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AN AGREEMENT

between

THE CITY OF WILLOUGHBY, OHIO

and

THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

Police Sergeants and Lieutenants

EFFECTIVE: APRIL 1, 2013

EXPIRATION: MARCH 31, 2016

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ARTICLE 1. PREAMBLE

1.1 This Agreement is hereby entered into by and between the City of Willoughby, Ohio (hereinafter, "the Employer") and the Ohio Patrolmen's Benevolent Association, (hereinafter, "the Union" or "the O.P.B.A.").

ARTICLE 2. PURPOSE AND INTENT

2.1 In an effort to continue harmonious and cooperative relationships with the employees and to ensure the orderly and uninterrupted efficient operation of government, the Employer now desires to enter into an Agreement reached through collective bargaining which will have for its purposes, among others, the following:

A. To recognize the interests of employees of the Employer to participate through collective bargaining in the determination of the terms and conditions of their employment;

B. To promote fair and reasonable working conditions;

C. To promote individual efficiency and service to the citizens of the City of Willoughby;

D. To avoid interruption or interference with the efficient operation of the employer's business; and

E. To provide a basis for the adjustment of matters of mutual interest by means of amicable discussion.

ARTICLE 3. RECOGNITION

Police Sergeants and Lieutenants.

3.1 The Employer hereby recognizes the O.P.B.A. as the sole and exclusive bargaining agent with respect to wages, hours, and other terms and conditions of employment for all persons employed in the City's Division of Police as police Sergeants and Lieutenants, excluding the Chief, the Assistant Chief, Officers with rank below Sergeant, secretarial staff, all part-time, civilian, seasonal, and temporary employees. All other employees of the Employer are excluded from the Bargaining Unit.

ARTICLE 4. DUES DEDUCTIONS

4.1 The Employer shall deduct O.P.B.A. initiation fees and regular monthly dues from the wages of those employees who have voluntarily signed dues deduction

authorization forms to permit said deductions. The dues deductions shall be made from each regular bi-weekly pay check. If the employee's pay for that pay period is insufficient to cover the amount to be deducted, the Employer will make the deduction with the next regularly-scheduled deduction, providing the employee will be working during this subsequent pay period.

4.2 The Employer will supply to the O.P.B.A. a list of all employees for whom deductions have been made and it will be transmitted, along with the amount of the deducted dues, to the O.P.B.A. within fifteen (15) days from the date of deduction.

4.3 All current employees upon execution of this Agreement or new employees upon completion of sixty (60) days of employment with the Employer, who have not become O.P.B.A. members, shall pay a "fair-share fee" not to exceed the O.P.B.A.'s regular monthly dues as a condition of employment with the Employer. The fair-share fee payment shall not require any employee to become a member of the O.P.B.A.

4.4 The amount of the fair-share fee shall be certified to the Employer by the O.P.B.A. Such certified amount shall be deducted from the employee's earnings as in Paragraph 4.1 hereinabove, except that employee authorization shall not be required.

4.5 The O.P.B.A. shall prescribe an internal rebate procedure for nonmembers, in conformance with Federal laws, and shall advise each nonmember as to such procedure and provide to the Employer and each nonmember a copy of the procedure.

4.6 The O.P.B.A. 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 O.P.B.A. shall indemnify the Employer for any such liabilities or damages that may arise.

ARTICLE 5. MANAGEMENT RIGHTS

5.1 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:

A. Hire and assign employees;

B. Discharge, suspend or otherwise discipline employees for just cause;

C. Determine the number of persons required to be employed, laid off, or discharged for just cause;

D. Determine the qualifications of employees covered by this Agreement;

E. Determine the starting and quitting time and the number of hours to be worked by its employees;

F. Make any and all reasonable rules and regulations;

G. Determine the work assignments of its employees;

H. Determine the basis for selection, retention, and promotion of employees to or for positions not within the bargaining unit established by this Agreement;

I. Determine the type of equipment used and the sequence of work processes;

J. Determine the making of technological alterations by revising either process or equipment, or both;

K. Determine work standards and quality and quantity of work to be produced;

L. Select and locate buildings and other facilities;

M. Establish, expand, transfer, and/or consolidate work processes and facilities;

N. 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; and

O. Terminate or eliminate all or any part of its work or facilities.

5.2 In addition, the Union 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 work force 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. EMPLOYEE RIGHTS

6.1 An employee has the right of representation when the employee is the subject of a disciplinary, internal or criminal interrogation.

6.2 Before an employee is charged with refusal to answer questions or participate in an investigation, he shall be advised that such refusal to answer questions or participate in such investigation shall be the basis of a charge.

