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**AN AGREEMENT**  
**BETWEEN**  
**THE CITY OF WESTLAKE**  
**AND**  
**THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION**  
**(DISPATCHERS, SECRETARIES, JAILERS, ANIMAL CONTROL OFFICER)**

**Effective - March 1, 2013**  
**Expires - February 29, 2016**

**Case Nos. 2012-MED-10-1295**  
**2012-MED-10-1296**  
**2012-MED-10-1298**  
**2012-MED-10-1300**

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**ARTICLE 1**  
**AGREEMENT**

**Section 1.01.** This Agreement is made between the City of Westlake, Ohio, hereinafter referred to as the "Employer," and the Ohio Patrolmen's Benevolent Association, hereinafter referred to as the "OPBA" or the "Union."

**Section 1.02.** The purpose of this Agreement is to provide a fair and reasonable method of enabling employees covered by this Agreement to participate, through representation, in the establishment of wages, hours and other terms and conditions of their employment and to establish a peaceful procedure for the resolution of differences between the parties.

**ARTICLE 2**  
**RECOGNITION**

**Section 2.01.** The Employer recognizes the OPBA as the sole and exclusive bargaining representative for those employees of the Employer in the bargaining unit listed in Section 2.02. Whenever used in this Agreement, the term "bargaining unit" shall be deemed to include those full-time employees employed by the Employer, in a classification listed as appropriate to the bargaining unit as certified by the State Employment Relations Board in Case No. 95-REP-01-0003, which certification order was filed and served upon each party hereto on May 18, 1995.

**Section 2.02.** The "bargaining unit" includes all full-time Correction Officers, Dispatchers, Secretaries, Jail Matron, and Animal Control Officer for the purpose of collective bargaining with respect to rate of pay, wages, hours of work and conditions of employment.

**ARTICLE 3**  
**NON-DISCRIMINATION**

**Section 3.01.** Both the Employer and the OPBA recognize their respective responsibilities under the Federal and State Civil Rights laws, Fair Employment Practices Act, and other similar Constitutional and Statutory requirements. Therefore, both the Employer and the OPBA hereby reaffirm their commitments legal and moral, not to discriminate in any manner relating to employment on the basis of race, color, creed, national origin, disability, sex or age. Furthermore, the provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, marital status, race, sex, color, creed, national origin, or political affiliation. The OPBA shall share equally with the Employer the responsibility for applying this provision of the Agreement.

**Section 3.02.** The Employer and OPBA agree not to interfere with the rights of employees to become members of the OPBA, and there shall be no discrimination, interference, restraint or coercion by any Employer representative and/or OPBA representative against any employees because of OPBA membership or lack of OPBA membership.

**Section 3.03.** The OPBA recognizes its responsibility as bargaining representative and agrees to represent all employees in the bargaining unit, members and non-members, without discrimination, interference, restraint or coercion.

**Section 3.04.** The male pronoun or adjective used herein refers to the female also, unless otherwise indicated.

#### **ARTICLE 4** **CHECK OFF**

**Section 4.01.** The Employer shall deduct, on a monthly basis, dues from the pay of employees covered by this Agreement upon receipt from the OPBA of individual authorization cards voluntarily executed by an employee for that purpose and bearing his signature, provided that an employee shall have the right to revoke such authorization.

**Section 4.02.** The Employer agrees to deduct, on a monthly basis, fees, hereinafter referred to as "fair share" fees, from the pay of those employees covered by this Agreement not belonging to the OPBA. The fair share fee shall not exceed the dues paid by the members of the OPBA.

**Section 4.03.** Deductions under this article shall be made during the first pay period of each month, but if the employee's pay for that period is insufficient to cover the OPBA dues, the Employer shall make the deduction from the pay earned during the next period or subsequent period.

**Section 4.04.** All deductions under this article, accompanied by a list of all employees for whom deductions have been made, shall be transmitted to the Ohio Patrolmen's Benevolent Association, Randy Weltman, 10147 Royalton Road Suite J, North Royalton, Ohio 44133, (440) 237-7900 phone, (440) 237-6446 fax, no later than the fifteenth (15<sup>th</sup>) day following the end of the pay period in which the deduction is made.

**Section 4.05.** The OPBA agrees to hold the Employer harmless from any and all liabilities and damages which may arise from the performance of its obligations under this article.

#### **ARTICLE 5** **MANAGEMENT RIGHTS**

**Section 5.01.** Except as specifically limited herein, the Employer shall have the right to set the authorized strength of the Police Department. The Chief of Police shall have the exclusive right to manage the operations, control the premises, direct the working forces, and maintain efficiency of operations. Specifically, the Chief of Police's exclusive management rights include, but are not limited to, except by Municipal Ordinance and Civil Service rules and regulations to the contrary, the sole right to hire, discipline, and discharge for just cause; layoff and promote; to promulgate and enforce reasonable employment rules and regulations; to reorganize, discontinue, or enlarge any operation or division within the Police Department; to transfer (including the assignment and allocation of work operations-divisions) within or to other operations-divisions; to determine work methods and the number and location of facilities; to determine the manner in which all work is to be performed; to determine the size and duties of the work force, the number of shifts required, and all work schedules; to establish, modify, consolidate or abolish jobs; and to determine staffing patterns including, but not limited to, assignment of employees, numbers employed, duties to be performed, qualifications required and areas worked; subject only to the restrictions and regulations governing the exercise of these

rights as are expressly provided herein and by Ordinance of the City of Westlake and Civil Service rules and regulations. The powers, functions, responsibility, and authority of the Employer, except those expressly abridged, deleted, delegated, granted, or modified by this Agreement, shall remain vested with the Employer.

## ARTICLE 6 OVERTIME

**Section 6.01.** All overtime must be approved by the Chief of Police or his designated representative, and all assigned overtime must be worked, and will be compensated at the rate of one and one-half (1 1/2) times the number of hours worked at the employee's regular rate of pay. Overtime, for the purpose of this article, means all hours worked by the member in excess of the scheduled eight (8) hours per day or the established work week.

**Section 6.02.** No member of the Police Department shall accumulate a total of more than eighty (80) overtime hours without the permission of the Chief of Police.

**Section 6.03.** Payment for accumulated overtime shall be as follows: each member of the Police Department who has fewer than eighty (80) hours accumulated overtime has the option, in accordance with the other provisions hereof, of accumulating all or part of the overtime hours, but not in excess of eighty (80) hours of overtime, or requesting payment at the regular rate of pay per hour, of all or part of the overtime hours. Each member of the Police Department having more than eighty (80) hours of accumulated overtime shall be paid for his overtime earned in excess of eighty (80) hours at his regular rate of pay per hour. All accumulated overtime shall be paid off at the employee's regular rate of pay with the last pay in December of each calendar year. Any overtime accumulated after the last pay in December shall be carried over to the next year.

## ARTICLE 7 SENIORITY

**Section 7.01.** For the purpose of calculating length of service, the date of any employee's service shall commence from his latest date of hire in the Westlake Police Department.

## ARTICLE 8 LAYOFF AND RECALL

**Section 8.01.** Employees may be laid off as a result of lack of work, lack of funds, position abolishment, or to provide efficient service. In the event of a layoff, the Employer shall notify the affected employee fifteen (15) calendar days in advance of the effective date of the layoff. The Employer agrees to discuss with representatives of the OPBA the impact of the layoff on the bargaining unit member. Any layoff in the bargaining unit shall be in accordance with departmental seniority, i.e., the most recent employees hired is the first employee laid off within the affected job classification.

**Section 8.02.** Any employee laid off from a bargaining unit position may, at his option, displace a less senior employee in the same classification.

**Section 8.03.** Employees who are laid off shall be placed on a recall list for a period of two (2) years. If there is a recall, employees who are still on the recall list shall be recalled, in the inverse order of their layoff, provided they are presently qualified to perform the work in the work section to which they are recalled. Any recalled employee requiring additional training to meet the position qualifications in existence at the time of recall must satisfactorily complete the additional training requirement within twelve (12) months of recall. Any training required in this section shall be at the Employer's expense.

