



# **AN AGREEMENT**

12-MED-09-0945  
0550-02  
K30711  
03/12/2014

**between**

**THE CITY OF BAY VILLAGE, OHIO**

**and**

**THE FRATERNAL ORDER OF POLICE  
LODGE #25**

**(Sergeants and Lieutenants)**

**EFFECTIVE: January 1, 2013**

**EXPIRES: December 31, 2015**

TABLE OF CONTENTS

<u>Article</u>	<u>Subject</u>	<u>Page</u>
I	Preamble.....	1
II	Purpose and Intent.....	1
III	Recognition.....	1
IV	Management Rights.....	1
V	No-Strike.....	2
VI	Residency.....	2
VII	Non-Discrimination.....	4
VIII	Dues Deductions and Fair Share Fees.....	4
IX	Probationary Period.....	4
X	F.O.P. Rights and Bulletin Board.....	5
XI	Labor Management Committee.....	5
XII	Sick Leave.....	5
XIII	Vacations.....	7
XIV	Holidays.....	9
XV	Jury Duty Leave.....	9
XVI	Funeral Leave.....	10
XVII	Injury Leave.....	10
XVIII	Overtime.....	11
XIX	Uniform Allowance.....	11
XX	Insurance.....	12
XXI	Rates of Pay.....	14
XXII	Longevity.....	15
XXIII	Military Leaves.....	15
XXIV	Mileage Allowance.....	16
XXV	Expenses.....	16
XXVI	Pension/Drop.....	16
XXVII	Layoff Recall.....	16
XXVIII	Headings.....	17
XXIX	Gender and Plural.....	17
XXX	Obligation to Negotiate.....	17
XXXI	Total Agreement.....	18
XXXII	Conformity to Law.....	18
XXXIII	Duration.....	18
XXXIIIa	Pre-Disciplinary Procedure.....	18
XXXIV	Disciplinary Procedure.....	19
XXXV	Grievance Procedure.....	27
XXXVI	Arbitration Procedure.....	29
XXXVII	Employee Rights Under Investigation.....	30
XXXVIII	Application and Interpretation of Work Rules Policies and Directives.....	32
XXXIX	Promotions.....	32
XL	Execution.....	33

**ARTICLE I**

**PREAMBLE**

**1.01** This Agreement is hereby entered into by and between the City of Bay Village, Ohio, hereinafter referred to as the "Employer" and the Fraternal Order of Police, Lodge No. 25, hereinafter referred to as the "F.O.P."

**ARTICLE II**

**PURPOSE AND INTENT**

**2.01** In an effort to continue harmonious and cooperative relationships with its employees and to insure the orderly and uninterrupted efficient operations of government, the Employer now desires to enter into an agreement reached through collective bargaining which will have for its purposes, among others, the following: 1) To recognize the legitimate interests of the employees of the Employer to participate through collective bargaining in the determination of the terms and conditions of their employment; 2) To promote fair and reasonable working conditions; 3) To promote individual efficiency and service to the citizens of the City of Bay Village, Ohio; 4) To avoid interruption or interference with the efficient operation of the Employer's business; and 5) To provide a basis for the adjustment of matters of mutual interest by means of amicable discussion.

**ARTICLE III**

**RECOGNITION**

**3.01** The Employer hereby recognizes the F.O.P. as the sole and exclusive bargaining agent with respect to wages, hours and other terms and conditions of employment, as provided by the State Employment Relations Act, for all full-time employees employed in the Police Department occupying the positions of sergeant or lieutenant, excluding all part-time, seasonal, and temporary employees. All other employees of the Employer are excluded from the bargaining unit. Said recognition shall continue for a term as provided by law.

**ARTICLE IV**

**MANAGEMENT RIGHTS**

**4.01** Not by way of limitation of the following paragraph, but to only indicate the type of matters or rights which belong to and are inherent to the Employer, the Employer retains the right to: 1) hire, discharge, transfer, suspend and discipline employees for just cause; 2) determine the number of persons required to be employed, or laid off; 3) determine the qualifications of employees; 4) determine the starting and quitting time and the number of hours to be worked by its employees; 5) make any and all rules and regulations; 6) determine the work assignments of its employees; 7) determine the basis for selection, retention and promotion of employees to or for positions not within the bargaining unit established by this Agreement; 8) determine the type of equipment used and the sequence of work processes; 9) determine the making of technological alterations by revising either process or equipment, or both; 10) determine work standards and the quality and quantity of work to be produced; 11) select and locate buildings and other facilities; 12) establish, expand, transfer and/or consolidate work

processes and facilities; 13) consolidate, 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 of work; 14) terminate or eliminate all or any part of its work or facilities.

**4.02** In addition, the F.O.P. agrees that all of the functions, rights, powers, responsibilities and authority of the Employer in regard to the operation of its work and business and the direction of its workforce which the Employer has not specifically abridged, deleted, granted or modified by the express and specific written provisions of this Agreement are, and shall remain, exclusively those of the Employer.

## **ARTICLE V**

## **NO-STRIKE**

**5.01** The F.O.P. does hereby affirm and agree that it will not either directly or indirectly, call, sanction, encourage, finance or assist in any way, nor shall any employee instigate or participate, either directly or indirectly, in any strike, slowdown, walkout, work stoppage, or other concerted interference with or the withholding of services from the Employer.

**5.02** In addition, the F.O.P. shall cooperate at all times with the Employer in the continuation of its operations and services and shall actively discourage and attempt to prevent any violation of this article. If any violation of this article occurs, the F.O.P. shall actively discourage and attempt to prevent any violation of this article. If any violation of this article occurs, the F.O.P. shall immediately notify all employees that the strike, slowdown, work stoppage, or other concerted interference with or the withholding of services from the Employer is prohibited, not sanctioned by the F.O.P. and order all employees to return to work immediately.

**5.03** It is further agreed that any violation of the above shall be automatic and sufficient grounds for immediate discharge or other disciplinary action as determined solely by the Employer, without the employee having any recourse to any grievance or appeal procedure herein contained.

**5.04** The Employer shall not lock-out any employees during the term of this Agreement.

## **ARTICLE VI**

## **RESIDENCY**

**6.01** All members of the Division of Police, except those who have not completed service of their probationary period as set forth in Article 9.01, shall reside within the City of Bay Village or within a twenty (20) mile radius from the center of Bay Village. If the twenty (20) mile radius enters any city or township, the entire city or township shall be included in the residency requirement.

**ARTICLE VII**

**NON-DISCRIMINATION**

**7.01** The Employer and the F.O.P. agree not to discriminate against any employee(s) on the basis of race, color, creed, national origin, age, sex or handicap.

**7.02** The F.O.P. expressly agrees that membership in the F.O.P. is at the option of the employee and that it will not discriminate with respect to representation between members and non-members.

**ARTICLE VIII**

**DUES DEDUCTIONS & FAIR SHARE FEES**

**8.01** During the term of this Agreement, the Employer shall deduct initiation fees, assessments levied by the F.O.P. and the regular monthly F.O.P. dues and fair share fees from the wages of those employees who have voluntarily signed dues deduction authorization forms permitting said deductions. No new authorization forms will be required from any employees for whom the Employer is currently deducting dues. Fair share fees shall be deducted in accordance with ORC 4117.09(C).

**8.02** The initiation fees, dues or assessments so deducted shall be in the amounts established by the F.O.P. from time to time in accordance with its Constitution and Bylaws. The F.O.P. shall certify to the Employer the amounts due and owing from the employees involved.

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

**8.04** A check in the amount of the total dues, assessments and fair share fees withheld shall be tendered to the Treasurer of the F.O.P. within thirty (30) days from the date of making said deductions.

**8.05** The F.O.P. hereby agrees to hold the Employer harmless from any and all liabilities or damages which may arise from the performance of its obligations under this Article and the F.O.P. shall indemnify the Employer for any such liabilities or damages that may arise.

**ARTICLE IX**

**PROBATIONARY PERIOD**

**9.01** All newly hired employees will be required to serve a probationary period of two (2) years. During said period, the Employer shall have the right to discipline or discharge such employees and any such action shall not be appealable through the Disciplinary, Grievance or Arbitrations Procedures here-in contained or to any Civil Service Commission. Employees shall have no seniority during such probationary period. However upon completion of the probationary period, seniority shall start from date of hire.

**9.02** If a new employee is discharged or quits while on probation, and is later rehired,

he shall be considered a new employee.