6.3 If the Employer requires that an interrogation be recorded, the employee may simultaneously record his own tape of the interrogation or be provided a copy at the Employer's discretion.

6.4 If, in the course of internal investigation, an employee is given a polygraph OR CVSA examination, such examination shall not be used in any subsequent court action. Polygraph or CVSA questioning shall be narrowly related to the specific investigation.

6.5 The results of a polygraph or CVSA shall not be used solely as the basis of disciplinary action.

6.6. Citizen complaints shall be investigated as established in the current regulations. Citizen complaints determined to be unfounded shall not be retained in the personnel file.

ARTICLE 7. NON-DISCRIMINATION

7.1 The Employer and the O.P.B.A. recognize their respective responsibilities under Federal and State constitutional and statutory requirements. Therefore, both parties hereby reaffirm their commitments, legal and moral, not to discriminate in any manner relating to employment on the basis of race, color, creed, religion, sex, national origin, ancestry, handicap, age, or marital status.

ARTICLE 8. PROBATIONARY PERIOD

8.1 All newly promoted employees will be required to serve a promotional probationary period of three (3) months. During such period, the Employer shall have the sole discretion 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.

ARTICLE 9. SENIORITY

9.1 Seniority shall be based upon length of continuous uninterrupted service from the last date of hire with the City of Willoughby as a full-time Police Officer.

9.2 No employee shall attain seniority rights under this Agreement until he has successfully completed his probationary period and until he has successfully

completed the minimum basic police training in accordance with Section 109.77 of the Ohio Revised Code as amended. Upon successful completion of the employee's probationary period, his seniority shall date back to the date of his original employment as a member of the Department.

9.3 Whenever more than one person is appointed to the Department on the same, day, the seniority of each individual as it relates to others appointed the same day shall be determined by their relative position on the written Civil Service examination, with the greatest seniority being granted to the individual standing highest on the list amongst those appointed and so on down in that order.

In the event of a tie score, the tie shall be broken by the date of application with the City.

9.4 Approved leaves of absence, with or without pay, of thirty (30) days or less duration, shall not interrupt continuous service and shall not be deducted from total service time.

9.5 An employee will lose all seniority and continuous service with the City if such service is interrupted for any of the following reasons:

A. He quits or retires.

B. He is discharged for just cause.

C. He is absent for three (3) consecutive working days without notifying the City.

D.. He fails to return to work at the end of an approved leave of absence within five (5) working days.

E. He fails to return to work from layoff within three (3) working days from date of recall.

F. His layoff is continuous for a period of eighteen (18) consecutive months.

ARTICLE 10. O.P.B.A. MEMBERSHIP (UNION ACTIVITY)

10.1 The Employer and the O.P.B.A. recognize the right of all employees and all applicants for employment to be free to join the Union and to participate in lawful concerted O.P.B.A. activities. Therefore, the Employer and the O.P.B.A. agree that there shall be no discrimination, interference, restraint, coercion, or reprisals by the Employer or the Union against any employee or any applicant for employment because of Union membership or lack thereof.

10.2 The O.P.B.A. shall be allowed to conduct Union meetings on the Employer's premises, providing such meetings do not interfere with the operation of the Department and approval is granted by the Chief.

10.3 Affected employees shall be permitted to attend grievance and arbitration meetings and Labor Management meetings while on duty, with no loss in pay, providing not more than one (1) individual is paid.

10.4 Employees who are elected or selected to represent the O.P.B.A. may be granted time off with pay to perform their O.P.B.A. duties including, but not limited to, attendance at regular and special meetings, seminars, and conferences, with three (3) days' prior approval, up to a maximum of twenty-four (24) hours per calendar year. Approval for such leave shall not be unreasonably denied.

10.5 Two (2) members of the O.P.B.A. Negotiating Committee shall be allowed off shift for all negotiating meetings which shall be mutually set by the Employer and the O.P.B.A.

ARTICLE 11. NO-STRIKE

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

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

11.3 It is further agreed that any violation of the above will be automatic and sufficient grounds for the immediate disciplinary action as determined by the Employer.

11.4 The Employer shall not lock out employees covered by this Agreement.

ARTICLE 12. RULES AND REGULATIONS

12.1 It is understood and agreed that the Employer has the authority to promulgate reasonable work rules, policies, procedures, and directives to regulate the conduct of

the Employees whenever possible, and such matters will be reduced to writing and made available to all employees. Such rules, policies, procedures, and directives shall not be inconsistent with this Agreement.

12.2 The Employer agrees that the provisions of this Agreement, along with all work rules and other regulations, will be administered on as fair and non-discriminatory basis as practical. Work rules will not be inconsistent with the express written provisions of this Agreement, and unreasonable work rules will be subject to the Grievance Procedure contained herein.