**Section 8.04.** Notice of recall shall be sent to the employee by certified mail. The Employer shall be deemed to have fulfilled its obligations by mailing the recall notice return receipt requested, to the last mailing address provided by the employee.

**Section 8.05.** The recalled employee shall have ten (10) calendar days following the date of the recall notice to notify the Employer of his intention to return to work and shall have fifteen (15) calendar days following the receipt of the recall notice in which to report for duty, unless a different date for return to work is otherwise agreed upon.

## **ARTICLE 9** **PERSONNEL FILES**

**Section 9.01.** All employees shall have access to their records including training, attendance, and payroll records, as well as those records maintained as personnel file records.

**Section 9.02.** Every employee shall be permitted to review the contents of his personnel file at all reasonable times upon written request and be provided with copies of requested documents at no cost. A supervisor shall be present during such review. Any employee involved in a grievance or disciplinary matter shall have access to personnel files at reasonable times in order to adequately prepare for such process. Memoranda clarifying and explaining alleged inaccuracies of any document in said file may be added to the file by the employee.

**Section 9.03.** All entries of a disciplinary or adverse nature shall be maintained in the employee's personnel file. The affected employee shall be notified of any such entry and shall be afforded a copy of the entry and an opportunity to attach a dissenting statement. No unfounded complaint shall become part of any employee's personnel file, except that such complaints may be kept by the Employer in other files.

**Section 9.04.** Records of written warnings and reprimands shall cease to have force and effect one (1) year from the date of issuance and records of suspensions shall cease to have force and effect two (2) years from the date of issuance and shall be removed from the personnel file, provided no subsequent discipline has occurred. If such discipline has occurred, such records of suspension shall remain in the file until two (2) discipline-free years have elapsed from the date of any subsequent discipline.

**ARTICLE 10**  
**LABOR MANAGEMENT AND SAFETY COMMITTEE**

**Section 10.01.** The Labor Management and Safety Committee shall consist of the Mayor and the Chief of Police and two (2) members of the bargaining unit. It is mutually agreed that this Committee shall meet on a quarterly basis or as mutually agreed, after a written request from either party. This Committee will assemble for the purpose of:

1. The dissemination of general information of interest to the parties.
2. To give the Union the opportunity to share the views of their members and/or suggestions on the subjects of interest to their members.
3. To discuss ways to improve efficiency within the Department.
4. To promote harmonious relations between the Employer and the Union in the best interest of the community.
5. To discuss safety and health issues of the Department.

**Section 10.02.** Occupational safety and health is a mutual concern of the Union and the Employer. The Union will cooperate with the Employer in encouraging employees to comply with applicable safety rules, regulations, and common knowledge safety standards of the law enforcement industry.

**Section 10.03.** All employees are responsible to report, in writing, all unsafe conditions relating to police operations to the Chief of Police. If the unsafe condition remains uncorrected after ten (10) calendar days, it may be forwarded by the employee to the Mayor for his consideration.

**Section 10.04.** No employee shall be subjected to any disciplinary action for the reasonable reporting of unsafe conditions.

**ARTICLE 11**  
**NO STRIKE/NO LOCKOUT**

**Section 11.01.** The OPBA shall not, directly or indirectly, call, sanction, encourage, finance, or assist in any way, nor shall any employee instigate or participate, directly or indirectly, in any strike, slowdown, job action, walkout, concerted sick leave, work stoppage, or interference of any kind at any operations of the Employer. Furthermore, no employee shall instigate or participate in any change in law enforcement procedures not directly authorized by the Chief of Police, and all lawful orders of superior officers shall be followed and complied with.

**Section 11.02.** Violations of Section 1 of this article shall, at the discretion of the Employer, be proper cause for discharge or other disciplinary actions by the Employer, subject to the rules and regulations of the Westlake Civil Service Commission and the Westlake City Charter.

**Section 11.03.** The OPBA shall, at all times, cooperate with the Employer in continuing operations in a normal manner and shall actively discourage and endeavor to prevent or terminate any violation of Section 1 of this article. In the event any violation of Section 1 of this article occurs, the OPBA shall immediately notify all employees that the strike, slowdown, work stoppage, or other interference at any operations of the Employer is prohibited and is not in any way sanctioned or approved by the OPBA. Furthermore, the OPBA shall immediately advise all employees to return to work at once.

**Section 11.04.** The Employer shall not lock out any employee.

## **ARTICLE 12** **WORK WEEK/SCHEDULED HOURS**

**Section 12.01.** For the purpose of this Agreement, a work day shall consist of eight (8) regularly scheduled consecutive hours during a twenty-four (24) hour period of time. A twenty-four (24) hour period of time commences at the beginning of a regularly scheduled shift. Furthermore, the regular workweek for full-time members of the bargaining unit shall consist of forty (40) regular scheduled hours. Upon written request of an employee, the employee can be regularly scheduled by the City for a ten (10) or twelve (12) hour workday, if the City and the Union agree in writing to this modified schedule. Such an employee requested schedule of over eight (8) hours in a workday shall not trigger daily overtime as set out in Article 6.01.

**Section 12.02.** Compensation for regularly scheduled eight (8) hour days shall be at straight time at the current rate of pay.

**Section 12.03.** This article shall not apply to change over shifts.

**Section 12.04.** Dispatchers and jailers shall receive a one-half (1/2) hour paid lunch based upon them remaining "on call." Animal Control Officer shall receive a one-half (1/2) hour unpaid lunch period. Secretaries shall receive a one (1) hour unpaid lunch period.

**Section 12.05.** Jailers and dispatchers shall be governed by the language in Section 12.01. Secretaries shall be scheduled for a forty-five (45) hour week, five (5) hours of which shall be a lunch period. Animal Control Officer shall be scheduled for a forty-two and five-tenths (42.5) hour week, two and five-tenths (2.5) hours of which shall be a lunch period.

## **ARTICLE 13** **GRIEVANCE PROCEDURE**

**Section 13.01.** These procedures are intended to provide a system for a fair, expeditious, and orderly adjustment of grievances of employees of the Police Department. Procedures are to be liberally construed to avoid dismissal of a grievance on technical grounds and a reasonable effort shall be made to resolve a grievance as quickly as possible, considering the grievance and authority of the management representative.

A. **Scope.** The following matters shall constitute a grievance within the system:

1. The interpretation or application of this contract Agreement.
2. The substance of laws, other contracts, policies, rules, regulations, or procedures and disciplinary charges; investigations and punishment are not grievable within this system, except as specifically stated.

B. Representation, Class. A grievance may be brought by one (1) or more aggrieved employee(s) who may be represented by a representative of the OPBA. A grievance that affects all employees, or all employees of one (1) rank or grade, which concerns interpretation and/or application or the term of this Agreement, shall list names of the grieved parties, and shall be initially submitted to the Chief of Police.

C. Time Limitations

1. To be considered valid, a grievance shall be initiated within five (5) calendar days of the employee's knowledge of cause. Failure of a supervisor to act within the time limits specified shall be cause for the employee to submit the grievance to the next higher step. Failure of the employee to act within the time limits specified shall be cause to consider the grievance void. Time limits, except for originating a grievance, may be mutually waived, in writing, by the employee, the supervisor and Chief of Police.
2. A grievance may be referred to the superior next highest in the chain of command should an immediate superior be predictably absent from duty for five (5) consecutive days.
3. At each step in the grievance procedure up to the Mayor, the grievant shall have three (3) working days to appeal the grievance to the next step and the supervisor shall have three (3) working days to respond in writing.

