12-MED-10-1156
0517-02
K30416
01/10/2014

AN AGREEMENT

between

THE CITY OF MIDDLEBURG HEIGHTS, OHIO

and

THE OHIO PATROLMEN'S
BENEVOLENT ASSOCIATION
(SERGEANTS)

EFFECTIVE: January 1, 2013
EXPIRES: December 31, 2014

TABLE OF CONTENTS

ARTICLE	SUBJECT	PAGE
1	Preamble	
2	Purpose and Intent	
3	Recognition	
4	Dues Deduction and Agency Shop	
5	Management Rights	
6	No-Strike	
7	Promotions	
8	Probationary Period	
9	Non-Discrimination	
10	Employee Rights	
11	Labor-Management Committee	
12	Holidays	
13	Vacations	
14	Sick Leave	
15	Personal Leave	
16	Funeral Leave	
17	Injury Leave	
18	Overtime Pay and Court Time	
19	Premium and Other Pays	
20	Uniform Allowance	
21	Longevity	
22	Salary Schedule	
23	Pension	
24	Insurances	
25	Gender and Plural	
26	Headings	
27	Obligation to Negotiate	
28	Legislative Approval	
29	Total Agreement	
30	Conformity to Law	
31	Disciplinary Procedure	
32	Grievance Procedure	
33	Arbitration Procedure	
34	Substance Testing and Assistance	
35	Miscellaneous	
36	Family Medical Leave	
37	Duration	
38	Execution	

ARTICLE 1 PREAMBLE

1.01 This Agreement is hereby entered into by and between the City of Middleburg Heights, Ohio, hereinafter referred to as "the Employer", and the Ohio Patrolmen's Benevolent Association, hereinafter referred to as "the OPBA".

ARTICLE 2 PURPOSE AND INTENT

2.01 In an effort to continue harmonious and cooperative relationships with its employees and to insure its orderly and uninterrupted efficient operations, 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 Middleburg Heights; 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 3 RECOGNITION

3.01 The Employer hereby recognizes the OPBA as the sole and exclusive bargaining agent with respect to wages, hours and other terms and conditions of employment for all full-time employees of the Police Department occupying the positions of sergeant, 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 provided by law.

3.02 The Employer agrees to meet and negotiate the rates of pay for any newly created job title that would properly be included in the bargaining unit.

ARTICLE 4 DUES DEDUCTIONS AND AGENCY SHOP

4.01 During the term of this Agreement, the Employer will deduct regular monthly OPBA dues from the wages of those employees who have voluntarily signed dues deduction authorization forms permitting said deductions. The dues deductions and fair share fees shall be made from the first pay check of each month. If the employee's pay for that period is insufficient to cover the amount to be deducted, the Employer will make the deduction from the next paycheck, providing the employee will be working during that subsequent period.

4.02 All employees covered by this Agreement who have completed sixty (60) days of employment with the Employer or upon completion of sixty (60) days of employment with the Employer, and have not become Union members, shall pay a "fair share fee", not to exceed the Union's regular monthly dues as a condition of employment with the Employer.

4.03 The deduction of fair share fees shall be automatic and does not require the written authorization of the employee.

4.04 The Employer agrees to supply the OPBA with a list of those employees for whom dues deductions and fair share fees have been made.

4.05 A check in the amount of the total dues withheld from those employees authorizing a dues deduction and fair share fees shall be tendered to the Treasurer of the OPBA within thirty (30) days from the date of making said deductions.

4.06 The OPBA 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 OPBA shall indemnify the Employer for any such liabilities or damages that may arise.

ARTICLE 5 MANAGEMENT RIGHTS

5.01 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; 2) determine the number of persons required to be employed or laid off; 3) determine the qualifications of employees covered by this Agreement consistent with Civil Service Rules and Regulations; 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, consistent with Civil Service Rules and Regulations; 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 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 or work.

5.02 In addition, the OPBA 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 6 **NO-STRIKE**

6.01 The OPBA 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 the withholding of services from the Employer.

6.02 In addition, the OPBA shall cooperate at all times with the Employer in the continuation of its operations and services and shall actively discourage any attempt to prevent any violation of this Article. If any violation of this Article occurs, the OPBA 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 OPBA and order all employees to return to work immediately.

6.03 It is recognized by the parties that the Employer is responsible for and engaged in activities which are the basis of the health and welfare of its citizens and that any violation of this Article would give rise to damage to the Employer and the public at large. Accordingly, it is understood and agreed that in the event of any violation of this Article, the Employer shall be entitled to the OPBA indemnifying and holding the Employer harmless from any and all costs arising from the OPBA's violation of this Article.

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

6.05 The Employer agrees that it shall not lock-out any employees.

ARTICLE 7 PROMOTIONS

7.01 No person shall be eligible to be promoted unless he has at least twenty-four (24) months in the next lower rank (not to include probationary periods). Whenever a vacancy occurs in a position above Patrol Officer and there is no eligible list for such rank, the Civil Service commission shall within sixty (60) days of such vacancy hold a competitive promotional examination. After such examination has been held and an eligible list established, the Commission shall forthwith certify to the Employer the names of the three (3) persons having the highest rating. Upon such certification the Employer shall appoint one (1) of the three (3) persons so certified within thirty (30) days from the date of such certification. If there is an eligibility list the Commission shall, where there is a vacancy and upon request from the Employer, immediately certify the names of the three (3) persons having the highest rating on the eligibility list.

ARTICLE 8 PROBATIONARY PERIOD

8.01 All newly hired employees will be required to serve a probationary period of eighteen (18) months. During such period, the Employer shall have the sole discretion to discipline or discharge such employee(s) and any such action shall not be appealable through any grievance or appeal procedure contained herein, or to the Civil Service Commission.

8.02 All newly promoted employees will be required to serve a promotional probationary period of six (6) months. During such period, the Employer shall have the sole discretion providing such discretion is not exercised in an arbitrary or capricious manner, to demote such employee(s) to his previous position and any such demotion shall not be appealable through any grievance or appeal procedure contained herein or to the Civil Service Commission.