ARTICLE 13. PHYSICAL EXAMINATIONS

13.1 All employees shall have an annual physical examination performed by a physician designated and paid by the Employer during the last quarter of each year. An employee may elect on their own time to have their own physician administer a yearly physical examination with the cost covered by the City provided health insurance policy. Any out of pocket expense would be the responsibility of the employee.

13.2 All results of the physical and testing process are considered to be privileged and confidential between the employee and the physician, and shall become part of the physician's permanent medical file of the employee. No information may be released from this file to anyone without the express written consent of the employee.

13.3 At the Employer's sole discretion, the above physical examination may contain a test (blood screen) for the HIV-acquired immune deficiency syndrome (AIDS) virus. Such testing and the test results shall be implemented as follows:

A. The physician performing the examination shall counsel each employee as to the testing process, possibility of inaccurate test results, and any other subject medically appropriate;

B. In the event a positive test result occurs after the second test, the employee shall be given the Western Blot Test, which shall be paid by the Employer. There shall be no releasing of the first test results to anyone other than the physician and the employee;

C. In the event a positive test occurs in the Western Blot Test, the results shall be kept completely confidential between the physician and the employee until such time it is finally determined that the employee is actually infected.

D. In the event of such a final determination, the results will be kept confidential between the physician, Employee, and Mayor. At that time, the situation will be handled pursuant to Paragraph 13.4 below.

13.4 If as a result of the above-provided physical examination, it is determined that the employee is actually afflicted with AIDS, as opposed to just testing positive for AIDS antibodies, the Employer may:

A. Allow the afflicted employee to continue to work until he is physically unable to do so; or

B. Relieve the afflicted employee from duty and put on injury leave for up to ninety (90) days, and then sick leave, if necessary, pending the approval of his retirement from the Police & Firemen's Pension System.

13.5 In the event the Employer elects to place the employee on injury leave and then sick leave prior to the employee actually becoming incapacitated and, if, as a result of such early removal from duty, the employee exhausts his sick leave prior to the approval of his retirement, the Employer will grant the employee enough additional sick leave to keep the employee on full pay status until his retirement is approved.

13.6 If, as a result of the above-provided physical examination, it is determined that an employee tests positive for AIDS antibodies but is not afflicted with the actual disease, the Employer may:

A. Make no changes in the employee's duties or employment;

B. Transfer the employee to another position within the Police Department where he would not be in contact with the general public;

C. Transfer him to another job within the Employer's workforce, but outside the Police Department; or

D. Relieve the afflicted employee from duty and put on injury leave for up to ninety (90) days, and then sick leave, if necessary, pending the approval of his retirement from the Police & Firemen's Pension System.

13.7 In the event the Employer elects to transfer the employee to another job outside the Police Department and give him a new job classification, the employee will suffer no reduction in his existing wage.

13.8 If an employee is transferred to a position not covered by the Police & Firemen's Pension System and the employee has less than fifteen (15) years pension credit, the Employer will keep the employee in such pension system until he vests his pension at fifteen (15) years. If the employee has more than fifteen (15) years' pension credit, the Employer will keep the employee in such system until he obtains twenty-five (25) years of credit. After the employee achieves each of the

above, the Employer may transfer him to the Public Employees' Retirement System (PERS).

13.9 In any instance, where the employee is receiving pay pursuant to the above provisions and such pay is not the result of the employee utilizing accumulated leave credits, the Employer will be entitled to an offset against wages paid by other received payments.

13.10 All costs associated with any AIDS tests administered pursuant to this Article, shall be borne by the Employer.

ARTICLE 14. PERSONNEL FILES

14.1 An employee shall have the right, upon request, to review any and all of his personnel files, except confidential pre-employment investigations, references, and similar material. He may have a representative of the O.P.B.A. present when reviewing the file, along with an Employer representative. A request for copies of items included in the file shall be honored.

14.2 Should an employee, upon review of his file, come across material of a negative or derogatory nature, the employee may provide a written and signed comment in rebuttal, mitigation, or explanation of said material, which comment shall remain in the employee's file so long as the negative material remains. An employee may request removal of specific items in his file, which request would be subject to review and the Employer's approval on a case by case basis. All items in an employee's file with regard to complaints and investigations will be clearly marked with respect to final disposition and be confidential from the public at large.

ARTICLE 15. WORKPERIOD

15.1 The workperiod for all full-time employees shall be forty (40) hours per week.

15.2 This Article shall not be construed as a guarantee of hours of work per day or per week. Changes in hours of work due to emergency situations shall not require prior notification to the O.P.B.A.

