). Upon having completed one (1) year of employment in the job classification, the member shall be paid a rate equivalent to 85% of the then existing contract rate. Upon having completed two (2) years of employment in the job classification, the member shall be paid a rate equivalent to 90% of the then-existing contract rate. Upon having completed three (3) years of employment in the job classification, the member shall be paid a rate equivalent to 95% of the then existing contract rate. Upon having completed four (4) years of employment in the job classification, the member shall be paid a rate equivalent to 100% of the then-existing contract rate.

ARTICLE XXXII – SNOW REMOVAL SEASON

Section 1. Each employee shall be available for assignment to snow and ice removal duties and shall maintain his/her valid Commercial Driver's License ("CDL"), endorsements, and physical examination.

Section 2. At the beginning of each snow removal season the County shall determine the number of employees that are needed for snow removal. Shift assignment to snow removal duty shall be made based on classification, i.e., HMOL shall receive priority over Construction Laborers and Special Equipment Operators, and shall be further governed by seniority within the respective classifications. Moreover, assignments of those employees participating in snow removal shall be made without regard to whether said employee is permanently assigned to Fitch Road Yard.

Section 3. If, at the beginning of the snow removal season, there are insufficient employees needed by the Engineer in the HMO Light class, then the Engineer shall select volunteers (possessing the necessary CDL, endorsements, and physical examinations); first, from within the Construction Laborer class, based on seniority, and second, from within the SEO class, based on seniority, until sufficient individuals have been obtained. If insufficient volunteers come forward, the County may designate individuals from the Construction Labor or SEO class to meet the County's requirements.

Section 4. During the snow removal season, the County shall equalize, as near as possible, overtime opportunities for all those individuals performing snow removal, computing the same based on that date marking the beginning of "snow season" through the end of snow season, as determined by management.

ARTICLE XXXIII - NO STRIKE/NO LOCKOUT

Section 1. Inasmuch as this Agreement provides machinery for the orderly resolution of grievances, the County and the Union recognize their mutual responsibility to provide for the uninterrupted services to the citizens of Cuyahoga County.

Therefore, the Union agrees that neither it, its officers, agents, representatives, or members will authorize, instigate, cause, aid, condone or participate in any strike, sympathy strike, work stoppage, or any other interruption of operations or services of the County, by its members or other employees of the County during the term of this Agreement. When the County notifies the Union that any of its members are engaged in any such strike activity, as outlined herein, the Union shall immediately conspicuously post notice over the signature of an authorized representative of the Union to the effect that a violation is in progress and such notice shall instruct all employees to immediately return to work. Should the Union fail to post such notice or should this article be violated, the County shall have the option of seeking appropriate legal remedies. Any employee failing to return to work after notification by the Union as provided herein, or who participates or promotes such strike activities as previously outlined, may be disciplined and/or discharged and only the question of whether or not he/she did in fact participate in or promote such action shall be subject to appeal.

Section 2. The County agrees that neither it, its officers, agents, or representatives, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of bargaining unit employees during the term of this Agreement, unless those employees shall have violated Section 1 above.

Section 3. Nothing in this Article shall be construed to limit or abridge the County's right to seek other available remedies provided by law to deal with any unauthorized or unlawful strike.

ARTICLE XXXIV - NON-DISCRIMINATION

Section 1. The provisions of the Agreement shall be applied equally to all employees in the bargaining unit without discrimination on the basis of race, color, religion, sex, national origin, sexual orientation, disability, age, or ancestry.

Section 2. All references to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

Section 3. Furthermore, the parties of this Agreement are mutually desirous of adhering to any other Federal Regulations in order to assure non-discrimination in employment, recruitment of qualified personnel, recruitment advertising, and any and all other matters detailed in the analysis of providing equal opportunity to any and all minorities.

ARTICLE XXXV - SEPARABILITY CLAUSE

If any clause, sentence, paragraph, or part of this Agreement, or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement and the application of such provision to other provisions, persons, or circumstances, but shall be confined in its application to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. The remainder of this Agreement and supplement agreements shall remain in full force and effect for the Agreement term.