D. Procedural Steps

1. An aggrieved employee shall discuss the matter with his immediate supervisor who shall make an oral, official, immediate response.
2. If the grievance is not resolved at Step 1, the employee shall submit a written grievance to his immediate supervisor.
3. If the grievance is unresolved at Step 2, all relevant information, including the written grievance and response, shall be submitted to the supervisors within the employee's chain of command.
4. If the grievance is unresolved at this point, all relevant information, including the written grievance with response, shall be submitted to the Chief of Police, who shall respond in writing within three (3) working days.

5. If the grievance is not resolved with the Chief of Police, the employee may, within five (5) working days of receiving the response, appeal the grievance to the Mayor submitting all relevant information. The Mayor shall reply, in writing, within ten (10) working days thereafter. If the grievance remains unresolved, it may be appealed to arbitration pursuant to the Arbitration Procedure herein contained.

E. Content of Written Grievance and Response

1. Written grievances shall contain:
  - a. Nature of the grievance as defined in Article XIII, Section 1 (A) 1 and 2.
  - b. Facts upon which the grievance was filed.
  - c. Remedy desired.
  - d. Signature of the employee.
2. Written response to a grievance shall contain:
  - a. A decision.
  - b. Facts upon which the decision is made.
  - c. Appropriate remedial action taken or recommended, if any.
  - d. Signature of the supervisor.
3. A written unresolved grievance, forwarded beyond Step 2, may contain additional relevant information, which supports the original grievance.

F. Management Definitions and Responsibilities Rights

1. Reference to management representative shall include persons in acting capacities.
2. Immediate supervisor shall include an employee's shift commander, unit commander, or division commander.
3. Superior officers shall act on grievances which are within their realm of responsibility, making responses according to Section C.
4. A copy of written grievance and response which resolves same at Step 2 or Step 3 shall be forwarded to the Chief of Police.

**ARTICLE 14**  
**ARBITRATION PROCEDURE**

**Section 14.01.** 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 thirty (30) calendar 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 thirty (30) calendar 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 alternately until one (1) name remains who shall be designated the arbitrator to hear the grievance in question.

**Section 14.02.** 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 to make any award that itself is contrary to law or violates any of the terms and conditions of this Agreement.

**Section 14.03.** The arbitrator shall not decide more than one (1) grievance on the same hearing day(s), except by the mutual written agreement of the parties.

**Section 14.04.** The hearing or hearings shall be conducted pursuant to the Rules of Voluntary Arbitration of the American Arbitration Association.

**Section 14.05.** The fees and expenses of the arbitrator and the cost of the hearing room, if any, shall be borne equally by the parties. 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.

**Section 14.06.** The arbitrator's decision and award will 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.

**Section 14.07.** There is hereby created a permanent panel of arbitrators to be used for the selection of an arbitrator pursuant to this Arbitration Procedure. Those individuals on this panel shall be: 1) Robert Stein, 2) Harry Graham, 3) Nels Nelson, 4) Gregory VanPelt, and 5) James Mancini.

**Section 14.08.** The Union 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 15**  
**WAGES**

**Section 15.01.** Wages for all members of the bargaining unit shall be as follows:

Year 1 increase	2%
Year 2 increase	2% or \$.60 whichever is greater
Year 3 increase	2%

Increases shall be effective commencing March 1 of each year (2013, 2014 and 2015).

	2013	2014	2015
<b>Dispatcher II</b>			
<b>Start</b>	\$15.15	\$15.45	\$15.76
<b>After six (6) months</b>	\$15.69	\$16.00	\$16.32
<b>After one (1) year</b>	\$16.23	\$16.55	\$16.88
<b>Dispatcher I</b>			
<b>Minimum</b>	\$16.77	\$17.11	\$17.45
<b>Maximum</b>	\$21.27	\$21.70	\$22.13
<b>Secretary</b>			
<b>Minimum</b>	\$11.32	\$11.55	\$11.78
<b>Maximum</b>	\$23.53	\$24.00	\$24.48
<b>Jailer</b>			
<b>Minimum</b>	\$14.34	\$14.63	\$14.92
<b>Maximum</b>	\$20.31	\$20.72	\$21.13
<b>Animal Control Officer</b>			
<b>Minimum</b>	\$16.23	\$16.55	\$16.88
<b>Maximum</b>	\$27.52	\$28.07	\$28.63

All Dispatcher I employees who successfully complete and maintain the EMD certification will be eligible for service at various locations and will be paid a minimum of seventeen dollars (\$17.00) per hour in year 1, seventeen dollars and fifty-one cents (\$17.51) in year 2, and eighteen dollars and four cents (\$18.04) in year 3.

Merit raises are subject to annual performance review and recommendation by the Chief of Police and approval by the Mayor.

## ARTICLE 16 LONGEVITY

**Section 16.01.** Each employee, upon the completion of five (5) years of continuous service with the Employer on a full-time basis, shall be paid the amount of one hundred (\$100.00) dollars per year. The amount of longevity shall be paid in accordance with the following schedule:

5 years	\$500.00	16 years	\$1,600.00
6 years	\$600.00	17 years	\$1,700.00
7 years	\$700.00	18 years	\$1,800.00
8 years	\$800.00	19 years	\$1,900.00
9 years	\$900.00	20 years	\$2,000.00
10 years	\$1,000.00	21 years	\$2,100.00
11 years	\$1,100.00	22 years	\$2,200.00
12 years	\$1,200.00	23 years	\$2,300.00
13 years	\$1,300.00	24 years	\$2,400.00
14 years	\$1,400.00	25 years	\$2,500.00
15 years	\$1,500.00		

**Section 16.02.** Annual longevity shall be paid in one (1) lump sum and added to the payroll check issued closest to December 1 each year.

**Section 16.03.** Any employee who is receiving a longevity payment that is greater than the above schedule shall continue to receive such monetary amount until such time the employee would earn a greater amount under this schedule.

**Section 16.04.** Longevity shall be prorated for employees who retire, resign, or are terminated prior to the December payment date.

## ARTICLE 17 HOLIDAYS

**Section 17.01.** All full-time members of the bargaining unit shall be entitled to the following eight (8) holidays, with pay, yearly for the length of this Agreement or in lieu of those days shall be entitled to an alternate day off: New Year's Day; Martin Luther King Day; Memorial Day; Independence Day; Labor Day; Veteran's Day (2011); Thanksgiving Day; and Christmas Day. To be eligible for holiday pay, an employee shall have worked the regularly scheduled workday immediately preceding and following the holiday, or have been on an approved sick leave, or have been in an active pay status or on an off-duty day. Full-time employees shall be entitled to thirty-six (36) personal hours yearly. Personal days may be taken in one (1) hour increments.

**Section 17.02.** Any employee whose regularly scheduled shift starts on any holiday listed in 17.01 shall receive compensation at time and one-half (1 1/2) his current regular rate of pay for these hours worked during that shift. Any employee who works more than eight (8) hours on the above holidays shall receive two (2) times his hourly rate for all hours worked in excess of the eight (8) hours. Any employee who is called into work or is required to work on a scheduled day off on the above holidays shall receive two (2) times his hourly rate for hours worked.