ARTICLE 16. ADMINISTRATION OF PAY PLAN

16.1 In the administration of the Pay Plan, two (2) steps: "B", and "C" shall be interpreted and applied as set forth in the following paragraphs:

A. An employee promoted to the rank of Sergeant shall be compensated at the (B) rate of the Sergeant schedule.

B. An employee promoted to the rank of Lieutenant shall be compensated at the (B) rate of the Lieutenant schedule.

C. An employee shall be advanced by the Appointing Authority to the next full step in the pay range following completion of one (1) calendar year of service.

ARTICLE 17. SALARY SCHEDULE

17.1 The following rates of pay shall become effective upon execution of this Agreement on March 24, 2013 for all employees employed upon execution of this Agreement:

TITLE/CLASS	B	C
Sergeant	$40.23	$41.46
Lieutenant	$43.74	$46.04

17.2 The following rates of pay shall become effective upon execution of this Agreement on March 23, 2014 for all employees employed upon execution of this Agreement:

TITLE/CLASS	B	C
Sergeant	$41.03	$42.29
Lieutenant	$44.61	$46.96

17.3 The following rates of pay shall become effective upon execution of this Agreement on March 22, 2015 for all employees employed upon execution of this Agreement:

TITLE/CLASS	B	C
Sergeant	$41.85	$43.14
Lieutenant	$45.50	$47.90

Effective March 31, 2002, a minimum of eleven percent (11%) pay differential shall be maintained between the ranks.

ARTICLE 18. PROMOTIONS

18.1 An employee promoted to a higher paying position governed by a Collective Bargaining Agreement shall be paid at the B rate as established by the salary schedule and administration of pay plan of such agreement.

ARTICLE 19. HOLIDAYS

19.1 The following thirteen (13) holidays will be observed as paid holidays for all full-time employees:

New Year's Day	Independence Day	Thanksgiving Day
Martin Luther King, Jr.	Labor Day	Day after Thanksgiving
President's Day	Columbus Day	Christmas Eve
Good Friday	Veterans' Day	Christmas Day
Memorial Day		

In addition to the above, all employees shall be entitled to one (1) personal day off with pay. Such day may be taken upon the request of the employee and upon approval of the Chief.

19.2 To receive holiday pay, an otherwise eligible employee must be at work or on an authorized absence, in the active pay status, on the work days immediately preceding and immediately following the day on which the holiday is observed. Active pay status is defined as time an employee is authorized to be off in a paid status including vacation, holidays, funeral, compensatory time, sick leave, or an injury leave being paid by the City.

19.3 If a holiday occurs during an employee's paid vacation leave, the employee shall receive an additional day of paid vacation leave.

19.4 An employee who works on Independence Day, Thanksgiving Day, or Christmas Day shall be entitled to be compensated at time and one-half up to eight (8) hours. The shift assigned to work on such designated holidays shall be determined by the majority of scheduled hours being worked on the day of the holiday. There will be no additional pyramiding of time or rates for additional time worked on the designated holidays.

19.5 In the event an employee is required to work on a holiday, such employee may, by previous arrangement with the Chief, reschedule the holiday and it will then be paid at straight time.

19.6 For employees other than shift employees, if any of the above holidays fall on a Sunday, the following Monday shall be observed as the holiday. If any of the above holidays fall on a Saturday, the preceding Friday shall be observed as the holiday.

In the case of Christmas Eve falling on a Friday and Christmas Day falling on Saturday, Christmas Eve will be observed on Thursday with Christmas Day observed on Friday. When Christmas Eve falls on a Sunday and Christmas Day falls on a Monday , Christmas Eve will be observed on the previous Friday.

19.7 The City recognizes that some employees may wish to observe, as periods of worship or commemoration, certain days which are not included in the City's paid holiday schedule. Accordingly, an employee who desires to take a day off for such reason shall be permitted to do so, under the vacation leave policy, prior notice having been given to the Chief, and provided the employee's absence from work does not result in an undue hardship on the conduct of the operations of the Police Department.

ARTICLE 20. VACATIONS

20.1 Pursuant to the sections hereinafter, all full-time employees shall earn paid vacation which shall be taken in the calendar year following the year in which the vacation is earned. Employees who fail to satisfactorily complete their probationary period are not eligible for any vacation time.

For purposes of scheduling vacation within the year following the year in which vacation is earned, employees may be permitted to schedule in the last week of the year provided three (3) days fall within such year.

If the last week of the year ends with less than three (3) days, it will be considered the following year and employees will be permitted to schedule in such first week in anticipation of time to be credited on January 1 of that year.