ARTICLE XXXVI - CROSS TRAINING

The Employer shall have the right to implement a cross training program among employees within the bargaining unit at its sole discretion. Notwithstanding any other provision of this CBA and/or Side Bar Agreement, the Employer can select those individuals to cross train at the Employer's sole discretion. Such cross training shall not result in any pay increases during such training.

ARTICLE XXXVII - WORK RULES

Section 1. All bargaining-unit members must, as a condition of remaining in his or her job classification, obtain and maintain the required driving certification as set forth in his or her job description. In the case of members required to possess a Commercial Driver's License ("CDL"), the member must also maintain all necessary endorsements, pass a physical examination as determined by the County, and be subjected to random urinalysis testing for the presence of alcohol and illegal drugs consistent with Department of Transportation policies.

Section 2. An employee whose license becomes invalid, or who fails to maintain appropriate endorsements, or fails to provide required medical certification shall be placed on leave without pay for up to 150 calendar days, but may use accrued vacation, compensatory time or, if appropriate, sick leave. If the employee's license remains

invalid following the expiration of the 150 calendar day period for reasons other than illness or disability, his/her employment shall be terminated, unless there is an available vacancy, as determined by the County, in an equal or lower rated job classification that does not require a CDL, and the employee is able to perform all of the job duties of that classification and passes the probationary period. If an employee is placed into a new classification pursuant to the terms of this Article, the employee's wage rate shall be adjusted accordingly.

If the CDL remains invalid because of an illness/disability, the employee may be placed on a leave of absence for which he/she is eligible consistent with the terms of this Agreement, or he/she may be placed into an equal or lower rated job classification that does not require a CDL if there is an available vacancy as determined by the employer. Placement into such a vacancy is contingent on the employee being able to perform all of the essential job functions of the classification. The employee will be required to pass the probationary period. If an employee is placed into a new classification pursuant to the terms of this article, the employee's wage rate shall be adjusted accordingly.

Section 4. Employees must acquire their CDL at a Public/Third Party CDL Skills/Testing location. The Engineer shall reimburse for expenses incurred in acquiring a CDL as follows:

- For employees taking their exam for the first and second time, the Engineer shall reimburse the employee for the testing expenses incurred, to include the testing fee, the fee for the review pamphlet and the administrative fee. First and second-time employees shall also be permitted to take their test during work hours.
- Employees taking their exam for a third or consecutive attempt will not be reimbursed for testing expenses incurred, will be required to take the exam on their own time and shall be responsible for renting their own vehicles for use during the test.
- Employees will have access to the County Engineer equipment for testing purposes for their first and second attempt only.
- The Engineer agrees to reimburse an employee for the cost of his/her CDL that exceeds the cost of his/her Class D operator's license.
- Verification of fees paid must be submitted for reimbursement within thirty (30) days.

ARTICLE XXXVIII – WAGE CONTINUATION

Bargaining-unit employees may participate in the injury leave/wage continuation program as provided in the County Policies and Procedures Manual, which may be subject to change. The parties mutually agree that Employer decisions regarding eligibility for injury leave/wage continuation shall not be subject to the grievance process or arbitration.

ARTICLE XXXIX – CONTINUING EDUCATION

Members of the bargaining unit will be permitted to participate in the Department of Public Works' continuing education program when funding is budgeted under the same terms and conditions as non-bargaining unit employees. The program may be modified from time to time or discontinued, but there will be no discrimination in its application based on an employee's bargaining or non-bargaining unit status.

ARTICLE XL - DURATION AND TERMINATION

Section 1. This Agreement shall be effective as of January 1, 2012, and shall remain in full force and effect until December 31, 2014, its termination date. The Agreement rescinds all prior agreements between the parties.

Section 2. If either party desires to modify, amend or renegotiate this Agreement, it shall give written notice of such intent no earlier than one-hundred twenty (120) calendar days prior to the termination date, nor later than ninety (90) calendar days prior to the termination date of this Agreement. Such notices shall be sent by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks upon receiving notice of intent.

Section 3. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the County and the Union for the life of this Agreement, each voluntarily and unequivocally waives the right, and each agrees that the other shall not be obligated, to bargain collectively or individually with respect to any subject matter whether or not it is referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this Agreement.