## ARTICLE 18 VACATIONS

**Section 18.01.** Upon completion of the first year of employment, all full-time employees of the bargaining unit shall be entitled to use accrued vacation with pay yearly, as follows:

- |    |                                    |                       |
|----|------------------------------------|-----------------------|
| a. | one (1) year                       | ten (10) days         |
| b. | beginning of 6 <sup>th</sup> year  | fifteen (15) days     |
| c. | beginning of 11 <sup>th</sup> year | twenty (20) days      |
| d. | beginning of 16 <sup>th</sup> year | twenty-two (22) days  |
| e. | beginning of 18 <sup>th</sup> year | twenty-five (25) days |
| f. | beginning of 26 <sup>th</sup> year | thirty (30) days      |

**Section 18.02.** The Director of Finance is hereby authorized to account for the hourly accumulation of earned vacation time on the bi-weekly payroll check of every bargaining unit member. Earned vacation time on an hourly basis shall be accumulated and taken by bargaining unit members on the following basis:

1. Forty Hour Employees

- A. Three and eight-tenths (3.08) hours per two (2) week pay period for each pay of continuous service up to and including the sixtieth (60<sup>th</sup>) month.
- B. Four and sixty-two hundredths (4.62) hours per two (2) week pay period for each pay of continuous service after the sixtieth (60<sup>th</sup>) month and up to and including the one hundred twentieth (120<sup>th</sup>) month.
- C. Six and sixteen hundredths (6.16) hours per two (2) week pay period for each pay of continuous service after the one hundred twentieth (120<sup>th</sup>) month and up to and including the one hundred eightieth (180<sup>th</sup>) month.
- D. Six and seventy-seven hundredths (6.77) hours per two (2) week pay period for each pay of continuous service after the one hundred eightieth (180<sup>th</sup>) month and up to and including the two hundred fourth (204<sup>th</sup>) month.
- E. Seven and seventy hundredths (7.70) hours per two (2) week pay period for each pay of continuous service after the two hundred fourth (204<sup>th</sup>) month up to and including the three hundredth (300<sup>th</sup>) month.
- F. Nine and twenty-three hundredths (9.23) hours per two (2) week pay period for each pay of continuous service after the three hundredth (300<sup>th</sup>) month.

**Section 18.03.** All vacation time shall be taken in time off and not left to accumulate to more than that earned in the previous two (2) years. Upon separation from employment, vacations may be cashed out by an employee.

**ARTICLE 19**  
**HEALTH BENEFITS/SPENDING PLAN**

**Section 19.01.** For the term of this agreement, the Employer agrees to provide bargaining unit employees the same health insurance plan, inclusive of medical, hospitalization, dental, eye-care and prescription coverage (health care), as that provided to non-bargaining unit employees under a group insurance plan. Such group insurance may be provided through a self-insured plan or an outside provider.

For the years 2013 and 2014 the benefits shall remain comparable to those contained in attachment "A." A change in insurance carrier, plan administrator, or health care system (PPO, HMO, etc.) that requires a change in health care providers, but does not reduce financial or related benefits, is a comparable benefit under this provision.

Beginning 2015, cost containment measures may be adopted by the Employer pursuant to the provisions of Section 19.05 herein.

**Section 19.02.**

- A. **Annual Wellness Screening Program.** Commencing in calendar year 2014, the City shall institute an annual wellness screening program that will be offered to all employees and spouses participating in the group health plan made available through the City. The City will determine the manner in which screening is to be accomplished. The wellness screening program will allow each employee to receive a two and one-half percent (2.5%) reduction in their applicable monthly premium for certifying to the City that they have been screened from a health care provider in the following categories: (1) Tobacco Use, (2) Blood Pressure, (3) Cholesterol, (4) Obesity, and (5) Glucose level.

In order to receive this reduction, the employee shall be required to complete a City form certifying that the screening has occurred and complete a release that will permit the Employer to verify with the health provider the date/time of the screening and a positive/negative result on the nicotine test. Application of the two and one-half percent (2.5%) reduction will result in the employee base contribution being reduced from twelve and one-half percent (12.5%) to ten percent (10%) for 2015 as expressed in the formula contained in 19.04.

- B. **Recreation Center.** In order to promote wellness among City employees and members of their families in order to encourage a healthier work force, all bargaining unit members and their dependents shall be entitled to join the Westlake Recreation Center at a 50% discount off the regular established resident rate.

**Section 19.03. Tobacco Use Surcharge.** Commencing in calendar year 2015, the City shall institute a tobacco use surcharge for all employees participating in the group health plan made available through the City. Under this program employees shall be required to pay a five percent (5%) surcharge in their applicable monthly premium for tobacco use by the employee. The surcharge rate is reflected in the base cost sharing formula contained in 19.04.

In order to avoid the surcharge, an employee and spouse (if applicable) whose tobacco use is not covered in 19.02 shall be required to complete a City form certifying that the tobacco screening has occurred and complete a release that will permit the Employer to verify with the health provider the date/time of the screening and a positive/negative result on the screening test.

**Section 19.04. Cost Sharing.** Employees shall be required to share in the cost of health care coverage up to the maximums permitted by the ACA. Effective March 1, 2013, the Employer shall contribute ninety percent (90%) and the employee shall contribute ten percent (10%) of the total base cost for health care, prescription, and ancillary benefits. Effective January 1, 2015, the Employer shall contribute eighty-seven and one-half percent (87.5%) and the employee shall contribute twelve and one-half percent (12.5%) of the total base cost for health care, prescription, and ancillary benefits. Employer and employee contributions shall be as set forth below with the applicable incentive/disincentive (surcharge) applied:

**Contribution for those Employees Qualifying for Screening Reduction (Incentive) (2.5% reduction)**

<b>January 1, 2015</b>	<b>Employer Contribution % of Cost</b>		<b>Employee Contribution % of Cost</b>
Single	90%	Single	10%
Employee + 1	90%	Employee + 1	10%
Family	90%	Employee/Child(ren)	10%

**Contribution w/o Surcharge or Incentive (No Screening/No Tobacco Use)**

<b>January 1, 2015</b>	<b>Employer Contribution % of Cost</b>		<b>Employee Contribution % of Cost</b>
Single	87.5%	Single	12.5%
Employee + 1	87.5%	Employee + 1	12.5%
Family	87.5%	Employee/Child(ren)	12.5%

**Contribution for Tobacco Users w/ Screening (5% surcharge less 2.5% credit = 2.5% surcharge)**

<b>January 1, 2015</b>	<b>Employer Contribution % of Cost</b>		<b>Employee Contribution % of Cost</b>
Single	85%	Single	15%
Employee + 1	85%	Employee + 1	15%
Family	85%	Employee/Child(ren)	15%

**Base Contribution For Tobacco Users w/ no Screening (5% surcharge)**

<b>Monthly Maximum</b>	<b>Employer Contribution</b>	<b>Employee Contribution</b>

January 1, 2015	% of Cost		% of Cost
Single	82.5%	Single	17.5%
Employee + 1	82.5%	Employee + 1	17.5%
Family	82.5%	Employee/Child(ren)	17.5%

The parties recognize that employee affordability under the ACA will be measured based upon the cost of the bronze (i.e., lowest tier plan being offered) single plan and the employee's household income. Any employee who believes his contribution exceeds the maximum allowable by law may submit a written request for review to the Finance Director.

**Section 19.05. Health Care Committee.** A health care committee will be created for the purposes of monitoring and supporting the wellness program, and for reviewing usage, studying cost containment programs and options for health plan coverage (medical, hospitalization, dental, eye-care and prescription), and recommending changes to the plan and benefit levels. Once created, the Union agrees to participate in the committee. The committee shall consist of one (1) representative from each of the bargaining units, one (1) non-bargaining unit employee, and a number of management representatives of the Employer equivalent to or less than the total number of city bargaining unit representatives participating in order to allow for an odd number of voting representatives. The health care committee shall have the authority to recommend alterations to the plan and benefit levels and/or recommend adjustments to coverage levels through majority vote. The committee's authority will vest and begin with the 2015 plan year.

Specifically, the committee may recommend any of the following options:

- A. To keep the same plan and/or benefit levels and pass on any cost increase above the levels set forth in Section 19.04 of this article to the participating employees; or
- B. To change the plan and/or alter the benefit levels to reduce or minimize the cost increase to be passed on to participating employees; or
- C. To change the plan and/or alter the benefit levels so that there is no increase in the cost of the plan.

Recommendations of the committee shall not result in costs to participating employees exceeding the maximum permitted by the ACA. A valid recommended option of the committee (A, B or C above) will be implemented by the City. Recommendations of the committee, and Employer actions to carry out those recommendations, are final and binding on all parties involved and shall not be subject to the grievance procedure or any other avenue of appeal. If, however, the committee fails to submit a valid recommendation by November 30 for the following plan year, the City may unilaterally select and implement one of the options (A, B, or C above).