8.03 If any employee is discharged or quits while on his initial probationary period and is later rehired, he shall be considered a new employee and shall be subject to the provisions of paragraph 8.01, above.

ARTICLE 9 NON-DISCRIMINATION

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

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

ARTICLE 10 EMPLOYEE RIGHTS

10.01 Except when on duty or acting in an official capacity, no employee shall be prohibited from engaging in non-partisan political activity or be denied the right to refrain from engaging in such activity.

10.02 Whenever an employee is under investigation for alleged malfeasance, misfeasance or non-feasance of official duty, with a view to possible disciplinary action, demotion, dismissal or criminal charges, he shall have the right to confer with a representative of the OPBA prior to making any statement.

10.03 An employee has the right to the presence and advice of a Union representative at all disciplinary interrogations where the employee is to be the subject of such disciplinary action.

10.04 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 participation in an investigation may be the basis of such a charge and result in disciplinary action.

10.05 An employee may request an opportunity to review his personnel file during normal hours, add pertinent memoranda to the file clarifying any documents contained in the file and may have a representative of the Union present when reviewing his file along with an Employer representative. A request for copies of items included in the file shall be honored at a cost of fifteen ($.15) cents per copy. Employees shall be notified if any non-Employer representative wishes to see their file.

10.06 Employees shall receive a copy of any document placed in their file, except for confidential documents (i.e. pre-employment investigations, recommendations, etc.). All items in an employee's file with regard to complaints and investigations will be clearly marked as to final disposition. Employees shall be able to file a written response to such material which shall be attached to the document in question.

10.07 Questioning or interviewing of an employee in the course of an internal investigation will be conducted at reasonable times with consideration for the employee's workshift, unless operational necessities require otherwise.

10.08 If an employee to be questioned is, at that time, a witness and not under investigation, he shall be so advised of such status.

10.09 No employee shall be required to take any polygraph (lie detector) examination or similar test as a condition of continued employment.

10.10 Employee evaluations (annual or semi-annual) shall be made in as fair and equitable manner as practical.

10.11 At the discretion of the Chief, an employee may use an Employer-owned vehicle when on the Employer's business, when such vehicle is reasonably available.

10.12 In the event of the death of an employee, all sums of money earned and payable pursuant to other provisions of this Agreement, shall be paid to the employee's spouse. If no spouse, then in equal portions to the employee's dependent children. If none, then to the employee's estate.

10.13 Records of previous disciplinary actions in the form of oral or written reprimands shall not be used in subsequent disciplinary actions after such records are more than two (2) years old and records of unpaid suspensions shall not be used after five (5) years, providing there has been no intervening disciplinary action during such time periods.

10.14 No seniority shall be accrued during an unpaid leave of absence except as otherwise provided in Section 35.04. Seniority will be held at the amount the employee possesses at the beginning of the leave. When the employee returns from leave, such seniority will commence accruing and be added to the previous amount possessed at the time the leave began.

ARTICLE 11 LABOR-MANAGEMENT COMMITTEE

11.01 There shall be created a Labor-Management Committee consisting of not more than three (3) Employer representatives and not more than three (3) OPBA representatives.

11.02 Such Committee shall meet at a mutually agreeable time, upon the request of either party, to discuss matters of mutual concern, providing that matters subject to negotiations or grievance shall not be discussed without the parties mutual agreement.

11.03 Matters concerning the distribution of training opportunities shall be discussed at a labor-management committee meeting with the Mayor or Safety Director in attendance.

11.04 Matters concerning the replacement of the current uniform or the replacement of damaged or stolen uniforms or personal items shall be discussed at a labor-management committee with the Chief of Police in attendance. This provision shall not alter the current requirement of submitting a Form 1 request for discretionary reimbursement.

ARTICLE 12 HOLIDAYS

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

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
President's Day	Thanksgiving Day
Good Friday	Christmas Day
Law Day	Christmas Eve (1/2 day)
Memorial Day	New Year's Eve (1/2 day)

12.02 In order to be eligible for the above paid holidays, the employee must report to work and actually work the last scheduled workday before the holiday and immediately after the holiday, unless specifically excused by the Department Head or the Mayor, or the employee is on an authorized vacation. The scheduling of employees to work on Thanksgiving, Christmas Eve, Christmas Day and Easter, shall be as equitable as practical.

12.03 Employees shall have the option of electing to take either the time off with pay or to be paid for the holidays at his straight time rate of pay and shall notify the Chief of his election.

12.04 Should an employee elect to take the time off instead of pay for the holiday, the employee shall designate the days he wishes to take off which shall be subject to the advance approval of the Chief as to when they may be taken.

12.05 An employee who elects to take time off for holidays shall be required to take the time during the year in which it is accumulated and not be able to carry the time over into the next year.

ARTICLE 13 VACATIONS

13.01 Each full-time employee shall earn and be entitled to paid vacation in accordance with the following schedule:

Length of Service	Weeks
After one (1) year	Two (2)
After five (5) years	Three (3)
After ten (10) years	Four (4)
After fifteen (15) years	Five (5)
After twenty (20) years	Six (6)

13.02 Earned vacation shall be earned on the employee's anniversary date in accordance with the above schedule and awarded on January 1st, providing the employee is employed by the Employer at that time. There shall be no proration of vacation time. Newly hired employees shall accrue vacation time at the rate of one (1) day per month, not to exceed ten (10), which shall be taken after January 1st of the following year. Employees who become eligible for an increase in vacation during the calendar year due to achieving a higher step in length of service shall receive a pro-rata of the vacation increase that year to the nearest one-half (½) day.

13.03 Vacation time shall be taken at a time approved of by the Department Head or Chief in segments of not less than four (4) hours.

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

13.05 Any earned and accrued, but unused, vacation time shall be paid out at the employee's regular rate of pay upon the employee's resignation, termination, retirement or death.

13.06 Vacation time shall not be carried over from one (1) year to another without the express written authorization of the Department Head or Chief. Any vacation time that is unused within the year granted, unless such vacation period had been canceled by the Employer due to staffing needs, shall be deemed forfeited unless deemed otherwise by the Department Head or Chief.