ARTICLE XLI - TOTAL AGREEMENT

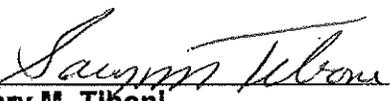
This Agreement represents the entire agreement between the Employer and the Union and unless specifically and expressly set forth in the express written provisions for this Agreement, all rules, regulations, benefits and practices previously and presently in effect may be modified or discontinued upon advance notification to the Union and any such modifications or discontinuances shall not be grievable.

Article XLII – EXECUTION

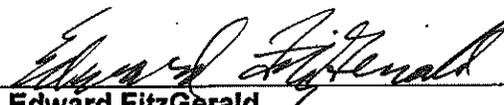
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

FOR THE UNION:

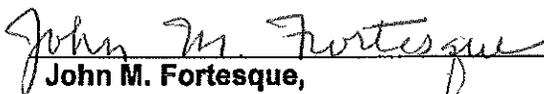
FOR CUYAHOGA COUNTY:



Gary M. Tiboni,
President



Edward FitzGerald,
County Executive



John M. Fortesque,
Secretary Treasurer



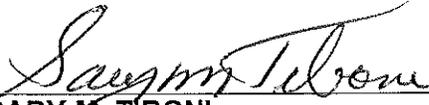
Christopher J. Pavone,
Vice President

SIDE BAR AGREEMENT

This Side Bar Agreement or Memorandum of Understanding is entered into between the Cuyahoga County Engineer and Teamsters Local 436. The parties are signatories to a Collective Bargaining Agreement ("CBA"). The parties further agree that collective bargaining negotiations which resulted in the CBA would include this Side Bar Agreement which memorializes the following agreements and understandings of the parties:

1. Core drilling is work that bargaining employees covered by this Agreement and are represented by Teamsters Local 436 have typically performed and will continue to be assigned when management determines such work is necessary. Concrete and asphalt cutting is work that may be assigned to employees of this bargaining unit or to any other employees or entity as determined by the County.
2. Custodial duties at the yards to remain with Teamsters Local 436.
3. The Power Wash truck 250 is hereby designated as assigned to a Spc. Equip. Operator.
4. The CBA excludes summer hires from the bargaining unit. The County retains the right and discretion to assign summer hires.
5. A Construction Foreman will be assigned to a crew when:
(1) three or more members of the Teamster bargaining unit are assigned to work together as a crew, or (2) two or more members of the Teamster bargaining unit and one member of another bargaining unit are assigned to work together as a crew and the County designates an employee of this bargaining unit to be in charge of the crew.

FOR THE UNION:



GARY M. TIBONI
President
International Brotherhood of
Teamsters, Local 436

Dated: _____

FOR CUYAHOGA COUNTY:



EDWARD FITZGERALD
Cuyahoga County Executive

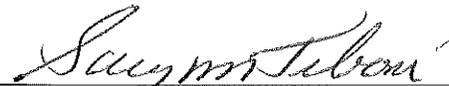
Dated: _____

**SIDE LETTER OF AGREEMENT ON ELIMINATION
OF "DISCRETIONARY HOLIDAYS"**

Upon ratification and full execution of this Agreement, bargaining unit employees shall receive a one-time payment of 56 hours at the regular hourly rate as compensation for the elimination of the four discretionary holidays contained in the prior CBA and in full and final settlement of any and all grievances regarding said holidays which the union hereby agrees are withdrawn. Said payment shall not be included in the overtime calculation.

FOR THE UNION:

FOR CUYAHOGA COUNTY:



GARY M. TIBONI
President
International Brotherhood of
Teamsters, Local 436



EDWARD FITZGERALD
Cuyahoga County Executive

Dated: _____

Dated: _____

SIDE LETTER OF AGREEMENT ON BI-WEEKLY ALLOWANCE:

This Side Letter of Agreement is to document the discussion during contract negotiations that the changes to the insurance article to which the Union agreed are not intended to alter the current "bi-weekly allowance" for the bargaining unit employees and shall remain at \$35.00.

FOR THE UNION:

FOR CUYAHOGA COUNTY:



GARY M. TIBONI
President
International Brotherhood of
Teamsters, Local 436



EDWARD FITZGERALD
Cuyahoga County Executive

Dated: _____

Dated: _____