**Section 19.06.** The Administration will continue to make available a voluntary Section 125 qualified cafeteria plan (flexible spending) for employees that meet IRS requirements for pre-tax preferences for qualified expenses.

**Section 19.07.** As soon as practical subsequent to the execution of this Agreement, the Employer will provide each employee with term life insurance in the amount of twenty thousand dollars (\$20,000.00).

**ARTICLE 20**  
**CLOTHING ALLOWANCE**

**Section 20.01.** Full-time employees required to wear uniforms shall receive annual uniform allowances of seven hundred dollars (\$700.00).

**Section 20.02.** The City shall purchase three (3) complete initial uniforms for each new employee upon start of employment.

**ARTICLE 21**  
**SICK LEAVE**

**Section 21.01.** Sick leave shall be cumulative at the rate of four and six-tenths (4.6) for every eighty (80) hours worked to a maximum of two thousand five hundred (2,500) hours.

Notwithstanding the above, employees hired on or after December 19, 2013, shall accumulate sick leave to a maximum of two thousand (2,000) hours.

**Section 21.02.** Once an employee has reached the applicable sick leave hour maximum, he may, at his option, receive one (1) paid day or one (1) day off for every four (4) days of unused sick leave. This decision shall be made on a quarterly basis and shall be used or paid by the end of each calendar year.

**Section 21.03.** Each full-time employee of the Police Department with at least ten (10) or more years of service with the Employer shall receive payment based on the employee's current rate of pay, upon termination of employment with the Employer, transfer to another governmental agency or retirement, an established percentage of the employee's accrued, but unused, sick leave based upon the maximum accrual of twenty-five hundred (2,500) hours or two thousand (2,000) hours, as applicable, in accordance with the following schedule:

a.	10 years	50%
b.	17 years	60%
c.	20 years	68%
d.	25 years	75%

**Section 21.04. Sick Leave Incentive Plan.** The City shall pay the sum of fifty dollars (\$50.00) to each employee who has not missed more than one (1) hour in a stated one (1) month period other than for a funeral for the immediate family as described in Section 167.04(b) of the Codified Ordinances, scheduled vacation or personal time. Payments shall be made quarterly.

**Section 21.05.** Any full-time employee of the bargaining unit may use up to three (3) days sick leave to prepare for and attend a funeral for the employee's mother, father, mother-in-law, father-in-law, grandmother, grandfather, spouse's grandmother and grandfather, spouse, children, brother, sister, brother-in-law or sister-in-law, aunt, uncle or grandchildren. Additional days may be approved by the Mayor or his designated representative.

**Section 21.06. Wage Continuation Plan.** Should a bargaining member have an injury while performing his duties and be certified by a qualified medical provider that he is medically unable to work, the employee may, at his option, enter into a wage continuation agreement with the City. Wage continuation is available only if the employee obtains medical treatment from a schedule of providers designated by the City (see Appendix A). The City reserves the right to add or delete health providers from the City's schedule of providers. The wage agreement will allow the employee to continue to receive his regular rate of pay and benefits without charge to leave time, in lieu of the State of Ohio Bureau of Worker's Compensation loss time benefits, up to a maximum of sixty (60) work days per injury, and a maximum of three hundred sixty (360) work days in the employee's lifetime service with the City. In order to qualify for a wage continuation plan, the injury must have resulted in a minimum of five (5) consecutive scheduled work days in which the employee was certified by a qualified medical provider as being unable to work. The employee must also apply for and receive an allowed medical-only claim from the Bureau of Worker's Compensation for the specific on-the-job injury. Any further use of wage continuation for a particular injury after the employee returns to work must have resulted in a minimum of five (5) consecutive work days as being certified by a qualified medical provider as being unable to work due to the previous injury.

If the employee enters into a wage continuation plan and the injury is subsequently denied by the Industrial Commission of Ohio, and the employee has exhausted all appeals, then the employee must reimburse the time advanced to the employee through the use of accrued and/or future benefit hours, including sick time, vacation time, and personal hours.

An employee may be offered transitional work or modified duty by the City, consistent with the restrictions/limitations of the employee's physician or a physician selected by the City, when determined appropriate by the City. An employee forfeits all rights to any wage continuation if he refuses to perform transitional work when offered by the City.

The wage continuation plan may be extended for an additional sixty (60) days for a qualified injury if the employee is certified as being unable to work by a qualified medical provider from the schedule of providers designated by the City, except no extension shall be allowed to exceed the three hundred sixty (360) work day lifetime cap for wage continuation.

An employee who chooses to seek treatment from a medical provider who is not included in the City's schedule of providers will not be entitled to wage continuation, but will be entitled to any benefits the Bureau of Workers' Compensation will allow.

**Section 21.07. Maternity Leave.** Members of the bargaining unit may, at their option, utilize the twelve (12) weeks of unpaid Family and Medical Leave in lieu of using their accumulated sick time or vacation time for the purpose of maternity leave.

## **ARTICLE 22** **RELIEF FROM DUTY**

**Section 22.01.** Members of the OPBA committee, representing the bargaining unit, shall generally be relieved from duty at such times as committee action or representation conflicts with their duty assignments. Committee members may be ordered back to duty during a meeting

should conditions arise that necessitate such action. Off duty members of the committee voluntarily perform this function without compensation.

**Section 22.02.** The OPBA membership of Westlake may hold their meetings in the offices of the Westlake Police Department, but no meeting shall interfere with the operations of the Department.

**Section 22.03.** The OPBA will be authorized a maximum aggregate of forty (40) hours of paid leave, per calendar year, for elected OPBA officials, to use at any time during the year to attend OPBA functions, such as educational meetings, business meetings, or seminars. All requests shall be submitted in writing and be approved by the Chief of Police or his representative.

### **ARTICLE 23** **COURT TIME**

**Section 23.01.** The minimum additional time to which a member of the bargaining unit will be entitled for a court appearance will be four (4) hours in any one (1) day.

**Section 23.02.** The compensation for the court appearance time, which will be the greater of either the minimum four (4) hours time or the time actually spent, except as the time may be limited by subsection 3 hereof, shall be computed at one and one-half (1 1/2) times the member's current hourly rate.

**Section 23.03.** In the event that any portion of the actual court appearance falls within the member's regular shift time, or if actual court time is scheduled within thirty (30) minutes of the member's regularly scheduled shift, one shall be entitled to additional compensation for only that amount of time actually spent outside of his regularly scheduled shift.

**Section 23.04.** Court appearance time shall commence at the time the member arrives at the Police Department to pick up his file(s) and other documents necessary for the case for which the member is preparing and court appearance time shall terminate when the member returns to the Police Department and completes his check out after court appearance unless limited by subsection 3.

### **ARTICLE 24** **SHOW-UP TIME**

**Section 24.01.** Any member of the bargaining unit called in or advised to show-up for any event related to the member's employment, other than court time as covered in this Agreement, shall be entitled to two (2) hours show-up time. This does not cover being held over from regular scheduled shifts. The time compensation shall be computed at one and one-half (1 1/2) times the member's current hourly rate of pay.

**Section 24.02.** Employees called in under the above provision for matron duty shall have their two (2) hours computed at time and one-half (1 1/2) based on the matron rate.

**ARTICLE 25**  
**CONFORMITY TO LAW**

**Section 25.01.** This Agreement shall be subject to and subordinated to any applicable present and future federal and state laws, and the invalidity of any provisions of this Agreement by reason of such existing or future law shall not affect the validity of the surviving provisions.

**Section 25.02.** 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 provisions thereof had not been included herein.

**ARTICLE 26**  
**DISCIPLINARY PROCEDURE**

**Section 26.01.** This procedure shall apply to all non-probationary employees covered by this Agreement.

**Section 26.02.** All employees shall have the following rights:

- A. An employee shall be entitled to representation by a Union representative or a Union attorney 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.