**9.03** All promoted employees will be required to serve a probationary period of one year. During said period, the Employer shall have the right to demote, to his previously held grade. They shall be allowed to return to their previous (rank) without any loss in seniority in that position.

## **ARTICLE X**

### **F.O.P. RIGHTS AND BULLETIN BOARD**

**10.01** The F.O.P. shall be allowed up to sixteen (16) hours of paid leave per year for the attendance of F.O.P. officials at F.O.P. functions, subject to the approval of the Chief.

**10.02** The F.O.P. shall furnish one (1) bulletin board to be used by members of the F.O.P. Such bulletin board shall be used only for posting notices bearing the written approval of the F.O.P., and shall be solely for F.O.P. business and recreational and social activities of the F.O.P. There shall be no notices or other writings posted which contain anything political, controversial or critical of the Employer or any other institution or any employee or other persons.

## **ARTICLE XI**

### **LABOR MANAGEMENT COMMITTEE**

**11.01** In the interest of sound labor/management relations, unless mutually agreed otherwise, once each quarter on a mutually agreeable day and time, the Mayor and/or an appropriate designee(s) shall meet with not more than one employee representative and one non-employee representative of the Union to discuss pending problems or issues of concern and to promote a more harmonious labor/management relationship.

**11.02** An agenda will be furnished upon request of either party 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.

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

**11.04** Up to two (2) employee representative(s) who are scheduled to be at work during the time of this meeting may, at the Employer's discretion, be able to attend this meeting with no loss of pay. It is further agreed that any employee on duty may be required to return to work if an emergency arises during this meeting.

## **ARTICLE XII**

### **SICK LEAVE**

**12.01** Sick leave shall be defined as an absence with pay necessitated by: 1) illness or

injury to the employee; 2) exposure by the employee to a contagious disease communicable to other employees; and/or 3) illness or injury in the employee's immediate family; 4) childbirth in the employee's immediate family.

**12.02** All employees shall earn sick leave at the rate of four and six-tenths (4.6) hours for every eighty (80) hours of compensated employment and may accumulate such sick leave to an unlimited amount.

**12.03** An employee who is to be absent on sick leave shall notify the Employer of such absence and the reason therefor at least one (1) hour before the start of his work shift each day he is to be absent.

**12.04** Sick leave may be used in segments of not less than one (1) hour.

**12.05** Before an absence may be charged against accumulated sick leave, the Chief may require such proof of illness, injury or death as may be satisfactory to him, or may require the employee to be examined by a physician designated by and paid for by the Employer. In any event, an employee absent for more than two (2) consecutive work days must supply a physician's report to be eligible for paid sick leave, if requested by the Chief.

**12.06** If the employee fails to submit adequate proof of illness, injury or death, or in event that upon such proof as is submitted or upon the request of medical examination, the Department Head finds there is not satisfactory evidence of illness or death sufficient to justify the employee's absence, such leave may be considered an unauthorized leave and shall be without pay.

**12.07** Any abuse or patterned use of sick leave shall be just and sufficient cause for disciplinary action.

**12.08** The Chief or Safety Director may require an employee who has been absent due to personal illness or injury, for more than ten (10) days, prior to and as a condition of his return to duty, to be examined by a physician designated and paid by the Employer, to establish that he is not disabled from the performance of his duties and that his return to duty will not jeopardize the health and safety of other employees.

**12.09** When the use of sick leave is due to illness or injury in the immediate family, "immediate family" shall be defined to only include the employee's spouse, children, parents and grandparents domiciled in the home of an employee. "Employee's parents" shall include any adult who had the responsibility of raising the employee as a foster or surrogate parent irrespective of consanguinity or degree of relationship.

**12.10** Maternity leave shall be administered in accordance with applicable Federal and State laws.

**12.11** Upon the resignation, retirement or death of an employee who has not less than

twenty (20) years of continuous employment with the Employer and who has qualified for retirement benefits from a State of Ohio Police and Firemen's Disability and Pension Fund, such employee shall be entitled to receive a cash payment equal to his hourly rate of pay at the time of retirement multiplied by one-half ( $\frac{1}{2}$ ) the total number of accumulated but unused sick hours earned by the employee, as certified by the Finance Director, providing that such resulting number of hours to be paid shall not exceed a cash payment greater than one-half ( $\frac{1}{2}$ ) the employee's annual salary. Employee's who are involuntarily terminated (discharged) shall receive no payments under this paragraph.

**12.12** Upon the resignation, retirement or death of an employee who has not less than fifteen (15) years of continuous employment with the Employer and who has qualified for retirement benefits from a State of Ohio Police and Firemen's Disability and Pension Fund such employee shall be entitled to receive a cash payment equal to his hourly rate of pay at the time of retirement multiplied by forty percent (40%) the total number of accumulated but unused sick hours earned by the employee, as certified by the Finance Director, providing that such resulting number of hours to be paid shall not exceed a cash payment greater than one-half ( $\frac{1}{2}$ ) the employee's annual salary. Employees who are involuntarily terminated (discharged) shall receive no payments under this paragraph.

**12.13** An employee who transfers from this department to another department of the Employer shall be allowed to transfer his accumulated sick leave to the new department.

**12.14** Employees who have been laid-off for more than one (1) year shall receive a sick leave payment pursuant to either 12.12 or 12.13, as appropriate.

**12.15** Employees hired by the Employer subsequent to December 31, 1988, shall not receive credit for sick leave that may have been accrued working for another public employer prior to being employed by the Employer.

**12.16** Any employee who utilizes sixteen (16) hours or less of sick time in a calendar year shall receive one (1) paid day off the following year and each year thereafter when such employee meets this standard in the previous year. Any employee who utilizes eight (8) hours or less of sick time in a calendar year shall receive two (2) paid days off the following year and each year thereafter when such employee meets this standard in the previous year. Any employee who utilizes zero (0) hours of sick time in a calendar year shall receive three (3) paid days off the following year and each year thereafter when such employee meets this standard in the previous year.

### **ARTICLE XIII**

### **VACATIONS**

**13.01** Each full-time employee shall earn and be entitled upon his/her employment anniversary, to paid vacation in accordance with the following schedule, however, if an employee's anniversary date falls on or after August 31, they shall receive the additional week of

vacation earned in the calendar year following their anniversary.

Length of Continuous Service	Weeks
After one (1) year	Two (2)
After five (5) years	Three (3)
After eleven (11) years	Four (4)
After eighteen (18) years	Five (5)
After twenty-five (25) years	Six (6)

**13.02** Vacation time shall be taken at a time approved by the Chief or his designate; after January 1<sup>st</sup> of each year.

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

**13.04** Any employee who resigns, is terminated, retires, or is separated from employment by the employer because of a reduction in force will receive pay for their unused and accrued vacation time. In the case of resignation, they shall give two (2) weeks notice in writing to the Chief to be eligible for such payment.

**13.05** Vacation time of one week can be carried over from one year to another without approval of the Chief not to exceed the following limits at December 31 of each year indicated. Any time in excess of said limits is deemed forfeited.

2013	-	200 hours
2014	-	200 hours
2015	-	200 hours

Individuals may carry over additional vacation time in excess of the aforementioned limits due to unusual circumstances or work schedules with the approval of the Chief and the Mayor. However said time MUST be utilized in the following calendar year or be deemed forfeited.

The employee may sell back to the City of Bay Village vacation time in excess of 3 weeks of the CURRENT year's vacation time. Any employee willing to sell back vacation time in excess of 3 weeks must notify the Chief by July 1 of the current year as to how many weeks the individual is going to sell back. The vacation buy-back will be paid in a separate deposit within the first pay in July. Once sold to the City, the time may not be re-purchased by the employee.

**13.06** Any employee hired by Employer prior to January 1, 1989, who has accumulated and earned vacation time from being employed by the State of Ohio or any other political subdivision of the State of Ohio and who has become employed by the Employer within ten (10) years from his termination from such other public employer shall be allowed to transfer his

length of service time for credit towards his vacation time calculation with the Employer.

**13.07** If any employee(s) entitled to vacation time is deceased before any part of that vacation time is used, their heirs or estates will receive the vacation pay the deceased employee would have received.

**13.08** All newly hired employees shall accumulate vacation at the rate of one (1) day per month worked, not to exceed ten (10) days during their first calendar year of employment, which may be taken as vacation subsequent to January 1<sup>st</sup> of the next calendar year. Thereafter, employees will be awarded vacations effective on January 1<sup>st</sup> of each year in accordance with the above schedule.