13.07 An employee who has been employed for a length of time so that the employee is eligible for four (4) weeks vacation or more in any one (1) year, shall be allowed to accumulate up to one (1) week of vacation each year to be applied in a manner to permit the retirement of the employee earlier than the retirement date to which the employee would otherwise be entitled. The length of such early retirement shall be equal to the number of weeks saved pursuant to this paragraph.

13.08 Any employee of the Employer hired after January 1, 1987, 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 said vacation time to his accumulated vacation time with the Employer, provided such time does not exceed three (3) years credit.

13.09 The parties agree that Middleburg Heights Ordinance No. 1995-41, a copy of which is attached as Exhibit A, is incorporated into this Agreement. The benefits contained in the ordinance must be elected by the employee. This Agreement shall prevail over any specific conflicting provisions of the Ordinance.

13.10 Based on Middleburg Heights Ordinance No. 1995-41, any employee who has ten (10) or more years credit for purposes of computing vacation shall be paid for the fourth (4th) week in equal payments with the employee's regular salary spread over the year in which the vacation is

earned unless the employee notifies the finance department and obtains approval of the Chief in writing prior to the beginning of such year that the employee opts to accept all four (4) weeks of vacation. This provision is effective only as long as the ordinance exists.

13.11 Based on Middleburg Heights Ordinance 1995-41, any employee who has twenty (20) or more years credit for computing vacation shall be paid for the fifth (5th) and sixth (6th) week in equal payments with the employee's regular salary spread over the year in which the vacation is earned unless the employee notifies the finance department in writing prior to the beginning of such year and obtains approval of the Chief that the employee opts to accept all six (6) weeks of vacation. This provision will become ineffective if the ordinance is repealed.

ARTICLE 14 SICK LEAVE

14.01 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 contagious disease communicable to other employees; and 3) serious illness, injury or death in the employee's immediate family; and 4) appointments with medical care providers that cannot be scheduled on off-duty hours.

14.02 All full-time employees shall earn sick leave at the rate of one and one-quarter (1¼) days per month and may accumulate such sick leave to an unlimited amount; provided, however, that an employee shall not earn sick leave for any month unless he is in full pay status for at least twenty (20) work days during such monthly period.

14.03 An employee who is to be absent on sick leave shall notify the dispatcher of such absence and the reason therefore at least one (1) hour before the start of his work shift each day he is to be absent, except in an emergency.

14.04 Sick leave may be used in segments of one-quarter (1/4) hour but only after at least one (1) hour is used.

14.05 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 the Chief and paid by the Employer. In any event, an employee absent for more than two (2) consecutively scheduled work days must supply a physician's report to be eligible for paid sick leave.

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

14.07 Any abuse of sick leave or the patterned use of sick leave shall be just and sufficient cause for discipline as may be determined by the Chief.

14.08 The Chief may require an employee who has been absent due to personal illness or injury, prior to and as a condition of his return to duty, to be examined, by a physician designated and paid for by the Employer, to establish that he is not disabled from the performance of his normal duties and that his return to duty will not jeopardize the health and safety of other employees.

14.09 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 or step-children and parents residing with the employee. When the use of sick leave is due to death in the immediate family, "immediate family" shall be defined to only include the employee's mother, father, spouse, child, brother, sister, parents-in-law and grandparents.

14.10 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, providing that his amount of accumulated sick leave shall not exceed the accumulation limit in effect to his new department.

14.11 Only an employee of the Employer hired before January 1, 1989, who has accumulated sick leave earned 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, said accumulation to his sick leave accumulation with the Employer, providing that such sick leave accumulation shall be limited to the existing maximum accruable amount in effect at the time of transfer in this Agreement.

14.12 Upon the retirement of a full-time employee who has not less than (10) years of continuous service with the Employer, such employee shall be entitled to receive a cash payment equal to his daily rate of pay at the time of retirement multiplied by one third (1/3) the total number of accumulated but unused sick days earned by the employee as certified by the Finance Director, providing that such resulting number of days to be paid shall not exceed eighty five (85) days. Upon the retirement of a full-time employee who has not less than 15, 20 or 25 years of service with the City, such employee shall be entitled to one-third (1/3) payout as set forth herein, not to exceed ninety five (95) days for employees with fifteen (15) years of service, one hundred five (105) days for employees with twenty (20) years of service and one hundred fifteen (115) days for employees with twenty-five (25) years of service.

14.13 An employee eligible for cash payment pursuant to paragraph 14.12 above, may at his option elect to take an early retirement with the monetary value of such cash payment being applied towards said early retirement.

14.14 Normal sick leave usage shall not count against employees in personnel evaluations.

14.15 Employees may, at their option, convert unused sick leave hours in a plan year as follows.

Any employee attaining a sick time bank of 960 hours by June 30, of any year, will be eligible for a cash payment based on a portion of the amount of sick leave accrued and unused during the next year, starting July 1, through June 30, of the following year. The amount will be prorated in the event the employee is separated from service before June 30th. The employee must elect to be paid the sick time conversion by June 1 of the qualifying year. The benefit shall be paid during the month of July following the accrual year in accordance with the following schedule:

Employees attaining and maintaining 960 hours of sick time shall receive a payment equal to 35% of the unused sick leave accrued during the plan year.

After 15 years of continuous service - 40% of unused sick leave accrued during the plan year.

After 20 years of continuous service - 45% of unused sick leave accrued during the plan year.

After 25 years of continuous service - 50% of unused sick leave accrued during the plan year.

After 30 years of continuous service - 55% of unused sick leave accrued during the plan year.

After 35 years of continuous service - 60% of sick leave accrued during plan year.

Payment for said sick leave shall be at his or her daily rate of pay at the time of conversion.

If the sick time conversion is not elected, any accrued buy unused sick time will remain in the employee's sick time bank and either be used in accordance with the sick time provision as defined in this Article or be paid at the time of retirement in accordance with Section 14.12.