20.2 All vacation time shall be credited on January 1st of each year and shall be for the time period of employment in the active pay status which ends on the immediately preceding January 1st.

20.3 Employees who have worked less than one (1) year for the City shall receive one (1) day for each full month worked, prior to January 1st of the vacation year, not to exceed ten (10) days.

20.4 If, because of the needs of the City, an employee who has previously-scheduled time is unable to take such vacation time, the employee shall receive pay for such time at the end of the year in which it was to be taken. There will be no carry-over of vacation time from one year to another.

20.5 For employees employed on or after April 1, 2001, as full-time employees previously employed on a regular full-time basis by the State of Ohio or a political subdivision thereof, may, at the time of hire, receive credit for such previous

continuous full-time service credit, provided they had not retired from their former employer, for the purpose of accruing vacation leave, up to a maximum of five (5) years. Previous service credit shall only be credited for the purpose of future vacation accrual.

Such prior service credit will be granted after one (1) full year of employment with the City of Willoughby as a full-time employee.

If continuous part-time employment with the City of Willoughby leads directly to full-time status, one year of credit shall be given for each 2080 regular hours worked after one year of full-time employment.

20.6 All employees shall be entitled to accrue up to a ten (10) day vacation period in and after the vacation year in which such employee completes two (2) years of service with the City; up to fifteen (15) days vacation in and after the vacation year in which such employee completes five (5) years of service with the City; up to twenty (20) days vacation in and after the vacation year in which such employee completes ten (10) years of service with the City; up to twenty-five (25) days vacation in and after the vacation year in which such employee completes fifteen (15) years of service with the City; and up to thirty (30) days vacation in and after the vacation year in which such employee completes twenty (20) years of service with the City.

For purposes of determining years of service for vacation entitlements - the length of time since the last date of hire as a full-time employee of the City of Willoughby or as adjusted pursuant to Section 20.5 of this Article. For purposes of determining the amount of vacation accrued in the prior year, an employee will have accrued one twelfth (1/12) for each full month in the active pay status of the respective level of entitlement.

20.7 Each employee shall be required to take a minimum of two (2) weeks of any earned vacation. In the event such employee is entitled to vacation time in excess of two (2) weeks, the employee shall have the option to request the City to purchase such additional weeks of vacation by providing notice to the Department Head of such intent no later than the first day of February of each year.

20.8 If an employee's employment is terminated for any reason, he shall receive payment for any earned but unused vacation time credited to him at the time of his termination. In the case of the death of an employee, his earned but unused vacation time will be paid to his estate. If an employee is laid off, he shall receive payment for his earned but unused vacation time at the same time final compensation for time worked is made.

ARTICLE 21. OVERTIME

21.1 All non-exempt employees shall be entitled to overtime pay at the rate of one and one- half (1 1/2) times their hourly rate for hours worked in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) work period. For the purpose of computing overtime pay, holidays, funeral days, and vacation days (but not sick days) shall be counted as days worked. The work period begins at 12:01 a.m. Sunday, and ends at Midnight the following Saturday.

21.2 Employees called in or assigned to fill a shift shall be paid at one and one-half (1 1/2) times their hourly rate or accrue compensatory time at the same rate for all hours worked in excess of their regularly scheduled hours of work.

21.3 All hours worked contiguous to an employee's shift due to required departmental meetings, required teaching, and required classes to maintain current certifications will be paid at the applicable rate as determined by Section One (1) of this Article.

The Employer reserves the right to require employees remain at work if the employee's shift ends within two (2) hours of the start of a meeting, teaching, or class and shall compensate employees for the hours actually worked or in attendance at such meetings. Employees shall be given one (1) week notice of scheduled training sessions.

21.4 All hours worked by employees not contiguous and outside of shift assignments due to required departmental meetings, required teaching, and required classes to maintain current certifications will be paid in the same manner as a call-back. Employees shall be given one (1) week notice of these scheduled training sessions.

21.5 Upon execution of this Agreement, employees shall be able to accrue compensatory time to a maximum of one hundred eighty (180) hours with an unlimited "cash out" option in April and October of each year.

The employee must submit a request to the Finance Director by the last business day in March and September, requesting a "cash out" of his compensatory time. Payment to the employee shall be made no later than April 15th and October 15th respectfully, or on the next business day following such dates if they fall on a weekend.

21.6 Compensatory time may be utilized when no overtime is needed according to the manning levels of the Division of Police, or creates pyramiding of time off, and a request form is properly completed, submitted, and approved by the Chief or his designee.

A request for compensatory time may be submitted on an "Unscheduled Absence Report" anytime after an approved twenty-eight- (28-)day schedule has been

submitted, approved and distributed by the Commanding Officer of the respective platoon.