**13.09** Any employee who retires after fifteen (15) years or more of service with the City shall receive a pro-rated vacation allowance earned for the calendar year in which the separation date occurs.

**ARTICLE XIV**                      **HOLIDAYS**

**14.01** All full-time employees shall receive the following paid holidays:

- |                     |                  |
|---------------------|------------------|
| New Year's Day      | Labor Day        |
| President's Day     | Columbus Day     |
| Good Friday         | Veterans Day     |
| Memorial Day        | Thanksgiving Day |
| Independence Day    | Christmas Day    |
| Employee's Birthday |                  |

**14.02** Each full-time employee shall receive and be granted eleven (11) days off with pay, whether or not such member works on any of the aforesaid holidays. Such days off shall be designated by the Chief of the Division of Police.

**14.03** In order to receive any of the above holidays, the employee must work his last regularly scheduled workday before the holiday and his first regularly scheduled workday after the holiday and the holiday itself, if scheduled to work. Except the Chief may excuse an employee from working said days for good cause and such employee shall earn the holiday.

**14.04** Each full-time employee who works Memorial Day, 4<sup>th</sup> of July, Thanksgiving Day, Christmas Day, and New Year's Day schedule shall be paid at a rate of time and one-half (1-1/2) their regular rate of pay.

**ARTICLE XV**                      **JURY DUTY LEAVE**

**15.01** Any employee who is called for jury duty, either Federal, County or Municipal,

shall suffer no loss in pay. Any compensation received from such court for jury duty, as provided for in the Ohio Revised Code, shall be surrendered to the Employer.

## ARTICLE XVI

## FUNERAL LEAVE

**16.01** An employee shall be granted time off with pay, not to be deducted from sick leave, for the purposes of attending a funeral of a member of the employee's immediate family. The employee shall be entitled to the time between the date of death through the date of the funeral off duty for each death in his immediate family. For the purposes of this Article, "immediate family" shall be defined as to only include the employee's spouse, children, parents-in-law, parents, siblings and/or other relative living in the employees household. The employee shall be granted the day of the funeral or memorial services, if scheduled to work, in the event of the death of the employee's siblings-in-law, grandparents, grandchildren, aunt, uncle, niece, nephew and spouses grandparents, grandchildren, aunt and uncle. "Employee's parents" shall include any adult who had the responsibility of raising the employee as a foster or surrogate parent, irrespective of consanguinity or degree of relationship.

## ARTICLE XVII

## INJURY LEAVE

**17.01** When an employee is injured in the line of duty, while actually working for the Employer, necessitating his absence from work for three (3) work days or less, or seven (7) calendar days, or more, he shall be eligible for a paid leave not to exceed ninety (90) calendar days, providing he files for Worker's Compensation and signs a waiver assigning to the Employer those sums of money would ordinarily receive as his weekly compensation as determined by law for those number of weeks he receives benefits under this Article.

**17.02** If at the end of this ninety (90) day period the employee is still disabled, the leave may, at the Employer's discretion, be extended for additional ninety (90) calendar day periods, or parts thereof.

**17.03** The Employer shall have the right to require the employee to have a physical exam by a physician appointed by the Employer resulting in the physician's certification that the employee is unable to work due to the injury as a condition precedent to the employee receiving any benefits under this Article. The designated physician's opinion shall govern whether the employee is actually disabled or not, but shall not govern whether the injury was duty related.

**17.04** Nothing in this article will prohibit the employer, at its discretion, from assigning to an employee currently on an approved injury leave, those duties which the employee can perform in light of the employee's injury.

**17.05** For an employee to be placed on paid leave, he/she must provide a doctor's note or certificate indicating that all time missed is due to the work-related injury.

**17.06** Employees returning from injury leave must provide a doctor's note or certificate indicating that the employee is able to return to work.

**17.07** Once an employee receives a doctor's approved return to work, no paid injury leave will be permitted for further time off unless the employee re-injures them self pursuant to Article 17.01.

## **ARTICLE XVIII**

### **OVERTIME**

**18.01** All employees, for work actually performed in excess of their regular scheduled shift, when approved of by the Chief, shall be compensated at the rate of one and one-half (1-1/2) times the employee's forty (40) hour rate and for all time worked in any twenty-four hour period or any hours worked over forty in a regular work period.

All employees will be considered "On Duty" at Ten (10) Minutes Prior to the Assigned Hour their Scheduled Shift Begins. All employees will be considered on "Overtime" at Five (5) Minutes After the Assigned Hour their Scheduled Shift Ends. Such overtime shall formulate in Half Hour increments.

**18.02** Employees shall, at their election, be able to accrue compensatory time at one and one-half (1-1/2) times the number of overtime hours worked in lieu of cash payment, up to a maximum of eighty (80) hours. In the event an employee works overtime when his "comp-time bank" is at eighty (80) hours, he shall be paid cash for such overtime.

**18.03** Any employee called in to work or to court during his "off duty" time shall receive a minimum of three (3) hours pay, providing such time does not abut his regularly scheduled workday.

**18.04** Any employee called in for a departmental meeting, departmental shoot, certification or testing during his "off duty" time, when approved by the Chief, shall receive a minimum of two (2) hours of pay.

**18.05** Employees scheduled on 11 p.m. to 7 a.m. shift only shall not be adjusted to accommodate SWAT training in order to avoid overtime.

## **ARTICLE XIX**

### **UNIFORM ALLOWANCE**

**19.01** Every person newly hired as a full-time employee shall receive an initial uniform allowance of fifty percent (50%) based on the schedule in Article 19.04, payable after his first thirty (30) days of employment, and an additional allowance of fifty percent (50%) based on the schedule in Article 19.04 payable upon completion of six (6) months employment.

**19.02** Each employee except those who have not completed one (1) year of service as of April 1 of any year, shall receive a uniform allowance of fifty percent (50%) based on the schedule in Article 19.04 on April 1 and an allowance of fifty percent (50%) based on the schedule in Article 19.04 on October 1 of each year.

**19.03** Each full-time employee who has not completed one (1) year of service on April 1 shall receive on April 1 of their first year of service an amount equal to fifty percent (50%) based on the schedule in Article 19.04 below less one-sixth (1/6) for each month which they have yet to serve in order to have twelve (12) months of service. The same computation and resulting payment will be made on October 1.

**19.04** Schedule of uniform allowance is as follows:

2013	\$1,200.00
2014	\$1,200.00
2015	\$1,350.00

**19.05** The above payments shall be made on the first pay date after the date due.

## **ARTICLE XX**

## **INSURANCE**

**20.01** All full-time employees may receive hospitalization insurance coverage from the City of Bay Village in its Self-Funded Plan. Effective January 1, 2013 employee health care contributions shall be \$35.00 single/per month and \$70.00 family/per month, on a pre-tax basis. Effective October 1, 2013, employees shall contribute 8% of the monthly health insurance premium for either the single or family plan. Effective March 1, 2014, employees shall pay 9% of the health insurance premium for either the single or family plan. Effective March 1, 2015, employees shall pay 10% of the health insurance premium for either the single or family plan. All employee percentage contributions shall be on a pre-tax basis. The Employer reserves the right to change insurers, at its renewal, providing the schedule of benefits is comparable or better to the existing coverage. "Comparable", in this sense, shall mean equivalent to or better than the existing benefit levels. However, the plan document for any medical provider shall be the controlling determination for benefits under the hospital insurance for the employees. (Hospitals and providers are not guaranteed to be maintained with or without a change in insurers.) The City will make available to employees Section 125 Health Savings Plan.

Prescription Coverage: Effective March 1, 2013, Individuals shall be responsible for a \$10 co-pay for generic prescriptions, a \$30 co-pay for formulary prescriptions and a \$50 co-pay for name brand prescriptions. If a generic is not available the individual is responsible for the appropriate co-pay. An individual will pay the appropriate co-pay when their doctor has indicated DAW (dispense as written) on the prescription. DAW shall be the doctor's insistence and not as the result of the patient requesting DAW. If a generic is available and the patient has requested through the doctor DAW, the patient is responsible for a \$10 co-pay PLUS the

difference in price between the name brand and the generic. Maintenance prescriptions are available through mail order only at two times co-pay. Covered individuals shall be subject to the prescription plan selected by the City effective March 1, 2013.