Years of continuous service shall be determined as of June 30 preceding the accrual year. Years of service accumulated by an officer or employee in one department or division who transfers to another department or division shall count towards continuous service. Employment with the State or any other political subdivision of the State shall count towards continuous service provided the employee is employed by the City within ten years from his or her termination from such other public employer. Purchased service credit shall count towards longevity of service. Each three years served as a part-time office or part-time employee of the City shall count as one year of continuous service for the purpose of the annual conversion program.

14.16 The City agrees to allow employees to "roll-over" their sick leave cash-out into their Deferred Compensation account pursuant to the following terms:

(a) Election to participate would take place no earlier than two years before an employee is eligible to retire. Election to participate must be made pursuant to written authorization. Payments will made annually on behalf of those employees electing to participate in the program.

(b) Employee will have to have completed at least 23 years of service and be at least 46 years of age to participate.

(c) Cash out limits will remain the same as posted in the contract and Codified Ordinances, i.e.:

1/3 not to exceed 105 days after 20 years of service

1/3 not to exceed 115 days after 25 years of service

1/3 not to exceed 125 days after 30 years of service

(d) 2/3 of the amount is forfeited, but

(e) Any remaining sick time over and above the payout but to the limit will remain in the employee's sick time bank, for use as needed.

(f) Example, a 23 year employee having 2,640 hours of accumulated sick time decides to be paid out in accordance with this program. 2,640/3 = 880 hours or 110 days to be paid, but can only be paid for 105 days. Thus, 5 days, 40 hours of sick time remains in bank.

(g) The employee will continue to accumulate sick time, for their use, or participate in the annual sick leave conversion program, if their sick leave bank was more than 960 hours at the time of election to participate.

(h) Employees may cash in all or part of sick leave as he or she sees fit, so long as limits imposed by Deferred Compensation Guidelines are not exceeded.

(i) Cash out will be paid at the employee's rate of pay at the time of each cash out.

(j) No further cash out above the limit will be paid upon retirement.

(k) Any disputes or differences in interpretation will be resolved by the OPBA, the City and the affected employee through negotiations.

(l) City will be "held harmless" by participating employee.

14.17 Consistent with the terms of City Ordinance 2002-107, employees may voluntarily donate unused sick leave in order to provide assistance to other full-time employees who are in

critical need of leave do to serious illness or injury of the employee or the employee's immediate family, subject to the discretion of the Chief of Police.

ARTICLE 15 PERSONAL LEAVE

15.01 All employees shall, in addition to all other leave benefits, be granted two (2) personal leave days each year which are to be taken within the year earned.

15.02 Personal days shall only be taken with the advance approval of the Chief and when the work shift is at sufficient strength so the Employer will not be required to have another employee work for the employee requesting the day off.

15.03 Unused personal days may be added to the employee's sick leave accumulation, providing such accumulation is not at the maximum amount allowed by Article XIV, "Sick Leave".

ARTICLE 16 FUNERAL LEAVE

16.01 An employee shall be granted time off with pay for the purposes of attending a funeral of a member of the employee's immediate family. The employee shall be entitled to a maximum of three (3) workdays 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, step-children, parents, brother, sister or parents-in-law.

16.02 An employee shall be granted time off with pay in the amount of one (1) workday for the purposes of attending a funeral of the employee's grandparent, step-parent and step grandparent.

ARTICLE 17 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 more than three (3) work days, he shall be eligible for a paid leave not to exceed ninety (90) calendar days. At the Employer's request, the injured

employee will file for lost wages with Worker's Compensation and sign a waiver assigning to the Employer those sums of money he would ordinarily receive as his weekly compensation as determined by law for those number of weeks he receives benefits under this Article. In the event Worker's Compensation pays benefits to the employee and/or Employer, the employee's sick leave for the first three (3) days shall be restored to the amount of compensation paid for those days.

17.02 If at the end of this ninety (90) day period, the employee is still disabled, the leave may, at the Mayor's sole 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 and paid 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 Employer shall extend the period of leave.

17.04 In the event the Employer grants injury leave and the employee's Workers Compensation claim is ultimately denied on the substantive merits of a claim after all administrative appeals through the Bureau and/or Ohio Industrial Commission, or after the employee's failure to timely appeal through the administrative process, the employee shall reimburse the Employer all sums advanced. Reimbursement shall first be charged to accrued but unused sick leave, if available. If further reimbursement is necessary, the employee shall either forfeit his vacation leave and/or reimburse the Employer through payroll deductions in an amount mutually agreeable between the City and the employee.

17.05 No holiday time or pay shall be earned for holidays on which an employee is off on injury leave.

ARTICLE 18 OVERTIME PAY AND COURT TIME

18.01 All employees shall be compensated at the rate of one and one-half (1 ½) times the employee's regular hourly rate for all overtime when approved of by the Chief or compensatory time computed at the same rate to be taken in the future as approved. Overtime shall be defined as any approved work in excess of an employee's regular tour of duty in one (1) day or eighty (80) hours in a bi-weekly pay period. Employees who elect paid overtime in lieu of compensatory time will have longevity, shift differentials, premium payments to detectives and premium pay included as part of the overtime rate.

18.02 Whenever approved by the Chief, employees called into work or appearing in court on behalf of the Employer for a time period of less than three (3) hours, when the employee is not on duty, shall be paid not less than three (3) hours pay at the rate of one and one-half (1 ½) times the employees regular hourly rate.

18.03 Any employee who is required to be absent from work due to serving as a juror, shall be paid his regular hourly rate for all hours absent from work, providing he surrenders any and all fees and/or expenses he receives from such duty to the Employer and returns to work as soon as practical.

18.04 Overtime, to the extent reasonably practical, shall be equitably distributed within the various divisions of the Department.

18.05 Compensatory time may be accumulated to a maximum of one hundred sixty (160) hours. Any overtime worked when an employee has such maximum amount accrued shall be paid for in cash.

18.06 Employees shall be able to utilize accrued compensatory time in segments of not less than 1/2 hour upon advance request and approval of the Employer or accrue such time until retirement or termination of employment. Such time may be scheduled in conformance with all other paid leave scheduling practices.