All requests for compensatory time off for a full shift or any portion of a shift shall be approved when staffing levels will remain at or above established department minimums for that shift without the presence of the requesting officer. Once time off has been approved, it cannot be cancelled by management except in cases of undue hardship.

Should the staffing level fall below the established department minimum after compensatory time has been approved, the officer filling the vacancy shall be paid overtime at a rate of one and one-half (1 ½) times their hourly rate for the hours worked in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) work period. The officer filling the vacancy shall not have the option of submitting the time worked for compensatory time.

The following are examples of times and days that compensatory time may be denied as extenuating circumstances. These examples are not intended to be all inclusive as there may be other days and times that extenuating circumstances may result in the denial of the compensatory time as determined by the Chief or his designee.

New Year's Eve – Second & Third Shift
St. Patrick's Day – Second & Third Shift
Fourth of July – Second & Third Shift
Labor Day – Second & Third Shift
City Festivals/Parades
Mandatory Training Days
Unplanned Unusual Events

21.7 Employees required to complete an annual physical examination will accrue compensatory time at one and one-half (1 1/2) times their hourly rate when these activities are not conducted during regular shift assignments.

ARTICLE 22. CALL-BACK PAY

22.1 Whenever any employee regularly working forty (40) hours each week who is eligible to be paid for overtime in some form is called back to work after completing a regular tour of duty, such employee shall be guaranteed four (4) hours pay at the applicable rate, and hours actually worked will be included with the work week total hours.

ARTICLE 23. INSURANCE

23.1 The City will make available to all full-time employees and elected officials a program for hospitalization and medical protection, dental/orthodontic insurance, paid prescriptions, vision, and hearing insurance coverages. Such program shall be solely determined by the City except that the level of coverage shall be maintained as a substantially equal as that in effect December 1, 2004 and amended in this agreement.

Premiums for the within coverages shall be paid by the City when the applications of such employees are accepted for coverage, subject to reimbursement set out in Sections 23.3 and 23.4.

23.2 Effective with the plan year beginning on December 1, 2010 or as soon as is practicable thereafter, Employees will be responsible to pay a Twenty Dollar ($20.00) per visit co-pay to doctors within the network. Employees will be responsible to pay an urgent care co-pay of Fifty Dollars ($50.00)

Employees shall be responsible to pay a Seventy-Five Dollar ($75.00) fee for emergency room care.

Employees will be responsible for a network Deductible of Two Hundred Dollars ($200.00) for a single plan and Four Hundred Dollars ($400.00) for a family plan. Network Maximum medical out of pocket is at the following levels of benefit of One Thousand Dollars ($1,000) for a single plan or Two Thousand Dollars ($2,000) for a family plan. The out of pocket maximum includes the deductible. Network coinsurance will be at a 90% rate.

Eighty percent (80%) of the reasonable and customary cost of services will be paid by the insurance carrier for services outside the network if such out of network service is permissible in the plan offered. The employee shall be responsible for the remaining charges.

A prescription plan shall be offered at a level of Ten Dollars ($10.00) Tier 1, Twenty Dollars ($20.00) Tier 2 and Thirty Dollars ($30.00) Tier 3. Tiers will be determined by the City's health care or prescription service provider. A mail order plan may be made available with a two (2) co-pay ninety (90) day supply benefit.

23.3 Effective April 1, 2007, employees will be required to reimburse the City through payroll deduction the amount applicable to the program in which they participate amounting to ten percent (10%) of the total premium for single and family coverages.

23.4 The reimbursement above-referenced in Sections 23.1 and 23.3 will also apply to those employees who elect to participate in the federally-qualified Health Maintenance Organization (HMO), if offered by the City.

23.5 Payments shall be made through payroll deductions prior to the date due by the carrier. Failure to pay such additional premiums, if any, shall result in the loss of insurance benefits to the employee.

23.6 In the event an employee is eligible to be covered under the same policy of another employee of the City, each employee will be offered either a single plan or offered one family plan for both employees. Cost shall be governed based on selection of a single plan for each employee and to the employee named as the policy holder for a family plan.

23.7 A city-wide health cost containment committee shall be established. The committee shall consist of one (1) representative member and an alternate of each full time Bargaining Unit which shall be appointed by the Bargaining Unit; one (1) representative member and an alternate of Non-Bargaining Unit employees which shall be appointed by the Mayor, and three (3) representatives and alternates of the City Administration. Each group entitled to representatives shall select alternates who shall act in the absence of the appointed member. Each appointment shall be for two (2) years and by accepting the appointment, each member or alternate agrees to serve for the two (2) year period.