**20.02** All employees shall receive fifty thousand dollars (\$50,000.00) in life insurance, paid for by the Employer.

**20.03** Hospitalization coverage (network) is subject to annual deductibles of \$400 for single coverage and \$800 for family coverage. Once deductibles have been met, individuals will receive in network coverage of 80%, with the out of pocket maximums of an additional \$1,000 for single enrollment and \$2,000 for family enrollment. Thus, the maximum out of pocket for single health coverage is \$1,400 and for family enrollment \$2,800 per year. The aforementioned maximums include deductibles, but do not include monthly contributions, any co-pays relative to office visits, prescriptions, vision coverage, or dental benefits. Out-of-Network coverage shall remain at 60% with maximum out-of-pocket limits of \$2,000 single/\$4,000 family, excluding deductibles.

Covered individuals shall be subject to the hospitalization plan with office visit co-pays and benefit levels contained in the hospitalization plan selected by the City effective March 1, 2013, a summary of which is attached.

**20.04** AFSCME Vision II and Dental III shall run for the duration of contract.

**20.05** Communicable Disease: The parties hereto agree that the duties of the employees of the Division of Police are such that said employees are exposed to disease as a result of their assigned duties. It is the intention of the parties to provide to said employees, salary continuation benefits when an employee contracts an illness as herein after specified.

In the event that a full-time employee of the bargaining unit should become ill due to contact with AIDS, HIV, Hepatitis, Tuberculosis or Meningitis, but limited too, and such other illness has so incapacitated the employee that he is unable to work, the Police Chief shall investigate and determine whether the illness is work related and of a nature that needs attention. The Police Chief shall then forward his finding to the Safety Director who shall determine the nature and extent of the illness and how contracted, including circumstances thereof. If after consideration of the totality of the facts the Safety Director determines that said disease was contracted during employment and is of a temporary nature requiring medical leave, the Safety Director shall authorize the full payment of the employee's regular salary for a period of ninety (90) days. In the event that after ninety (90) days an illness still incapacitates the employee, the Safety Director shall recommend to Council whether to continue salary. Council shall forthwith review the matter and by a majority vote determine whether the employee shall continue to receive full salary during recuperation. Any bargaining unit member who qualifies for benefits under this section shall be required to pay over to the City any amount received from the Bureau of Worker's Compensation as supplemental wages. Further if at any time it is determined on the basis of medical evidence that the employee is permanently disabled and may no longer be able to carry on his duties, then the City may terminate payments and insist that the Employee go on a

pension program.

Any employee that qualifies for the benefits under this Article shall not have his accumulated sick time reduced because of a qualified illness which occurred while in the line of duty.

In the event that an employee has been injured due to a toxic substance or to an infectious disease in the course or scope of his employment and is sent to the hospital for testing, treatment and/or preventative measures, and Workers' Compensation subsequently determines that there is no injury sustained, all bills pertaining to the employee's testing, treatment, and/or preventative measures shall be the responsibility of the City of Bay Village.

**20.06** The Employer and the Union will establish, as soon as is possible following ratification of a new CBA, a Joint Health Care Cost Containment Committee who will explore and make recommendations on premium costs, health plans, deductibles, out-of-pocket expenses, and co-pays for in-network and out-of-network plans, reinstating or modifying any existing or prior wellness programs in an effort to minimize the cost of health care coverage for both the employer and the employees under provisions established and when implemented by the Affordable Care Act. Each Union may have one representative on the Health Care Committee.

## **ARTICLE XXI**

## **RATES OF PAY**

**21.01** Effective 2013-2015, the following rate schedule shall be implemented:

<u>Job Title</u>	<u>2013 (July)</u>	<u>2014 (January)</u>	<u>2015 (January)</u>
Sergeant	\$74,321	\$76,146	\$78,014
Lieutenant	\$83,240	\$85,664	\$88,156

**21.02** Notwithstanding the above, the rank differential shall be at least:

<u>Rank Differential</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
From Patrolmen to Sergeant	12%	12.5%	13%
From Sergeant to Lieutenant	12%	12.5%	13%

**21.03** Any officer who is designated a "Detective" or as the "Executive Officer" to fill in for the Police Chief during the Chief's absence, shall be paid an additional one hundred dollars (\$100.00) per month, respectively, but such employees shall not receive both payments.

**21.04** Any patrol officer assigned to be in charge of a shift shall be paid the Sergeant's rate of pay while in charge, providing such assignment is approved by the Chief.

**21.05** Any employee assigned the duties of a Field Training Officer, shall receive an additional two dollars and fifty cents (\$2.50) per hour for each hour actually worked training a newly hired employee.

**21.06** Any employee for hours actually worked between 3:00 p.m. and 7:00 a.m. shall receive an additional hourly compensation of twenty cents (\$.20) per hour. This amount shall be included in the calculation of the employee's overtime rate of pay. This payment shall continue while the Division works a permanent work shift schedule. This additional payment shall stop in the event the Division of Police returns to a rotating shift schedule. Detectives while working a normal daytime shift are exempt from shift differential.

**21.07** All employees who pass mandatory requirements including shooting proficiency and alcohol testing certification shall be paid proficiency pay which will be included in the final pay period of the year in the amount of one thousand two hundred twenty five dollars (\$1,225.00).

## **ARTICLE XXII**                      **LONGEVITY**

**22.01** All full-time employees shall receive longevity payments after five (5) years of continuous full-time employment of one hundred dollars (\$100.00) per year for each year of service up to a maximum of three thousand dollars (\$3,000.00) per year.

**22.02** Continuous employment shall begin on the date of the employee's last date of hire and shall be completed by November 15<sup>th</sup> of each year.

**22.03** Such longevity amounts shall be paid to employees on the first regular pay date in December. Retirees or employees who voluntarily terminate their employment in good standing shall be paid a pro-rated amount at time of retirement/termination.

## **ARTICLE XXIII**                      **MILITARY LEAVES**

**23.01** All regular full-time employees who are on leaves of absence from their employment and in attendance in the military service, field training or other active duty of the Ohio National Guard, Ohio Defense Corps, Ohio Naval Militia, or as a member of other Reserve components of the Armed Forces of the United States, shall be entitled to receive for the period of such service, training or active duty not in excess of thirty-one (31) days in any one (1) calendar year, their regular pay, less the pay received for participation in such service, training or other active duty. Reimbursed expenses, travel and subsistence pay and other similar allowances shall not be considered in determining the amount of pay received for such service, training or active duty. Provisions of this section shall not apply if such military service, field training or other active duty is less than seventy-two (72) consecutive hours or longer than thirty-one (31) consecutive days.

**23.02** Any such employee may, at his election, credit all or any portion of such military

leave of absence against his regular annual vacation and for such period so charged the employee shall receive his regular vacation pay without deduction for the pay received for such service, training or active duty.

**ARTICLE XXIV**                      **MILEAGE ALLOWANCE**

**24.01**                      All employees shall receive as reimbursement for the use of their personal motor vehicles on Employer business based on IRS rates in effect at the time of use.

**ARTICLE XXV**                      **EXPENSES**

**25.01**                      Tips and gratuities which are included in any legitimate expense shall be paid by the Employer.

**ARTICLE XXVI**                      **PENSION/DROP**

**26.01**                      The Employer shall maintain a "tax saving pension plan" wherein the Employer deducts the employee's contribution to the Police and Firemen's Pension Fund prior to calculating withholding taxes, upon approval of the I.R.S.

**26.02**                      For administrative purposes, the employee's gross salary shall be reduced by the full amount of said contribution. The member contributions which are "picked up" by the Employer shall be treated in the same manner as contributions made by members prior to the commencement of the "pick up" program and will, therefore, be included in "compensation" for the purposes of the Police and Fire Disability and Pension Fund calculations, and for the purposes of the parties in fixing salaries and compensation of members as set forth in this Agreement. The Employer's contribution to the Police and Fire Disability and Pension Fund will be calculated on the full salary of members before the "pick up" is deducted from gross salary.

**26.03**                      Members of the bargaining unit who elect to participate in the DROP program offered by the Police and Fire Pension system shall not lose any benefits, rights, or wages provided by this contract or otherwise by law to which they would be entitled had they not chosen to participated in the DROP program. All DROP participants shall remain part of this bargaining unit and be treated for purposes of this agreement as any other member of the bargaining unit.

**ARTICLE XXVII**                      **LAYOFF/RECALL**

**27.01**                      When a layoff or job abolishment is necessary due to lack of funds or lack of work, the Employer shall notify the affected employees in writing at least thirty (30) days in advance of the effective date of layoff. The employee with the least departmental seniority will be the first laid off.