18.07 Compensatory time shall be paid at the employee's regular rate of pay or the average rate of the employee's last three (3) years of employment, whichever is greater, upon the employee's termination or retirement.

18.08 Employees shall be able to cash out accumulated compensatory time two (2) times per year, in the second pay in May and second pay in October, provided the following conditions are met:

a) Requests will be made to the Finance Division thirty (30) days prior to the payout; and

b) Employees may cash out up to fifty percent (50%) of accumulated compensatory time each payout period in whole hour increments; and

c) Payouts will be made only for compensatory time accumulated more than two (2) pay periods prior to the payout; and

d) Payouts of accumulated compensatory time shall be non-pensionable as set forth in the Police and Fire Pension statute and Administrative Code Rules.

18.09 Any employee who works "doubleback" shifts shall receive one (1) hour of compensatory time for each doubleback, or one hour straight time pay at the employee's election, not to exceed twelve (12) hours per year.

ARTICLE 19 PREMIUM AND OTHER PAYS

19.01 Any employee who has received any of the below specified educational certificates or degrees, shall be paid additional pay in the annual amounts specified in the following schedule:

Training Certificate in Law Enforcement	$350.00
Associate Degree in Law Enforcement	600.00
Bachelor's Degree in approved field	850.00
Graduate Degree in approved field	1,100.00

Premium pay shall be awarded by June 15th of each year and shall be pro-rated during the employee's probationary year. Any amounts owed to the City will be deducted from the final paycheck.

19.02 Any officer who is designated as a detective or juvenile officer and performs the duties of said positions, shall be compensated, in addition to such officer's regular compensation, at the rate of seventy-five ($75.00) dollars per month. Any employee designated and performing the duties of a Field Training Officer (FTO) shall receive one (1) hour of straight time pay or comp-time for each day working as an FTO.

19.03 Any employee who is designated the Senior Officer of a shift and performs such duties by being in charge of a work shift, shall receive twelve and one-half (12 1/2%) percent above the top step patrolmen's rate, hour for hour, as the Senior Officer.

19.04 The Labor-Management Committee may advise the Chief as to which employees should take which training. The final decision shall remain with the Chief.

19.05 Any employee who is killed in the line of duty shall receive eight (8) weeks pay, which will be paid to the beneficiary (beneficiaries) listed in the City life insurance policy. If none, then to the employee's estate.

19.06 An employee assigned to the Detective Bureau and Accident Investigation shall be compensated four (4) hours of compensatory time for each month of on-call assignment.

ARTICLE 20 UNIFORM ALLOWANCE

20.01 All newly hired probationary employees shall receive uniforms which shall be bought and paid for by the Employer within thirty (30) days of his date of appointment.

20.02 All non-probationary employees shall receive an annual uniform allowance in the amount of one thousand two hundred ($1,200) dollars. This amount shall be divided in half with the first payment being made in the last regular pay period in May, or at the City's discretion, on June 1st, and the second payment the first pay period in December of each year.

20.03 The Employer shall supply all approved leather equipment (excluding jackets and shoes) to those employees authorized such equipment. Such equipment shall be replaced by the Employer when deemed necessary by the Chief.

ARTICLE 21 LONGEVITY

21.01 All employees shall receive longevity payments commencing upon the completion of five (5) years of continuous full-time employment in the amount of three hundred and seventy-five ($375.00) dollars, which shall be increased by seventy-five ($75.00) dollars for each succeeding year of employment. Effective January 1, 2005 for new hires, years of service shall mean only with Middleburg Heights.

21.02 Longevity payments shall be made in accordance with Section 36.02 of this Agreement.

ARTICLE 22 SALARY SCHEDULE

22.01 Effective on January 1, 2013, all employees shall receive wages in accordance with the following schedule:

Sergeant Hourly Rate - $39.38

22.02 Effective on January 1, 2014, all employees shall receive wages equal to 16% above a Step 4 patrolman in accordance with the following schedule:

Sergeant Hourly Rate - $40.17

22.03 All employees shall be paid their bi-weekly paycheck on Friday through direct deposit at a financial institution of the employee's choice. Employees must notify the Employer within thirty (30) days after hire of the selection of such financial institution. In the event no selection is identified, the Employer shall institute an employee direct deposit at a financial institution of its choosing.

22.04 Effective at the beginning of the first full pay period subsequent to the execution of this Agreement all employees shall be paid shift differentials for working the 3:00-11:00 PM and 11:00 PM-7:00 AM shifts in the amount thirty ($.30) cents per hour. Employees working a "split shift" shall receive the differential of the shift in which the greatest number of hours are worked. If the number of hours are equally split, the employee shall receive the greater differential.

22.05 Such shift differentials shall only be paid for the hours actually worked, not for any paid leave time (e.g., holidays, sick leave, vacations, etc.).

ARTICLE 23 PENSION

23.01 The Employer shall continue its "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. and/or PFDPF. Such tax saving pension plan shall be the "salary reduction" method.

23.02 For administrative purposes, the employee's gross salary shall be reduced by the full amount of said contribution. The member contributions will be "picked up" 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 for members as set forth in this Agreement. The Employer's contribution to the Police and Fire Disability and Pension Fund will be calculated according to the rules and regulations promulgated by the Ohio Police and Fire Disability and Pension Fund.

ARTICLE 24 INSURANCES

24.01 The Employer will continue to pay the full premiums of either the individual or family plan as appropriate for the insurance coverage presently in effect with the City insurance coverage being subject to the co-pays and provisions as stated below:

(a) the Employer and employee shall pay eighty (80%) percent and twenty (20%) percent, respectively, of the first five thousand ($5,000.00) dollars (in network) (employee co-pay contribution is 30% for outside of the network); and

(b) basic insurance coverage will include physical examinations and supplements as prescribed by a medical physician. This does not include over the counter vitamins; and

(c) such plan shall continue to include the existing prescription drug rider however, the prescription coverage co-pay shall be five ($5.00) dollars for generic drug prescriptions; fifteen ($15.00) dollars for formulary brand name drugs and thirty ($30.00) dollars for name brand prescriptions. Pharmacy filled prescriptions shall have a maximum of thirty (30) days. The City will maintain its mail order service for a ninety (90) day supply for maintenance drug prescriptions. Employees also have the option of receiving maintenance drug prescriptions at Walgreen pharmacies so long as the City maintains such maintenance prescription plan with Walgreen. The mail order plan or Walgreen option for maintenance drug prescriptions is mandatory; and

(d) The plan shall require a twenty ($20.00) dollar office co-pay for each doctor's office visit (Single or Family).