**Section 26.03.** An employee may resign following the service of a Notice of Discipline. Any such resignation will be processed in accordance with the terms of this Agreement and the employee's employment shall be terminated.

**Section 26.04.** 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. Discipline will be applied in a corrective, progressive, and uniform manner.

Progressive discipline shall take into account the circumstances surrounding the incident, the nature of the violations, the employee's record of discipline, and the employee's record of performance and conduct. Any employee subject to a suspension may request to forfeit vacation and/or holiday time in lieu of serving said suspension. The approval or denial of such request, either in all or in part, shall be at the sole discretion of the Employer.

**Section 26.05.** Where the appointing authority seeks as a penalty the imposition of a suspension without pay for more than three (3) days, a demotion, or removal from service, notice of such discipline shall be made in writing and served on the employee personally or by certified mail,

return receipt requested. In case of a suspension without pay of three (3) days or less, the Chief of Police shall furnish the member of the Department with a written notice of such discipline, served on the employee personally or by certified mail, return receipt requested.

**Section 26.06.** 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.

**Section 26.07.** 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 three (3) 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 a Union attorney at every step of this proceeding.

**Section 26.08.** If a grievance is filed and pursued within the time frames provided below, no penalty can be implemented, except as provided in paragraph 12, until the matter is settled or the arbitrator renders a determination.

**Section 26.09.** 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 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 4 of the Grievance Procedure. The appeal must be filed at Step 4 within three (3) working days from receipt of the Notice of Discipline.

**Section 26.10.** A failure to submit an appeal within the above time limit shall be construed as an agreement to the disciplinary action by the affected employee and Union. All subsequent appeal rights shall be deemed waived.

**Section 26.11.** 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 a Union attorney as a representative or to decline any such representation. A settlement entered into by an employee, or the Union on his behalf, shall be final and binding on all parties. The Union shall be notified of all settlements.

**Section 26.12.** An employee may be suspended with pay at any time during the process by the appointing authority, at its sole discretion. A suspension without pay may be imposed concurrent with or subsequent to the decision at Step 5 of the Grievance Procedure.

**Section 26.13.** 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 27** **DRUG FREE WORKPLACE POLICY**

**Section 27.01.** All employees shall be subject to drug testing pursuant to the Drug Free Workplace Policy attached hereto as Exhibit "A."

## **ARTICLE 28** **DURATION**

**Section 28.01.** This Agreement represents an understanding between the Employer and the Ohio Patrolmen's Benevolent Association, and it shall be effective as of March 1, 2013, and remain in full force and effect until February 29, 2016.

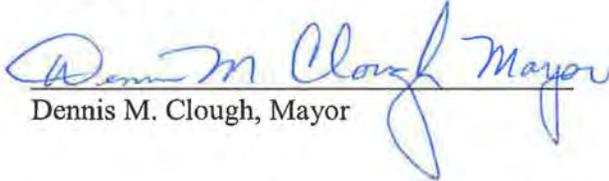
**Section 28.02.** The parties agree that no section of the Civil Service Laws contained in the Ohio Revised Code, Chapter 124, ORC Sections 9.44 and 737.12, nor any local city ordinances pertaining to wages, hours, terms and other conditions of employment shall apply to employees in the bargaining unit where such matter has been addressed by this agreement, except that Sections 124.34 (A) relative to convictions of a felony, 124.388, and 124.57 O.R.C. shall continue to apply to bargaining unit employees.

Notwithstanding the above, the parties agree that original appointments are not appropriate subjects for bargaining pursuant to Section 4117.08 O.R.C.

**ARTICLE 29**  
**EXECUTION**

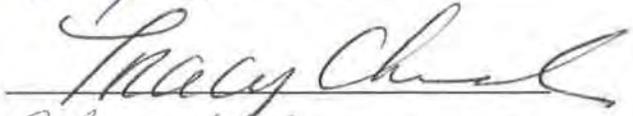
**Section 29.01.** In witness whereof, the parties have set their hands this \_\_\_\_ day of \_\_\_\_\_, 2014.

**FOR THE CITY OF WESTLAKE**

  
\_\_\_\_\_  
Dennis M. Clough, Mayor

\_\_\_\_\_  
Sandy Conley, Negotiator

**FOR THE OPBA**

  
\_\_\_\_\_  
  
\_\_\_\_\_  


**APPENDIX A**  
**HEALTH BENEFITS/SPENDING PLAN**

For the 2013 and 2014 plan years, benefit levels shall be as follows:

A. Employee co-pay participation:

<u>Tier</u>	<u>80/20 limit</u>		<u>80/20 max out of pocket</u>
Single:	80/20 of max \$5,000	=	\$1,000.00
Employee + Spouse	80/20 of max \$10,000	=	\$2,000.00
Employee + 1:	80/20 of max \$10,000	=	\$2,000.00
Family:	80/20 of max \$15,000	=	\$3,000.00

The max out-of-pocket is for co-payment portion only. All other deductibles apply. Deductibles shall be: single – two hundred (\$200.00) dollars; employee + spouse – three hundred fifty (\$350.00) dollars; employee + dependent – three hundred fifty (\$350.00) dollars; and, family – five hundred (\$500.00) dollars.

B. Office visit participation:

- i. Fifteen (\$15.00) dollars per visit (not included in calculation of deductible or out of pocket maximum).
- ii. Non-emergency use of emergency room – seventy-five (\$75.00) dollars per visit.

C. Prescription co-pays:

- i. Generic (level 1) \$0 - only applicable to generics available from all discounted generic providers (\$4.00 will be reimbursed by City).  
Generic (level 2) \$15.00
- ii. Formulary (preferred) \$30.00
- iii. Non-formulary - 30%/\$100.00 cap.

Employees shall continue to pay the difference when a name brand or formulary is selected over an available generic or formulary.

D. Dental and eye care: The eye care plan shall be as follows: fifty (\$50.00) dollars maximum every two (2) years for an eye examination and one hundred fifty (\$150.00) dollars maximum every two (2) years for qualified prescription eye wear.

E. Premium sharing: Employees shall be required to share in the employer's cost for premiums. Effective January 1, 2011, the premium sharing shall be ten (10%) percent of the total cost per employee per coverage type per month subject to the following monthly maximums: 2010 - – twenty-five (\$25.00) dollars; 2011 – seventy (\$70.00) dollars; and 2012 – one hundred (\$100.00) dollars.

F. Specialist may be contacted directly. Referrals from the primary care physician are no longer required.

**APPENDIX A**  
**HEALTH BENEFITS/SPENDING PLAN (Continued)**

- G. Well child care and immunization coverage is provided so that children from birth to age two (2) are covered for a maximum of seven hundred fifty (\$750.00) dollars for the first twenty-four (24) months and children from age two (2) to twelve (12) are covered for a maximum of two hundred fifty (\$250.00) dollars per benefit period.