Bargaining unit members shall remain on a lay off list for four (4) years as long as the member

maintains his or her certification. The City shall recall from that list in the reverse order in which the members were laid off before hiring anyone else.

Notice of recall shall be sent to the employee(s) by registered mail, with a copy to the FOP/OLCI, and shall contain a date to return to work which shall not be less than thirty (30) days from the date of mailing. The Employer shall be deemed to have fulfilled its obligation by mailing the recall notice by registered mail. The notification of the intent to return to work must be communicated to the Chief of Police within fourteen (14) days of receipt of notice as aforesaid, and the employee must report back to work by the date set forth in the notice or forfeit his or her right to return.

#### **Bumping Rights**

Should the situation arise that a member holding the rank of sergeant or above and are given notice of lay-off, the least senior in that rank shall have the option to bump down to the next rank or patrol division. The affected employee shall become the most senior officer in the next lowest rank. If a Sergeant is affected, they will be reduced to the most senior patrol officer. The City shall not enter into any agreement with any other police bargaining unit that is in conflict with anything in this article.

### **ARTICLE XXVIII**

#### **HEADINGS**

**28.01** It is understood and agreed that the use of headings before articles and sections is for convenience only and that no heading shall be used in the interpretation of said article or section nor effect any interpretation of any article or section.

### **ARTICLE XXIX**

#### **GENDER AND PLURAL**

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

### **ARTICLE XXX**

#### **OBLIGATION TO NEGOTIATE**

**30.01** The Employer and the F.O.P. acknowledge that during negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining/negotiations and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

**30.02** Therefore, for the life of this Agreement, the Employer and the F.O.P. each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to negotiate collectively with respect to any subject or matter referred to, or covered in

this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated and signed this Agreement.

**ARTICLE XXXI**                      **TOTAL AGREEMENT**

**31.01**                      This Agreement represents the entire agreement between the Employer and the F.O.P. and unless specifically and expressly set forth in the express written provisions of this Agreement, all rules, regulations, benefits and practices previously and presently in effect may be modified or discontinued at the sole discretion of the Employer.

**ARTICLE XXXII**                      **CONFORMITY TO LAW**

**32.01**                      This Agreement shall be subject to and subordinated to any applicable present and future Federal and State Laws, and the invalidity of any provision(s) of this Agreement by reason of any such existing or future law shall not affect the validity of the surviving provisions.

**32.02**                      If the enactment of legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties but controlling by reason of the facts) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving provisions of this Agreement, which shall remain in full force and effect as if such invalid provision(s) thereof had not been included herein.

**ARTICLE XXXIII**                      **DURATION**

**33.01**                      This Agreement shall become effective at 12:01 a.m. on January 1, 2013 and shall continue in full force and effect, along with any amendments made and annexed hereto, until midnight, December 31, 2015. Notice to modify or terminate this Agreement, shall comply with O.R.C. 4117-1-02.

**ARTICLE XXXIIIa**                      **PRE-DISCIPLINARY PROCEDURE**

**33.01a**                      Whenever the Employer or his designee determines that an employee may be disciplined, a pre-disciplinary conference will be scheduled to give the employee an opportunity to offer an explanation of the alleged conduct. This conference shall be scheduled during the employee's regular hours, if scheduling permits. No overtime or paid outside hours.

**33.02a**                      Not less than twenty-four hours prior to the scheduled starting time of the conference, the employer will provide to the employee a written outline of the charges which may be the basis of disciplinary action, if requested by employee. The employee must choose to:

1. Appear at the conference to present an oral or written statement of their defense,
2. Appear at the conference and have no more than two chosen representatives present an oral or written statement in defense of the employee,
3. Elect in writing to waive the opportunity to have pre-disciplinary conference.

**33.03a** At the pre-disciplinary conference, the Employer will ask the employee or their representative to respond to the allegations of misconduct which were outlined to the employee.

**33.04a** The employee or their representative may present any testimony, or documents, which explain whether or not the alleged conduct occurred.

**33.05a** The pre-disciplinary hearing conference will be administered by the Chief of Police or the acting Chief of Police.

**33.06a** Upon conclusion of the pre-disciplinary hearing the Chief of Police will provide a written report determining whether or not the alleged conduct occurred and deciding what discipline if any is appropriate. A copy of this report will be provided to the employee within five days (working days excluding weekends and holidays) following the hearing, upon request of the employee.

**33.07a** Upon the receipt of this written report the employee will determine whether to accept the proposed discipline or follow those grievance procedures determined by this agreement.

## **ARTICLE XXXIV**                      **DISCIPLINARY PROCEDURE**

**34.01** This procedure shall apply to all non-probationary employees covered by this Agreement.

**34.02** All employees shall have the following rights:

A. An employee shall be entitled to representation by a Union representative or an attorney at his/her own expense at each step of the disciplinary procedure.

B. An employee shall not be coerced, intimidated, or suffer any reprisals either directly or indirectly that may adversely affect his hours, wages, or working conditions as the result of the exercise of his rights under this procedure.

**34.03** An employee may resign following the service of a Notice of Discipline. Any such resignation will be processed in accordance with the Employer's Rules and Regulations and the employee's employment shall be terminated.

**34.04** Discipline shall be imposed only for just cause. The specific acts for which

discipline is being imposed and the penalty proposed shall be specified in the Notice of Discipline. The Notice served on the employee shall contain a reference to dates, times and places, if possible.

**34.05** Where the appointing authority seeks as a penalty the imposition of a suspension without pay, a demotion or removal from service, notice of such discipline shall be made in writing and served on the employee personally or by registered or certified mail, return receipt requested.

**34.06** Discipline shall not be implemented until either:

1. the matter is settled, or
2. the employee fails to file a grievance within the time frame provided by this procedure, or
3. the penalty is upheld by the arbitrator or a different penalty is determined by the arbitrator.

**34.07** The Notice of Discipline served on the employee shall be accompanied by written statement that:

1. the employee has a right to object by filing a grievance within five (5) working days of receipt of the Notice of Discipline;
2. the Grievance Procedure provides for a hearing by an independent arbitrator as its final step;
3. the employee is entitled to representation by a Union representative or an attorney at his/her own expense at every step of the proceeding.

**34.08** If a grievance is filed and pursued within the time frames provided below, no penalty can be implemented, except as provided in paragraph 34.12, until the matter is settled or the arbitrator renders a determination.

**34.09** The following administrative procedures shall apply to disciplinary actions:

- A. The appointing authority and the employee involved are encouraged to settle disciplinary matters informally. Each side shall extend a good faith effort to settle the matter at the earliest possible time. The appointing authority is encouraged to hold an informal meeting with the employee for the purpose of discussing the matter prior to the formal presentation of written charges. The specific nature of the matter will be addressed, and the appointing authority may offer a proposed disciplinary penalty. The employee must be advised before meeting that she/he is entitled to representation by the Union or an attorney during the initial discussion.
- B. If a mutually agreeable settlement is not reached at this informal meeting

the appointing authority will, within ten (10) working days, prepare a formal Notice of Discipline and present it to the employee. If no informal meeting is held, the appointing authority may just prepare a Notice of Discipline and present it to the employee. The Notice of Discipline will include advice as to the employee's rights in the procedure, and the right of representation.

- C. Upon receipt of the Notice of Discipline, the employee may choose to accept the proposed discipline or to appeal by filing a grievance with the appointing authority, pursuant to Step 3 of the Grievance Procedure. The appeal must be filed at Step 3 within five (5) working days from receipt of the Notice of Discipline.

**34.10** A failure to submit an appeal within the above time limit shall be construed as an agreement to the disciplinary action by the effected employee and Union. All subsequent appeal rights shall be deemed waived.

**34.11** A disciplinary matter may be settled at any time. The terms of the settlement shall be agreed to in writing. An employee executing a settlement shall be notified of the right to have a Union representative or an attorney as a representative or to decline any such representation. A settlement entered into by an employee shall be final and binding on all parties. The Union shall be notified of all settlements.

**34.12** An employee may be suspended with pay at any time during the process if the appointing authority, at its sole discretion, determines the employee's continued presence on the job represents a potential danger to persons or property, or would interfere with the Employer's operations. A suspension without pay may be imposed concurrent with or subsequent to the decision at Step 3 of the Grievance Procedure.