The purpose of the Committee shall be to disseminate information, monitor costs and expenses, review plan particulars, and make decisions on elements of the insurance program. The Committee shall consider and make recommendations for modifications and/or changes to the City health insurance program or for inclusions in new contracts.

The Committee shall hold an organizational meeting within thirty (30) days of the appointment of its members. At the organizational meeting, a chairman and secretary will be chosen. Subsequent meetings shall be conducted bimonthly or upon call of the Chairman or any member.

Each member of the Committee shall have one (1) vote and any action taken by the Committee shall be approved by a majority of the total members of the Committee. Upon approval of any recommendation for changes or modifications to the health care plan, the Secretary shall transmit to the Clerk of Council a request that Council consider and take action on the recommendation.

In the performance of its duties, the Committee may, at its option, consult with knowledgeable heath care professionals or other persons the Committee deems necessary.

23.8 The Employer will provide life insurance coverage in the amount equal to one year base pay of the employee.

ARTICLE 24. RETIREMENT

24.1 Any full-time employee of the City who has attained the age of sixty-five (65) years may retire and have employment terminated.

ARTICLE 25. SICK LEAVE

25.1 Sick leave shall be defined as an absence with pay necessitated by the illness or injury of the employee, exposure by the employee to a contagious disease communicable to other employees, or serious illness, injury, or birth of a child where medically necessary, or death in the employee's immediate family.

25.2 All employees shall earn sick leave at the rate of four and six-tenth (4.6) hours for every eighty (80) hours worked in the active pay status, excluding overtime, and may accumulate such sick leave in an unlimited amount.

25.3 An employee who is to be absent on sick leave shall notify his supervisor of such absence and the reasons therefore at least one-half (1/2) hour before the start of his tour of duty each day he is absent, unless the employee is on a physician-approved sick leave.

25.4 Sick leave may normally be used in segments of not less than four (4) hours. Sick leave may also be used in one (1) hour increments so long as no overtime is required to cover the absence or results in a reduction in manpower below the minimum manning table. Use of sick leave shall be deducted from an employee's sick leave accumulation on the basis that every hour paid shall be an hour deducted.

25.5 Before an absence may be charged against accumulated sick leave, the Chief may require such proof of illness 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 three (3) consecutive days must supply a physician's report to be eligible for paid sick leave, unless such report is waived by the Chief.

25.6 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 medical examination, the Chief finds there is not evidence of illness, injury, or death sufficient to justify the employee's absence, such leave may, at the Chief's sole discretion, be considered as unauthorized leave and shall be without pay. The attending physician's statement shall be deemed adequate proof unless the Employer has reason to suspect such report is erroneously supplied.

25.7 Any abuse of sick leave or patterned abuse of sick leave shall be sufficient cause for discipline.

25.8 An employee found unfit for duty or unable to return to service after an extended medical leave as authorized by the Employer, may be removed from employment in a non-disciplinary manner.

Initiation of the process of removal may begin when the Employer reasonably believes that an ongoing condition renders an employee unfit for duty.

Such initial determination may be based on the employee's physician's medical statement or, at the Employer's expense, an employee may be required to submit to a medical examination to determine fitness for duty.

25.9 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 work, to be examined by a physician designated and paid by the Employer to establish that he is not disabled from the performance of his normal duties and that his return to work will not jeopardize the health and safety of other employees.

25.10 Should there be a conflict between the employee's doctor and the doctor designated by the Employer over an opinion concerning the employee's ability to return to work, a third doctor will be chosen by mutual agreement between the Employer and the Union, who shall examine the employee and decide the matter in question. This jointly-appointed physician shall be paid by the Employer and the Union, with his fee being shared equally by the parties.

25.11 In addition to personal illness or injury to the employee, absence(s) due to illness in the employee's immediate family, when approved by the Chief, may be charged against sick leave.

25.12 When the use of sick leave is due to an illness in the immediate family, "immediate family" shall be defined to only include the employee's spouse, children, or any other member of the employee's immediate household. When the use of sick leave is due to death in the employee's immediate family, "immediate family" shall be defined to only include the employee's spouse, children, parents, brother, sister, mother-in-law, father-in-law, and other relatives as approved by the Employer.

25.13 Upon the normal retirement, disability retirement, or death of an employee, such employee or the employee's estate in case of death shall be entitled to receive a cash payment equal to his hourly rate of pay at the time of retirement by the multiplication of the following percentages times the number of accumulated sick hours the employee has at the time of his retirement. The maximum number of sick hours for retirement purposes shall be as shown in the Schedule set forth in Section 25.14 hereinbelow.