(e) The plan shall require a fifteen ($15.00) dollar co-pay for each visit to a mini-clinic that is either operated by a pharmacy or approved by the Plan Administrator.

(f) The plan shall require a fifty ($50.00) dollar co-pay for each emergency room visit. The emergency room co-pay will be waived if admitted to the hospital during the visit.

(g) Health insurance shall not include payment for abortions for eligible employees or dependents and all prior coverage is hereby eliminated. The health insurance plan shall pay for oral contraceptives.

(h) Employees who are eligible for health care may "opt-out" at their election, and shall receive payment of $100/month for a family plan and $50/month for a single

plan opt-out benefit. The City will implement this provision subsequent to the execution of the CBA.

(i) The parties agree that the health insurance plan shall include a $50.00 penalty (precertification penalty) in the event an employee fails to precertify for surgery or a hospital stay under the health plan.

(j) The City will continue its "cafeteria plan." (a.k.a. Section 125 Plan)

24.02 The Employer shall provide a fifty thousand ($50,000.00) dollar life and dismemberment insurance policy for employees.

24.03 The Employer shall continue to provide at its expense Dental coverage for each employee and his family, which coverage shall provide for the payment of eighty (80%) percent of the costs of oral examinations, teeth cleaning, fluoride applications, space maintainers, emergency office visits, x-rays, fillings, anesthetics, antibiotics, extractions, oral surgery, repair of prosthetic appliances, and replacement of damaged appliances. Such dental coverage shall include payment of fifty (50%) percent of the employee and employee's family costs of reconstructive procedures (e.g., caps, crowns, root canals, dentures, partials and bridges).

24.04 The Employer shall continue a vision plan similar and comparable to the plan currently provided to City employees. The Employer may change vision care providers so long as the benefits are comparable or better than such existing plan.

24.05 The provisions set forth in Article XXIV shall be effective upon the same date that these provisions are effective for each and every other City bargaining unit.

ARTICLE 25 GENDER AND PLURAL

25.01 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

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 is not to be interpreted as being discriminatory by reason of sex.

ARTICLE 26 HEADINGS

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

ARTICLE 27 OBLIGATION TO NEGOTIATE

27.01 The Employer and the OPBA 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.

27.02 Therefore, for the life of this Agreement, the Employer and the OPBA 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 28 LEGISLATIVE APPROVAL

28.01 It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing the

additional funds therefore, shall not become effective until the appropriate legislative body has given its approval.

ARTICLE 29 TOTAL AGREEMENT

29.01 This Agreement represents the entire agreement between the Employer and the OPBA and unless specifically 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 30 CONFORMITY TO LAW

30.01 This Agreement shall be subject to and subordinated to any present and future Federal and State Laws and the invalidity of any provisions of this Agreement by reason of any such existing or future law or rule or regulation shall not effect the validity of the surviving provisions.

30.02 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 effect the validity of the surviving portions of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included herein.

ARTICLE 31 DISCIPLINARY PROCEDURE

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

31.02 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. No recording device or stenographic or other record shall be used during questioning unless the employee is advised in advance that a transcript is being made and is thereafter supplied a copy of the record, at least five (5) days prior to the date of arbitration. The cost of the transcript will be borne by the party requesting the copy of the transcript.

C. 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.

31.03 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.

31.04 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, time and places, if possible.

31.05 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. Oral and written reprimands cannot be grieved beyond the Mayor's step of the Grievance Procedure.

31.06 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, or

4. the penalty is imposed after the decision of the Safety Director or designee.

31.07 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) 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.

31.08 If a grievance is filed and pursued within the time frame provided below, no penalty can be implemented, except as provided in paragraph 31.12, until the matter is settled or the arbitrator renders a determination.

31.09 The following administrative procedures shall apply to disciplinary actions:

A. The Chief 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 Chief is encouraged to hold a 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 Chief 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 Chief will, within ten (10) days, prepare a formal Notice of Discipline and present it to the employee. If no informal meeting is held, the Chief 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 Safety Director, pursuant to Step 3 of the Grievance Procedure. The appeal must be filed at Step 3 within five (5) days from receipt of the Notice of Discipline.

31.10 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.

31.11 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.

31.12 An employee may be suspended with pay at any time during the process. A suspension without pay may be imposed concurrent with or subsequent to the decision at Step 3. An employee who is suspended without pay shall continue to receive health insurance coverage as

set forth in this Agreement. An employee who is discharged after the decision of the Safety Director shall not receive insurance coverage but may be eligible to purchase such insurance through the COBRA provisions.

31.13 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 a Safety Director's Inquiry or to appeal any form of disciplinary action (e.g., suspensions, demotion or discharge) to any Civil Service Commission.

ARTICLE 32 GRIEVANCE PROCEDURE

32.01 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.

32.02 For the purpose 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 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.

32.03 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.

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 OPBA, 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 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) The existence of this Grievance Procedure, hereby established, shall not be deemed to require any employee to pursue the remedies herein provided and shall not impair or limit the right of any employee to pursue any other remedies available under law, except that any employee who pursues any other available remedy other than provided by this procedure, shall automatically have waived and forfeited any remedies provided by this procedure.

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.

32.04 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 of the facts giving rise to the grievance. The Supervisor will schedule an informal meeting with the employee and his representative, if the representative's presence is requested by the employee, within five (5) days of the date of the notice by the employee. The supervisor and the employee, along with the employee's representative will discuss the issues in dispute with the objective of resolving the matter informally.