**APPENDIX B**  
**CITY OF WESTLAKE DRUG-FREE WORKPLACE POLICY AND PROGRAM**

**Section 1. Statement of Policy.**

- A. The City desires a workplace that is free from the adverse effects of alcohol and other drugs. Substance abuse is a serious and complex, yet treatable, condition/disease that adversely affects the productive, personal and family lives of employees. Substance abuse may lead to safety and health risks in the workplace, for the abusers, their coworkers, and the public-at-large.
- B. All employees are prohibited from: possessing, distributing, selling, manufacturing, of being under the influence of any illegal drugs, being under the influence of alcohol, consuming alcoholic beverages while on City premises, in City vehicles or while on City business or time; abusing prescription drugs or possessing prescription drugs that have not been prescribed for the employee by a physician.
- C. All employees will be tested for the presence of drugs and/or alcohol at the time of a post employment offer physical exam, any work related physical exam, when there is reasonable suspicion, post-accident, as part of random testing, as a condition of discipline for previous offenses under this policy, and as a condition of returning to work after leave related to drugs and/or alcohol use.
- D. All employees should recognize the need to address problems associated with having on duty employees under the influence of alcohol or drugs, as well as the City's obligations under the Ohio Bureau of Worker's Compensation Drug Free Workplace Program, Federal Drug-Free Workplace Act of 1988 and other State and Federal laws and regulations concerning the controlling of substance abuse in the workplace. At the same time, the City recognizes an employee's right to privacy and other constitutionally guaranteed rights, as well as the due process and just cause obligations of this policy. The emphasis of this drug-free workplace program shall be to prevent and rehabilitate employees and to abate risks created by employees who are on duty in an impaired condition.
- E. Each employee covered by this policy will be provided with a written description of the City's drug testing program, including the procedures under which a test may be offered, procedures for obtaining samples for testing, how testing will be conducted and reported to the City and employees; and the potential consequences of refusing to submit to testing or of positive test results. Employee education will be provided on an annual basis.
- F. The confidential nature of the medical records of employees with substance abuse problems shall be preserved. Similarly, all records relating to drug tests and their results shall be maintained in the strictest confidence and pursuant to state and federal laws.
- G. All department heads, managers, and supervisors are responsible for adherence to, implementation, enforcement, and monitoring of this policy. Training will be provided annually to employees with supervisory duties.

**APPENDIX B  
(CONTINUED)**

- H. All employees of the City of Westlake shall be covered by this policy, including but not limited to, the Mayor, Chiefs, Assistant Chiefs, Directors, Assistant Directors and full and part-time employees.
  - I. Union member employees are covered by the policies and procedures outlined in their respective collective bargaining agreements. If this policy contradicts the policy in any collective bargaining agreement, the collective bargaining agreement governs.
  - J. Employees whose jobs are subject to any additional law and/or regulation may face additional requirements in terms of substance abuse testing.

**Section 2. Drug-Testing Conditions.** Employees covered by this policy will be required to submit a urine specimen for testing for the presence of drugs or a breath sample for the testing of the presence of alcohol under the following situations:

- A. Where there is reasonable suspicion to believe that the employee, when appearing for duty or on the job, is under the influence of, or his/her job performance is impaired by alcohol or other drugs. Such reasonable suspicion must be based upon objective facts or specific circumstances found to exist that present a reasonable basis to believe that an employee is under the influence of, or is using or abusing, alcohol or drugs. Examples of reasonable suspicion shall include, but are not limited to, direct observation of drug or alcohol use, possession or distribution, or the physical symptoms of being under the influence of drugs or alcohol such as dilated pupils, slurred speech, disorientation, odor of alcohol or marijuana, changes in affect, dynamic mood swings, abnormal conduct of behavior. In addition, such reasonable suspicion must be documented in writing by the person having such suspicion and by a supervisor/manager as a witness, if possible. A reasonable suspicion form is attached. If the employee is not in a union or is a member of the City Hall Employees Association, the Mayor shall be contacted to confirm a test is warranted based upon the circumstances. Such written documentation must be presented, as soon as possible, to the employee and the Mayor, who shall maintain such report in the strictest confidence, except that a copy shall be released to any person designated by the affected employee. If the Mayor is unavailable, the acting mayor will make the immediate testing decision(s). For all other unions, the immediate supervisor shall be contacted to confirm a test is warranted based upon the circumstances. Such written documentation must be presented, as soon as possible, to the employee and the department head, who shall maintain such report in the strictest confidence, except that a copy shall be released to any person designated by the affected employee. Should the Mayor be suspected of alcohol or drug abuse, the Director of Law shall confirm a test is necessary and any testing documentation shall be forwarded to the Director of Law in the strictest confidence;

**APPENDIX B  
(CONTINUED)**

- B. Post offer, pre-employment;
- C. Follow up testing pursuant to this policy,
- D. Any work related physical exam;
- E. Post accident/incident where an employee may have caused, contributed or cannot be immediately discounted from contributing to an on-the-job accident/incident which is an intended or unintended event that occurs on the City's property or during the conduct of City business, or during working hours, or which involves City supplied vehicles/equipment or vehicles/equipment used in conducting the employers' business, or within the scope of employment and results in any of the following: a fatality of any person, bodily injury requiring off-site medical attention away from the accident premises, property damage in apparent estimated excess of five hundred (\$500.00) dollars, or if the driver is cited; and
- F. Random drug testing, an unannounced testing of ten percent (10%) of all employees conducted up to four (4) times during a calendar year in 2004 and testing of twenty-five percent (25%) of all employees thereafter at the City's discretion. The percentage of employees tested will not fall below ten percent (10%) and will not exceed twenty-five percent (25%).

**Section 3. Testing Procedures**

- A. Urine specimen collection (for drugs) or breath (for alcohol) is to occur as quickly as possible after a need to test has been determined. At no time will a urine specimen be collected after twenty-four (24) hours from the time of an employment related accident or incident. Breath testing will be performed as quickly as possible, but no later than eight (8) hours after the incident or it will be documented but not performed. The breath sample will be taken by a Sheriff Deputy, Police Department Officer, State Patrol Officer or by a qualified testing company as designated by the City. Urine specimen collection shall occur at the collection site designated by the City in a secure and private area and shall be subjected to strict scrutiny by collection personnel.
- B. Prior to submitting the sample, the employee shall be required to complete a form indicating all drugs currently being taken and any toxic substances in which he/she may have been in contact. This information will be forwarded to the Medical Review Officer ("MRO") and will be considered with the laboratory results.
- C. Urine specimens and breath testing will be conducted by trained collection personnel who meet standards for urine collection and breath alcohol testing.

**APPENDIX B  
(CONTINUED)**

- D. In testing for alcohol, a breathalyzer test will be administered. A test result which indicates a .02% or higher blood alcohol level will be considered a positive test. A second test or confirmation test will supersede the first or "screen test" breath/alcohol test.
- E. In testing for drugs, the urine testing shall consist of a two-step procedure: (a) initial screening of; and (b) confirmatory testing. If the screening procedure reveals a positive result, the sample shall be subjected to a different confirmatory test. Notification of test results to the Mayor shall be withheld until the confirmatory test results are obtained. In those cases where the second test confirms the presence of drug(s) in the employee's system, the sample shall be retained for a period of twenty-four (24) months.
- F. An employee has the right to submit information to explain the reason(s) for a positive test to a Medical Review Officer ("MRO"). The MRO is a doctor with specialized knowledge of substance abuse disorders and will be able to determine whether there are any valid reasons for the positive test.
- G. If an employee is injured or there is property damage to a City vehicle and that employee may have caused, contributed or cannot be immediately discounted from contributing to an accident, it is a condition of employment that the employee grants the City the right to request that attending medical personnel obtain appropriate breath, saliva, urine or blood specimens for the purpose of conducting alcohol and/or drug testing. Further, all employees grant the City access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the work related accident/incident including a full medical report from the examining physician(s) or other health care providers. A signed consent to testing form is considered a condition of employment. In the event of an accident where an employee has "whole blood" drawn, a result equal to or greater than the levels described in this policy shall be considered to be a verified positive result.
- H. Any employee who refuses to submit to a properly ordered alcohol or drug test shall be subject to disciplinary charges for insubordination consistent up to and including termination. Refusal to submit to a test shall be treated as a positive test result. Refusal includes, but is not limited to, failure to provide an adequate quantity of urine, failure to provide a urine specimen within two hours of notification, and making more than three (3) attempts at the breath alcohol test.
- I. In all cases in which the employee provides a sufficient urine sample, (at least 45 ml for a split sample consisting of one (1) 30ml bottle and one (1) 15ml bottle) at the time of original sample collection, he/she has the right to a confirmatory test of the 15ml split sample at a NIDA-certified laboratory of the employee's choosing, at the employee's expense, within seventy-two (72) hours after consulting with the MRO and authorizing said MRO to have the split (15ml) specimen tested. The laboratory shall retain the 15ml sample for a minimum of twenty-four (24) months. If the primary urine sample tests negative, both samples are discarded.