**34.13** The Union on behalf of all the employees covered by this Agreement and its own behalf, hereby waives any and all rights previously possessed by such employees to appeal any form of disciplinary action (e.g., suspensions, demotion or discharge) to any Civil Service Commission.

**34.14**      Procedure

a. Progressive Discipline Classifications

- i. **Level 1** - The supervisor may use a counseling or training session when an employee commits a minor infraction or has acted outside the parameters of the Rules & Regulations, Policies & Procedures. If the supervisor believes the employee's actions can be altered by a counseling session, the supervisor may use this method. A Level 1 action is not placed in the employee's personnel file. The Record of Counseling/Training Form shall remain with the employee's immediate supervisor

and will be signed by the issuing supervisor and employee at the time of the Counseling/Training Session and noted on the employee's upcoming evaluation.

- ii. Level 2 - For an infraction(s) of the Rules & Regulations or Policies & Procedures of a more serious nature than Level 1 or that has been previously addressed through counseling or training; the supervisor should use an oral or written reprimand. An oral or written reprimand of an employee shall be recorded on The Bay Village Police Department Record of Reprimand Form.
  - a. Level 2 action shall be documented and forwarded to the Chief of Police to be noted in the employee's personnel file.
  
- iii. Level 3 - For an infraction(s) of the Rules & Regulations or Policies & Procedures of a more serious nature than Level 2 or an infraction of the law or negligent behavior/action or one that an employee has previously committed and that has been addressed through training, counseling and/or an oral or a previous written reprimand, the supervisor should use a written reprimand.
  - a. The supervisor must state the infraction(s) the employee committed and/or any previous attempts to rectify this behavior through training, counseling or an oral reprimand that caused the Level 3 action, including the fact that a written reprimand had been previously administered, if applicable. Follow up procedures or corrective actions shall be included.
  - b. A Level 3 action shall be documented and forwarded to the Chief of Police to be noted in the employee's personnel file.
  
- iv. Level 4 - For an infraction(s) of the Rules & Regulations or Policies & Procedures of a more serious nature than Levels 1, 2 or 3, or of an infraction of the law or reckless behavior/action that has been previously addressed through training, the supervisor may recommend a suspension without pay and/or reassignment from any "extra duty positions" (Extra duty positions include assignments to the Detective Bureau, SWAT, Dive Team, Bomb Tech, Evidence Tech, Field Training Officer, or any other assignments made by the Chief of Police).
  - a. The supervisor must state the infraction(s) the employee committed and any previous attempts to rectify this behavior through training, counseling, oral or written reprimand or that caused the Level 4 action. Follow up procedures or corrective actions shall be included. A Level 4 action can only be instituted by the Chief of Police, but only after the completion of the grievance procedure established in the Collective Bargaining Agreements or unless the presence of the employee constitutes a threat to safety or the continued operation of the

Department. The Chief of Police may institute a suspension with pay in the interim.

b. A Level 4 action shall be documented and forwarded to the Chief of Police through the Chain of Command.

c. Level 4 Suspension Parameters

1. First Occurrence of a Level 4 infraction Suspension without Pay can be 1 to 5 days.

2. Second Occurrence of a Level 4 infraction Suspension without Pay can be 6 to 10 days.

3. Third Occurrence of a Level 4 infraction Suspension without Pay can be 10 days or greater, or Demotion.

4. Fourth Occurrence of a Level 4 infraction can initiate the Dismissal Process. Each Level 4 infraction committed by an employee shall be considered a separate act. If such conduct is a pattern of behavior, then the employee's conduct as a whole shall be considered regarding progression of suspension, demotion, or dismissal.

v. Level 5 – For the most serious infraction(s) of the Rules & Regulations or Policies & Procedures, or those infractions which are purposely or knowingly committed, or behavior/actions that have been previously addressed through training/counseling or punitive discipline occurring in Levels 1, 2, 3 or 4 . The supervisor shall document the infraction(s), including the cause for a Level 5 action (Demotion or Dismissal).

a. A Level 5 action shall be documented and forward to the Chief of Police through the Chain of Command.

vi. If more than one employee is involved in a Level 2 through 5 infraction(s), a separate set of charges will be documented against each offending employee.

a. The Chief of Police has the discretion to amend a supervisor's recommendation on issuing a lesser charge (i.e. Levels 1, 2, 3 or 4) and raise the severity of the charge to a Level 5, if there has been prior progressive discipline or the infraction is of such a serious nature to warrant such an action. The Chief of Police also has the discretion to reduce the charge which was recommended.

b. Progressive Discipline

i. Training

a. Training is a disciplinary tool used to correct a valuable employee's performance deficiency. Training, when properly selected and accepted by the employee, enhances the effectiveness and ability of

the employee to perform his/her job. When an employee or his/her supervisor perceives a need for training, the employee or supervisor submits a request for training through the appropriate chain of command and the request provides for supervisor comments.

- b. This action shall be documented on the Record of Counseling/Training Form and noted on the employee's upcoming evaluation.

ii. Counseling

- a. Counseling of an employee by a supervisor is one method used to correct an employee's performance deficiency. The purpose of counseling is to give the employee stronger direction, closer guidance, or clarification on the Department's Rules and Regulations, Policies and Procedures, objectives, and expectations. Counseling is generally the responsibility of the employee's immediate supervisor. An employee counseling can be conducted in the presence of a bargaining unit representative if requested by the employee.

- b. This action shall be documented on the Record of Counseling/Training Form and noted on the employee's evaluation.

iii. Oral Reprimand

- a. A supervisor, in circumstances where admonishment is necessary for a non-serious infraction and when there is no continuing problem with the employee, may implement an oral reprimand. An oral reprimand is considered informal and an element of supervision. An oral reprimand shall be documented on Record of Reprimand - Oral or Written Form and placed in the employee's personnel file. Both the employee and supervisor shall sign the form prior to it being placed into the employee's personnel file. An oral reprimand should be handled at the lowest level (i.e., ~ the employee's immediate supervisor).

iv. Written Reprimand

- a. A written reprimand of an employee by a supervisor is used as a measure to correct a performance deficiency which has either been previously addressed through training, counseling, an oral reprimand or is serious enough to initially require written documentation of the infraction. A Record of Reprimand Form is given to the employee and shall contain the infraction(s) allegedly committed by the employee and the Rules & Regulations or Policy & Procedures the employee allegedly violated. The Record of Reprimand Form shall be signed by both the employee and supervisor and placed into the employee's personnel file. If a second Record of Reprimand Form is issued to an employee, it will now be categorized as a punitive measure and fall into the Punitive Disciplinary

Action section.

c. Pre-Discipline Hearing

- i. In the cases of Level 3, 4 or 5 violations, the Chief of Police (or his designee) shall hold a pre-discipline hearing within 10 days of the completion of the investigation.
- ii. The Pre-Discipline Hearing shall comply with all Current Collective Agreement procedures.

Bargaining

d. Punitive Disciplinary Action

i. Definition

1. Punitive disciplinary actions - includes a 2<sup>ND</sup> written reprimand, suspension with pay, suspension without pay, reassignment from position or extra duty, demotion and/or dismissal. Such actions are taken when an employee's performance deficiency is repeated despite prior corrective action or when a violation of Department Rules & Regulations/ Policies & Procedures is serious and significant enough to require immediate severe action. Depending upon the seriousness of the violation, punitive disciplinary action may not always be progressive in nature.

ii. Relief from Duty and Suspension with Pay

1. The relief of an employee from duty is an interim measure taken to immediately remove an employee from service. A supervisor or the continued service of the employee may jeopardize the safety of the employee or other persons, or when the security of the community or integrity of the Department may be compromised. Suspension with pay of an employee is a non-punitive interim measure used during the investigation of an employee's past performance of which the outcome of the investigation may result in criminal or civil action taken against the employee or otherwise declares the employee unfit for duty.

iii. Suspension without Pay

1. Suspension without pay of an employee is a punitive measure used to correct a performance deficiency, which has either been previously addressed through a reprimand or is serious enough to initially require such punitive action. The decision to suspend an employee without pay is made by the Chief of Police and only for just cause. Prior to this decision, a pre-discipline hearing for determining cause will be conducted by the Chief of Police in accordance with the current Collective Bargaining Agreements

2. The employee's rights, including appeal process, are to be consistent with the current Collective Bargaining Agreements.