Step 2:

If the dispute is not resolved informally at Step 1, it shall be reduced to writing by the aggrieved party and presented as a Grievance to the Chief of the Police Department within five (5) days of the informal meeting or notification of the supervisor's decision at Step 1, whichever is later, but not later than seven (7) days from the date of the hearing if the supervisor fails to give the employee an answer. The Chief shall give his answer within five (5) day of the meeting.

Step 3:

If the aggrieved party initiating the grievance is not satisfied with the written decision at the conclusion of Step 2, a written appeal of the decision may be filed with the employee's Department Head within five (5) days from the date of the rendering of the decision at Step 2. Copies of the written decision shall be submitted with the appeal. The Department Head shall convene a hearing within ten (10) days of the receipt of the appeal. The hearing will be held with the aggrieved party and his representative, if he requests one. The Department Head shall issue a written decision to the employee's representative with a copy to the employee if the employee requests one, within fifteen (15) days from the date of the hearing.

Step 4:

If the aggrieved party is not satisfied with the written decision at the conclusion of Step 3, a written appeal of the decision may be filed with the Mayor within five (5) days from the date of the rendering of the decision in Step 3. Copies of the written decisions shall be submitted with the appeal. The Mayor or his designee shall convene a hearing within ten (10) days of the receipt of the appeal. The hearing 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 if the employee requests one within fifteen (15) days from the date of the hearing. If the aggrieved party is not satisfied with the decision at Step 4, he may proceed to arbitration pursuant to the Arbitration Procedure herein contained.

32.05 The OPBA's Grievance Committee shall review the employee's grievance in order to determine its merit prior to any filing of the grievance. Should the OPBA decide the grievance is lacking sufficient merit, it may deny the employee its representational services. Such a denial shall not be made in a perfunctory or arbitrary manner.

ARTICLE 33 **ARBITRATION PROCEDURE**

33.01 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 4 or a timely default by the Employer at Step 4, 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.

33.02 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.

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

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

33.05 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.

33.06 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.

33.07 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) James Mancini, Esq.; 2) Dr. Harry Graham; 3) Lawrence Loeb, Esq.; 4) Dennis Minni, Esq.; and 5) Jonathan Klein.

33.08 The OPBA agrees to indemnify and hold the Employer harmless against any and all claims, demands, suits or other forms of liability that may arise out of any determination that the

Union 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 34 SUBSTANCE TESTING AND ASSISTANCE

34.01 Drug and alcohol screening/testing shall be conducted randomly and upon reasonable suspicion which means that the Employer possesses facts that give rise to reasonable suspicion that an employee is currently or had recently been engaging in the use of illegal drugs or improper use of alcohol. Drug screening/testing shall be conducted solely for administrative purposes and the results obtained shall not be used in any criminal proceedings. Under no circumstances may the results of drug screening or testing be released to a third party. The following procedure shall not preclude the Employer from other administrative action but such actions shall not be based solely upon the test results.

34.02 All drug and alcohol screening tests shall be conducted by medical laboratories licensed by the State of Ohio. The procedure utilized by the test lab shall include a chain of custody procedure and mass spectroscopy confirmation of any positive initial screening.

34.03 Drug screening tests shall be given to employees to detect the illegal use of a controlled substances as defined by the Ohio Revised Code. If the screening is positive, the employee shall be ordered to undergo a confirmatory test of blood by the gas chromatography-mass spectrophotometry method which shall be administered by a medical laboratory licensed by the State of Ohio. The employee may have a second confirmatory test done at a medical laboratory licensed by the State of Ohio of his choosing, at his expense. This test shall be given the same evidentiary value of the two (2) previous tests. If at any point the results of the drug testing procedures conducted by the City specified in this article are negative, (employee confirmatory tests not applicable) all further testing and administrative actions related to drug/alcohol testing

shall be discontinued. Negative test results shall not be used against an employee in any future disciplinary action or in any employment consideration decision.

34.04 Upon the findings of positive test results for an illegal controlled substance by the chemical tests, the Employer shall conduct an internal investigation to determine if facts exist to support the conclusion that the employee knowingly used an illegal controlled substance. Upon the conclusion of such investigation, an employee who has tested positive for the presence of illegal drugs pursuant to this section shall be referred to an employee assistance program or detoxification program as determined by appropriate medical personnel on drug and alcohol counseling unless the employee has previously tested positive for the use of drugs, refuses to participate in the EAP or counseling, or some other unusual and/or exceptional facts exist so as to bypass the EAP, in which case the Employer may have the right to disciplinary action. An employee who participates in a rehabilitation or detoxification program shall be allowed to use sick leave, vacation leave, personal days, holiday time or compensatory time for the period of the detoxification program. If no such leave credits are available, such employee shall be placed on a medical leave of absence without pay for the period of the rehabilitation or detoxification program. Upon completion of such program and a retest that demonstrates the employee is no longer illegally using a controlled substance, the employee shall be returned to his position. Such employee may be subject to periodic retesting at the discretion of the Employer upon his return to his position. Any employee in the above-mentioned rehabilitation or detoxification programs will not lose any seniority or benefits should it be necessary that he be required to take a medical leave of absence without pay for a period not to exceed ninety (90) days.

34.05 If the employee refuses to undergo rehabilitation or detoxification, or if he fails to complete a program of rehabilitation, or if he tests positive at any time within eighteen (18)

months after his return to work upon completion of the program of rehabilitation, such employee shall be subject to disciplinary action. Except as otherwise provided herein, costs of all drug screening tests and confirmatory tests shall be borne by the Employer. For the purpose of this article, "periodic" shall mean not more than three (3) times per year, except that drug tests may be performed at any time upon "reasonable suspicion" of drug use.

34.06 No drug testing shall be conducted without the authorization of the Chief of Police. If the Chief orders, the employee shall submit to a toxicology test in accordance with the procedure set forth above. Refusal to submit to toxicology testing after being ordered to do so may result in disciplinary action. Records of drug and alcohol testing shall be kept in the office of the Chief of Police and shall be kept confidential except as provided by the Ohio Public Records laws, however, test results and records may be used in future disciplinary actions as set forth in the article.

34.07 The employee and the OPBA shall be given a copy of the laboratory report of both specimens before any discipline is imposed.