**APPENDIX B  
(CONTINUED)**

- J. When any sample is collected, it shall be handled by proper chain of custody procedures from sample collection to return of the proper written report. Collection procedures shall be used which ensure security for the specimen, freedom from adulteration of the specimen, and privacy for the employee.
- K. Testing shall be limited to the following groups of substances: marijuana (THC); cocaine; amphetamines; opiates; and phencyclidine (PCP). Screening cutoff levels at the following or over will be considered positive test results: marijuana (THC) - 50 ng/ml; cocaine - 300 ng/ml; amphetamines - 1000 ng/ml; opiates - 2000 ng/ml and phencyclidine (PCP) - 25 ng/ml.
- L. To conduct random testing, an outside vendor/contractor shall be selected who uses computer software that ensures a truly random selection process in which all employees in the testing pool have an equal statistical likelihood of being selected for testing. When the next random draw is conducted, all employees are again included in the pool with an equal chance of selection, regardless of whether an employee was previously selected. The City will provide employee identification numbers to be used in the random selection drawings. The contractor will, in turn, furnish the City with a list of individuals to be tested at the beginning of each selection period. It shall be the responsibility of the City to notify each employee who was selected with the date, time and location that random testing will be performed. When notified it shall be the responsibility of the individual employee to provide a urine specimen for drug testing.

**Section 4. Notice of Drug-Related Convictions.** As required by the Federal Drug-Free Workplace Act of 1988, each employee covered by this policy is required to notify the Mayor within five (5) days after he/she is convicted of a violation of any federal or state criminal drug statute, provided such conviction occurred at the workplace or any location where the employee was working at the time of the incident which led to the conviction. Each agency is required to notify any federal agency with which it has a contract or grant, within ten (10) days after receiving notice from the employee, of the fact of such conviction. Any employee's failure to report such a conviction will subject such employee to disciplinary action, up to and including termination.

**Section 5. Employee's General Duty to Notify.** Any employee whose job duties include driving a City vehicle(s), shall immediately notify his/her immediate supervisor if any of the following apply: the employee's driver's license is not valid or suspended; the employee has restricted driving privileges; the employee has six (6) or more points on their motor vehicle record; the employee has been convicted of any violation under Ohio Revised Code 4511.19 (Driving Under the Influence of Alcohol or Drugs).

**APPENDIX B  
(CONTINUED)**

**Section 6. Disciplinary Action.** Any employee who is determined to be under the influence of, or using, alcohol or other drugs, while on duty, as confirmed by testing pursuant to this policy or who refuses to submit to a properly ordered test, or refuses to comply with follow-up treatment or assessment directives, shall be subject to disciplinary action, up to and including termination. The City agrees to attempt to rehabilitate employees who are first time drug or alcohol abusers, only if reasonably practical. If the employee fails to properly and fully participate in and complete a treatment program approved by the City or after the completion of such program the employee is still abusing or resumes abusing such substances, the employee shall be disciplined or discharged.

**Section 7. Employee Assistance Program (EAP).** While the City does not condone the abuse of alcohol prescription drugs, and/or use of illegal drugs, the City does recognize its commitment to employees by providing an opportunity for employees to deal with drug and alcohol related problems through the Employee Assistance Program ("EAP"). The EAP provides assessment, counseling and/or referral for treatment. Employees may voluntarily utilize this program with or without referral from management. If an employee recognizes a personal addiction or abuse problem and seeks assistance from management in advance of detection/discipline, the City will assist the employee in seeking treatment and the voluntary use shall not be the sole basis for adverse disciplinary action. Leaves of absence without pay may, at the City's sole discretion, be granted in coordination with the EAP where appropriate. Expenses for treatment through the EAP Program will be paid in accordance with limits and requirements set forth in the City's agreement with the EAP. All employee dealings with the EAP shall be strictly confidential. Information regarding EAP services may be obtained by contacting the administrator of the drug free workplace program or calling the EAP directly at 216.663.3287/800.989.3277.

This section shall not operate to limit the City's right to discipline or discharge an employee for actions committed by the employee as a result of substance abuse, or otherwise. Participation in the EAP shall not limit the City's right to impose such disciplinary (or discharge) actions. An employee's participation in the EAP does not operate to waive any other rights granted by this policy.

**APPENDIX B  
(CONTINUED)**

**Reasonable Suspicion Checklist**

Name of Observed Employee: \_\_\_\_\_

Location: \_\_\_\_\_

Time: \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. Date: \_\_\_\_\_

When there is reasonable suspicion that an employee at work is unfit for duty, the supervisor or manager observing the behavior as well as another supervisor/manager as witness, if possible, must complete the checklist below. Where "Other" is checked, please describe.

Observation Checklist

Walking:     Holding on     Stumbling     Unable to walk  
                  Unsteady         Staggering     Swaying  
                  Falling            Other \_\_\_\_\_

Standing:    Swaying         Feet wide apart    Unable to stand  
                  Rigid            Staggering        Sagging at knees  
                  Other \_\_\_\_\_

Speech:       Whispering     Slurred            Shouting  
                  Incoherent     Slobbering       Silent  
                  Rambling       Mute               Slow  
                  Other \_\_\_\_\_

Demeanor:    Cooperative     Calm               Talkative         Polite  
                  Sarcastic       Sleepy             Crying            Silent  
                  Sleeping on job  Argumentative  Excited  
                  Other \_\_\_\_\_

Actions:       Hostile         Fighting         Profanity         Drowsy  
                  Threatening    Hyperactive     Erratic            Calm  
                  Resisting       Other \_\_\_\_\_

Eyes:          Bloodshot       Watery            Droopy            Dilated  
                  Glassy           Closed            Other \_\_\_\_\_

Face:          Flushed         Pale               Sweaty  
                  Other \_\_\_\_\_

**APPENDIX B  
(CONTINUED)**

Appearance/  Neat  
Clothing:  Stains on  Unruly  Messy  Dirty  
                   clothing  Having odor  Partially dressed  
 Bodily excrement  Other \_\_\_\_\_  
                  Stains

Breath:  No alcoholic odor  Faint alcoholic odor  
 Alcoholic odor  Sweet/pungent tobacco odor  
 Heavy usage breath spray  Other \_\_\_\_\_

Movements:  Fumbling  Jerky  Nervous  
 Slow  Normal  Hyperactive  
 Other \_\_\_\_\_

Eating:  Gum  Candy  Mints  
 Other \_\_\_\_\_

Miscellaneous:  Presence of alcohol and/or drugs in associate's possession or vicinity  
 On-the-job misconduct by employee  
 Employee admission concerning alcoholic use and/or drug use or possession  
 If there are witnesses to employee's conduct, list below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Observations (if accident, provide copy of completed accident/incident report):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employee's Explanation of Reasons for His/Her Conduct:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Once above portion of form has been completed by you and a witness, you are now ready to take a position with the employee. Be certain to follow company procedures as outlined in our drug-free policy.

**APPENDIX B  
(CONTINUED)**

Check One

\_\_\_\_\_ Employee has agreed to testing

\_\_\_\_\_ Employee has not agreed to testing

\_\_\_\_\_  
Supervisor's Signature

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

\_\_\_\_\_  
Witness's Signature

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

\_\_\_\_\_  
Mayor's Signature (applicable to WL City

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

Hall Employees Association and non-bargaining employees)

**APPENDIX C**  
**POLITICAL CONTRIBUTION CERTIFICATION**

Ohio law requires that every person or business that is seeking to have a public contract awarded with the City of Westlake be in compliance with Ohio Revised Code Section, 3517.13 regarding political contributions. I hereby certify that at the time my bid/proposal was submitted, I was in full compliance with Ohio Revised Code Section, 3517.13.

Signed:

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Title

Date