iv. Demotion

1. The demotion of an employee is a punitive measure used to correct a performance deficiency, which has either been previously addressed through suspension without pay or is serious enough to initially require such punitive action. The decision to demote an employee is made by the Chief of Police and only for just cause. Prior to this decision, a pre-discipline hearing for the purpose of determining cause is conducted by the Chief of Police in accordance with the procedures established by the Collective Bargaining Agreements.
2. No demotion shall take effect until the completion of the grievance process, unless the Chief of Police or the Appointing Authority (Safety Director/Mayor) shall demonstrate just cause for this action to take place immediately.

v. Dismissal

1. The dismissal of an employee is used as a measure to sever the employment relationship between the City of Bay Village and an employee whose performance has previously been addressed through suspension without pay and/or demotion, or is serious enough to initially require dismissal. The decision to dismiss an employee is made by the Chief of Police only for just cause. Prior to this decision, a pre-discipline hearing for the purpose of determining cause is conducted by the Chief of Police in accordance with the procedures established by the Collective Bargaining Agreements.
- 2.. No dismissal shall take effect until the completion of the grievance process, unless the Chief of Police or the Appointing Authority (Safety Director/Mayor) shall demonstrate just cause for this action to take place immediately.
3. Upon dismissal, the employee shall be provided with the following information:
  - (a) A statement citing the reason for the dismissal (i.e., Laws, Rules & Regulations, Policies & Procedures violated).
  - (b) The effective date of the dismissal.
  - (c) A statement of the status of fringe and retirement benefits after dismissal.

vi. Status of an employee arrested or under indictment

1. An employee arrested for any misdemeanor shall notify his/her immediate supervisor on his/her first day of work following their arrest. An employee will also notify his/her immediate supervisor of any traffic citation or misdemeanor citation they receive on his/her first day back to work after the incident.

2. Any employee arrested or cited for misdemeanor violations [Criminal and/or serious traffic offense(s)] can be suspended without pay until the resolution of the court proceedings.
3. Any employee under indictment or arrested for a felony can be placed on suspension without pay until the resolution of the court proceedings.
4. An employee suspended without pay may use accrued vacation or holidays during this suspension. The Employer shall maintain the employee's health insurance coverage during this suspension.
5. An employee found not guilty of these charges by a trial court shall be paid for all lost time and shall have all vacation and holiday time restored.
6. Even if the employee is found not guilty of any charges by a trial court, the employee may still be charged with violating the Department's Rules & Regulations or Policies & Procedures and face appropriate discipline in accordance with this policy and the Collective Bargaining Agreements.

## **ARTICLE XXXV**

## **GRIEVANCE PROCEDURE**

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

**35.02** For the purposes of this procedure, the below listed terms are defined as follows:

- a) Grievance - A "grievance" shall be defined as a dispute or controversy arising from the misapplication or misinterpretation of the specific and express written provisions of this Agreement.
- b) Aggrieved Party - the "aggrieved party" shall be defined as only an employee or group of employees within the bargaining unit actually or the F.O.P. filing a grievance.
- c) Party in Interest - A "party in interest" shall be defined as any employee of the Employer named in the grievance who is not the aggrieved party.
- d) Days - A "day" as used in this procedure shall mean calendar days,

excluding Saturdays, Sundays and the holidays as provided in this Agreement.

**35.03** The following procedures shall apply to the administration of all grievances filed under this Grievance Procedure.

- a) Except at Step 1, all grievances shall include the name and position of the aggrieved party; the identity of the provisions of this Agreement involved in the grievance; the time and place where the alleged events or conditions constituting the grievance took place; the identity of the party responsible for causing the grievance, if known to the aggrieved party; and a general statement of the nature of the grievance and the redress sought by the aggrieved party.
- b) Except at Step 1, all decisions shall be rendered in writing at each step of the Grievance Procedure. Each decision shall be transmitted to the aggrieved party and his representative, if any.
- c) If a grievance affects a group of employees working in different work locations, with different principals, or associated with an employer-wide controversy, it may be submitted at Step 3.
- d) The preparation and processing of grievances shall be conducted only during non-working hours except upon the Chief's discretion and approval.
- e) Nothing contained herein shall be construed as limiting the right of any employee having a grievance to discuss the matter informally with any appropriate member of the administration and having said matter informally adjusted without the intervention of the F.O.P., provided that the adjustment is not inconsistent with the terms of this Agreement. In the event that any grievance is adjusted without formal determination, pursuant to this procedure, while such adjustment shall be binding upon the aggrieved party and Employer and shall, in all respects, be final, said adjustment shall not create a precedent or ruling upon the Employer in future proceedings.
- f) The aggrieved party may choose whomever he wishes to represent him at any step of the Grievance Procedure after Step 1.
- g) This Grievance Procedure shall be the sole and exclusive procedure for the interpretation of and the enforcement of this Agreement.
- h) The time limits provided herein will be strictly adhered to and any grievance not filed initially or appealed within the specified time limits

shall be deemed waived and void. If the Employer fails to reply within the specified time limit, the grievance shall automatically move to the next step by default. The time limits specified for either party may be extended only by written mutual agreement.

- i) This procedure shall not be used for the purpose of adding to, subtracting from, or altering in any way, any of the provisions of this Agreement.
- j) Oral warnings will be kept in a separate departmental file and not in the personnel jacket of the employee.

**35.04** All grievances shall be administered in accordance with the following steps of the Grievance Procedure.

Step 1:

An employee who believes he may have a grievance shall notify his immediate supervisor of the possible grievance within five (5) days of the occurrence or knowledge of the facts giving rise to the grievance. The Supervisor will schedule an informal meeting with the employee within five (5) days of the date of the notice by the employee. The supervisor and the employee will discuss the issues in dispute with the objective of resolving the matter informally. The supervisor shall give his answer within five (5) days of the meeting.

Step 2:

If the aggrieved party initiating the grievance is not satisfied with the decision at the conclusion of Step 1, a written appeal of the decision may be filed with the Chief within five (5) days from the date of the rendering of the decision at Step 1. The Chief shall convene a meeting within ten (10) days of the receipt of the appeal. The meeting will be held with the aggrieved party and his representative, if he requests one. The Chief shall issue a written decision to the employee's representative, with a copy to the employee if he requests one, within fifteen (15) days from the date of the meeting.

Step 3:

If the aggrieved party is not satisfied with the written decision at the conclusion of Step 2, a written appeal of the decision may be filed with the Mayor within ten (10) days from the date of the rendering of the decision in Step 2. Copies of the written decisions shall be submitted with the appeal. The Mayor or his designee shall convene a meeting within ten (10) days of the receipt of the appeal. The meeting will be held with the aggrieved party, his representative and any other party necessary to provide the required information for the rendering of a proper decision. The Mayor or his designee shall issue a written decision to the employee's representative with a copy to the employee within fifteen (15) days from the date of the meeting.

**ARTICLE XXXVI**

**ARBITRATION PROCEDURE**

**36.01** In the event a grievance is unresolved after being processed through all of the steps of the Grievance Procedure, unless mutually waived or having passed through the various steps by timely default of the Employer, then within ten (10) days after the rendering of the decision at Step 3 or a timely default by the Employer at Step 3, the aggrieved party may submit the grievance to arbitration. Within this ten (10) day period, the parties will meet to attempt to mutually agree upon an arbitrator selected from the permanent panel created by this procedure. If such agreement is not reached, then the panel members' names will be stricken alternatively until one (1) name remains who shall be designated the arbitrator to hear the grievance in question.

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

**36.03** The arbitrator shall not decide more than one (1) grievance on the same hearing day(s), except by mutual written agreement of the parties.

**36.04** The hearing or hearings shall be conducted pursuant to the "Rules of Voluntary Arbitration" of the American Arbitration Association.

**36.05** The fees and expenses of the arbitrator and the cost of the hearing room, if any, will be borne by the party losing the grievance. All other expenses shall be borne by the party incurring them. Neither party shall be responsible for any of the expenses incurred by the other party.

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

**36.07** There is hereby created a permanent panel of arbitrators to be used for the selection of an arbitration pursuant to this Arbitration Procedure. Those individuals placed on this panel shall be: 1) Nicholas Duda Jr.; and 2) Dr. Harry Graham; and 3) Dennis Minni, Esq..

**36.08** The F.O.P. agrees to indemnify and hold the Employer harmless against any and all claims, demands, suit or other forms of liability that may arise out of any determination that the F.O.P. failed to fairly represent a member of the bargaining unit during the exercise of his rights as provided by the Grievance and Arbitration Procedures herein contained.