34.08 Employees that purposely make false accusations pursuant to this section shall be subject to discipline including but not limited to discharge. Records of disciplinary action or rehabilitation resulting from positive test results may be used in subsequent disciplinary actions for a period of four (4) years.

ARTICLE 35 MISCELLANEOUS

35.01 Employees will be paid for all hours they are required to attend training, including travel time, as directed and mandated by the Chief of Police. The Chief shall approve required training in writing on a designated form of his choosing.

35.02 As set forth in this Agreement, employees shall receive longevity pay, one-half (½) of their uniform allowance and holiday pay by direct deposit in the first regular pay period in December of each year. The parties acknowledge that payment for holidays will be made only after the actual holiday in accordance with Section 12.01 however, payment for holidays will include an advancement for holidays after December 1st through and including December 31st. In the event an employee is separated from employment during this December period, such employee's final pay shall be reduced in order to reimburse the City for any advanced holiday pay.

35.03 All compensation shall also be subject to direct deposit.

35.04 When an employee retires, the retiree may purchase his firearm, either on duty or off duty issue, for the cost of one dollar ($1.00). In the event the firearm is one year or less, the Chief may, at his discretion, make an alternative firearm available for purchase.

35.05 Employees who are assigned to work schedules other than eight (8) hours shall have their fringe benefits, including holidays, personal days, vacation leave, sick leave and funeral leave adjusted, modified and converted to equate to eight (8) hour shift employees. The leave benefit contained in previous Collective Bargaining Agreements are not increased due to employees being scheduled or working ten or twelve hour shifts.

35.06 The Employer will reimburse all bargaining unit employees the amount of seventy-five ($75.00) dollars annually who maintain a single or family membership at the Middleburg Heights Recreation Center.

35.07 Employees attending to duties outside the County shall be reimbursed without necessity of receipts in the amount of Ten ($10.00) dollars for breakfast; fifteen ($15.00) dollars for lunch; twenty-five ($25.00) dollars for dinner, subject to the prior approval of the Chief of Police.

ARTICLE 36 FAMILY MEDICAL LEAVE

36.01 Employees may request and be granted time off without pay pursuant to the Family Medical Leave Act of 1993. Such time off without pay shall not exceed twelve (12) weeks in any twelve (12) month period. Leave under this provision shall be computed when first approved. During such leave the employee shall continue to receive health care insurance.

ARTICLE 37 DURATION

37.01 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, 2014. If either party desires to negotiate a successor agreement, a notice to negotiate must be served in accordance with OAC 4117-01-02.

ARTICLE 38 **EXECUTION**

38.01 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed this 1st day of January, 2013.

FOR THE OPBA:

Ohio Patrolmen's
Benevolent Association, Inc.

Randy Weltman

Sgt. Eric [illegible] #705

FOR THE EMPLOYER:

City of Middleburg Hts., Ohio

By: _____
Gary W. Starr, Mayor

_____
Jason Stewart, Finance Director

Labor\Midnopba.Sergeants.exp.2014-RED

NOTICE OF DISCIPLINARY ACTION

TO:

FROM:

DATE:

SUBJECT: Proposed Disciplinary Action

You are hereby notified that the Chief of Police (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.

_____
CHIEF OF POLICE

APPEAL OR ACCEPTANCE OF DISCIPLINARY ACTION

To The Employee:

This form must be returned within five (5) days to the Chief of Police 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, attached extra sheets of paper)

Signature: _____ Date: _____

Approved: Date: _____

Chief of Police Signature: _____

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 the Chief of Police.

If you disagree with the discipline, you should state your reasons in writing in the space provided below and return this form to the Chief of Police within five (5) 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) days of receipt of the proposed discipline with your Safety Director.

3. If you file your objections, the Safety Director will schedule a formal meeting within ten (10) days of receipt of this form to discuss the matter. You may have representation at this meeting.

4. The Safety Director will report his/her decision within fifteen (15) days following the close of the hearing.

5. You will have five (5) days after receipt of the Safety Director'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 or record within at least five (5) 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.

Labor\Midnopba.Sergeants.exp.2014-RED

DELIVERED DEC 0 6 2012

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2012- 95

Introduced By: Mayor Starr

AN ORDINANCE
AUTHORIZING THE MAYOR OF THE CITY OF MIDDLEBURG HEIGHTS TO ENTER INTO A CONTRACT WITH THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION FOR POLICE SERGEANTS AND DECLARING AN EMERGENCY

WHEREAS, Council and the Administration have conducted extensive negotiations with the Ohio Patrolmen's Benevolent Association, as the bargaining representative for members of the Police Department (Sergeants); and

WHEREAS, such negotiations have provided a tentative agreement between the parties; and

WHEREAS, Council and the Administration have reviewed such proposal and do desire to ratify and adopt such Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor be and he is hereby authorized and directed to enter into an agreement with the Ohio Patrolmen's Benevolent Association, on behalf of certain employees of the Police Department, a copy of which agreement is attached hereto and made a part hereof as though fully rewritten herein, marked "Exhibit A".

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Section 3: That any and all ordinances in conflict with the express provisions of this Agreement are superseded by this Agreement.

Section 4: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City of Middleburg Heights, Ohio. Such necessity exists by reason of the fact that in order to facilitate payment of compensation to certain employees of the City, the foregoing Ordinance is required at the earliest possible time; wherefore, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

Passed: 12-11-12

President of Council

Attest: M. Meola
Clerk of Council

Presented To Mayor: 12-11-12

Approved On: 12-11-12

	Yea	Nay
Budney	X	
Ali	X	
Guttmann	X	
Castelli	X	
McGregor	X	
Bortolotto	X	
Grech	X	

Mayor

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Ord. 2012-95 adopted by the Council of the City of Middleburg Hts., on 12/11/12 was posted for a period of fifteen days, beginning 12/14/12 and remained so posted for fifteen days at the two posting places as designated by Charter.

Clerk

CERTIFICATE

I, Mary Ann Meola, Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ord. 2012-95 passed on the 11th day of December 2012 by said Council.

Clerk of Council