## **ARTICLE XXXVII**                      **EMPLOYEE RIGHTS UNDER INVESTIGATION**

**37.01** An employee has the right to the presence and advise of an FOP/OLCI representative at all disciplinary interrogations, when the employee determines the interrogation has moved from investigatory to accusatory.

**37.02** An employee who is to be questioned as a suspect in any investigation of any criminal charge against him shall be advised of his constitutional rights before any questioning starts.

**37.03** Before an employee may be charged with any violation of the Rules and Regulations for a refusal to answer questions or participate in an investigation, he shall be advised that his refusal to answer such questions or participate in such investigation will be the basis of such a charge.

**37.04** Questioning or interviewing of an employee in the course of an internal investigation will be conducted at hours reasonably related to the employee's shift, unless operational necessities require otherwise. Interrogation sessions shall be for reasonable periods of time. Time shall also be provided for rest periods and attendance to physical necessities.

**37.05** An employee will be informed of the nature of any investigation of himself prior to any questioning. If the employee being questioned is, at that time, a witness and not under investigation, he shall be so advised.

**37.06** An employee may request an opportunity to review his personnel file, add memoranda to the file clarifying any documents contained in the file and may have a representative of the FOP/OLCI present when reviewing his file. A request for copies of items included in the file shall be honored. All items in an employee's file with regard to complaints and investigations will be clearly marked with respect to final disposition.

**37.07** With respect to investigations which may result in criminal charges, a formal charge of misconduct shall be prepared in writing stating the matters which are under investigation and the charges which are being considered. If, during the course of an investigation, this is determined the formal written notice will be prepared and delivered to the employee.

**37.08** In the course of an internal affairs investigation, a polygraph examination may be administered by the Employer. If, in the course of an internal investigation, an employee has been given a polygraph examination, such examination shall not be used in any subsequent criminal court action.

**37.09** All complaints by civilians which may involve suspension or discharge of an employee, shall be in writing and signed by the complainant. The Employer will furnish a copy of the complaint to the employee whom the complaint has been filed against when such employee is notified of the investigation.

**37.10** Records of reprimands that are more than two (2) years old shall not be used in a future disciplinary action providing there has been no intervening disciplinary action within that two (2) year period.

**ARTICLE XXXVIII**

**APPLICATION AND INTERPRETATION OF WORK  
RULES, POLICIES AND DIRECTIVES**

**38.01** The FOP/OLCI recognizes that the Employer, in order to carry out its statutory mandates and goals, has the right to promulgate reasonable work rules, policies, procedures and directives consistent with statutory authority, to regulate the personal conduct of employees while at work and the conduct of the Employer's services and programs.

**38.02** The Employer agrees that, to the extent any work rules have been or will become reduced to writing, every employee shall have access to them for the duration of this Agreement. If requested, copies of newly established written work rules or amendments to existing work rules will be furnished to the highest official of the FOP/OLCI prior to implementation. Should any work rules conflict with law or with the specific provisions of this Agreement, such rules shall be invalid to the extent of such conflict.

**38.03** It is the Employer's intention that work rules, policies, and directives are to be interpreted and applied uniformly to all employees under similar circumstances. Any employee against whom such rules, policies and directive are enforced may challenge their uniformity of application or interpretation as to that employee.

**38.04** As soon as reasonably possible after the execution of this Agreement, the Employer shall furnish to the FOP/OLCI a copy or copies of the existing written work rules.

**ARTICLE XXXIX**

**PROMOTIONS**

**39.01** All promotions shall be made as a result of the administration of a civil service exam. The Employer shall have the right to require an assessment center evaluation. A composite total score shall be based on the standards set forth by the Civil Service Commission, however, the City reserves the right to select one of the two ranked employees for such vacant position.

**ARTICLE XL**            **EXECUTION**

**40.01**            IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed this 7<sup>th</sup> day of March, 2014.

**FOR THE F.O.P.**  
Fraternal Order of Police  
Lodge No. 25

[Signature] 3-7-14  
[Signature] 3-7-14  
Kathleen Lessor 3-7-14

**FOR THE EMPLOYER:**  
City of Bay Village, Ohio

[Signature]  
Deborah Sutherland, Mayor

## EMPLOYEE RIGHTS

You have been served with a Notice of Discipline. Under the labor contract you have rights as listed below. PLEASE READ THESE RIGHTS THOROUGHLY BEFORE YOU AGREE OR DISAGREE WITH ANY PROPOSED DISCIPLINARY ACTION.

If, after reading your rights and discussing the matter with your Union representative, or an attorney at your own expense, you agree to the proposed discipline, you may simply sign this form at the bottom to note your agreement, and return it to your Appointing Authority.

If you disagree with the discipline, you should state your reasons in writing in the space provided below, and return this form to your Appointing Authority within five (5) working days of receipt of the Notice of Discipline.

### RIGHTS

1. You are entitled to representation by the Union, or you may hire an attorney at your own expense, to represent you at each step of this procedure.
2. You have the right to object to the proposed discipline by filing a disciplinary grievance within five (5) working days (including any sick days but excluding vacation days) of receipt of the proposed discipline with your Appointing Authority.
3. If you file your objections, the Appointing Authority will schedule a formal meeting within ten (10) working days of receipt of this form to discuss the matter. You may have representation at this meeting.
4. The Appointing Authority will report his/her decision within five (5) working days following the close of the hearing.
5. You will have ten (10) working days after receipt of the Appointing Authority's decision in which to appeal the decision pursuant to the Grievance Procedure.
6. No recording will be made of discussions or questioning unless you are informed and are provided a copy of the transcript of record within at least five (5) working days prior to the date of the arbitration. Cost of the record or transcript shall be paid by the party requesting the copy of the transcript.
7. The cost of the arbitrator will be paid by the losing party.
8. All disciplinary actions and procedures shall be carried out in a private and business-like manner.
9. Officers shall not be compelled to personally confront or defend themselves to a complainant (arrestee) except in the proper venue, i.e., during a lawful required court hearing. It shall be the officer's choice whether to attend such a meeting if scheduled. The officer can cancel or leave this meeting in progress at their discretion. Requiring or compelling an officer to appear before a complainant (arrestee) in any other venue, except in a court is prohibited.

APPEAL OR ACCEPTANCE OF DISCIPLINARY ACTION

This is an optional form to the FOP/OLCI Grievance form

To The Employee:

This form must be returned within five (5) working days (excluding vacation days) to the Appointing Authority (Department Head) if you want to appeal the proposed disciplinary action.

\_\_\_\_\_ I AGREE WITH AND ACCEPT THE PROPOSED DISCIPLINE

\_\_\_\_\_ I WISH TO APPEAL THE PROPOSED DISCIPLINE FOR THE FOLLOWING

REASONS:

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

(If more space is needed, attach extra sheets of paper)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved: Date: \_\_\_\_\_

Appointing Authority Signature: \_\_\_\_\_

NOTICE OF DISCIPLINARY ACTION

TO:

FROM:

DATE:

SUBJECT: Proposed Disciplinary Action

You are hereby notified that your Appointing Authority (Employer) proposes to take the following disciplinary action against you:

---

---

---

---

---

You have certain rights regarding the appeal of the above proposed disciplinary action. Please read the attached information regarding these rights.

\_\_\_\_\_  
APPOINTING AUTHORITY

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:

FRATERNAL ORDER OF POLICE,  
OHIO LABOR COUNCIL, INC.,  
EMPLOYEE ORGANIZATION,

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

}

Case No(s): 12-MED-09-0945  
(Lieutenants & Sergeants)

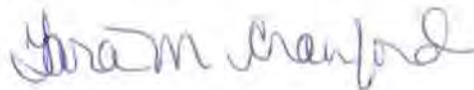
and,

CITY OF BAY VILLAGE,  
EMPLOYER.

FILING OF THE COLLECTIVE BARGAINING AGREEMENT

Pursuant to Board Rule 4117-09-07, the F.O.P. Ohio Labor Council Inc. hereby files the Collective Bargaining Agreement executed between the parties in the above captioned case(s). The Contract Data Summary Sheet is attached.

Respectfully Submitted,



Tara M. Crawford  
Paralegal  
F.O.P., O.L.C.I.  
222 East Town Street  
Columbus, Ohio 43215  
614-224-5700

cc: Ms. Deborah Sutherland, [dsutherland@cityofbayvillage.com](mailto:dsutherland@cityofbayvillage.com)