25.14 Retirement means disability or service retirement under the Police & Fireman's Disability Pension Fund, whereby the first pension installment is to be received within one hundred twenty (120) days after retirement from the City. Such

payment for accumulated sick leave shall be considered to eliminate all sick leave credit accrued by the employee at that time. The percentages to be applied to such hours are as follows, based upon the length of service of the employee with the City:

Length of Service	Percentage of 960 Hours
Less than 5 years	25%
5 to 8 years	50%
8 to 10 years	75%
10 to 15 years	100%
15 to 20 years	100% (+ 20%)*
20 to 25 years	100% (+ 30%)*
25 years or more	100% (+ 40%)*

* additional percentage for the balance remaining in excess of 960 hours

25.15 In the event of death of an employee prior to retirement, such employee shall be entitled to receive payment for all accumulated but unused sick leave up to a maximum of 960 hours without regard to longevity. Employees with fifteen (15) or more years are entitled to receive payment as per the above schedule. Such payment shall be made to the surviving spouse or to the employee's estate.

25.16 Payment for sick leave pursuant to this Section shall be considered to eliminate all sick leave credit accrued by the employee at that time.

25.17 For employees employed on or after April 1, 2001, accrued unused sick leave may be transferred to the City from another political subdivision of the State of Ohio, where the employee has not exercised any type of cash out. Such time transferred may only be used for allowable sick leave absences. Transferred sick leave shall be utilized after all time earned with the City of Willoughby is exhausted. Transferred sick leave shall not be added to time earned with the City of Willoughby for purposes of cash out.

25.18 Upon the request of a retiring employee who is eligible for payment for accrued sick leave, the employee may at his or her option elect to take payment for sick leave over three (3) tax years. Such request must be in writing prior to the separation payment. The schedule of payment dates shall be pre-established prior to retirement taking place and subject to approval by the City Finance Department. The payment is for the convenience of the employee and payment will be made at the rate of pay the employee was receiving at the time of their separation of service. The City shall not be responsible to pay any interest or additional funds at the time of these payments.

ARTICLE 26. PREGNANCY/CHILDBIRTH MEDICAL LEAVE

26.1 **Family/Medical Leave.** The Employer shall grant an eligible employee up to twelve (12) weeks during a twelve (12) month period in accordance with the provisions of the Family and Medical Leave Act, to care for the employee's child after birth, or placement for adoption or foster care; to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or for a serious health condition that makes the employee unable to perform the employee's job. Accrued paid vacation, compensatory or sick leave if medially required time shall be utilized first and shall count towards the leave.

26.2 Pregnancy/Childbirth Medical Leave will commence when the employee's physician certifies that she is no longer able to perform her work safely and efficiently. However, the City reserves the right to initiate a leave of absence if the employee's attendance and quality and quantity of work are adversely affected by the pregnancy.

26.3 Pregnancy/Childbirth Medical Leave will continue until such time as the employee's physician certifies that she is able to return to work, not to exceed six (6) months. An employee who becomes pregnant is required to:

A. Submit to her supervisor a written statement from her personal physician specifying the estimated delivery date, the estimated date that the employee should cease working, and the approximate date the employee will be able to return to work.

B. Submit to her supervisor a written statement from her personal physician of the initial estimated date.

26.4 **Use of sick and/or vacation leave.** An employee shall be permitted to use accumulated sick and/or vacation leave for the period of time she is certified by her physician as being unable to perform the duties of her position as a result of pregnancy, childbirth, or related medical conditions.

An employee who has exhausted her sick and/or vacation leave credit shall be considered to be on a leave of absence without pay for the remainder of the period that she is unable to return to work.

26.5 All employee benefits will continue, uninterrupted, during this time in the same manner as afforded and prescribed for other employees as set out in this Agreement.

ARTICLE 27. INJURY LEAVE

27.1 In cases uncontested by the Employer, when an employee is injured in the line of duty, while actually working for the Employer, necessitating his absence from work for more than seven (7) calendar days, he shall be eligible for a paid leave not to exceed ninety (90) calendar days. The employee may be required to file for Worker's Compensation and signs 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.

27.2 If at the end of this ninety (90) day period the employee is still disabled, and cannot perform the normal daily duties required of employment, but could perform other duties that require less physical activities, at the employer's discretion, either the injury leave shall be extended another ninety (90) days or any part thereof or the employee may perform such duties as determined by the Chief.

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

27.4 If, during the three (3) calendar years following the original date of injury, the disability reoccurs, and is so certified by a licensed physician which is not contested by the Employer, the injured employee shall be compensated, pursuant to Sections 27.1 and 27.2 hereinabove, for such period or periods of time that remain unused from previous disability pay periods associated with the same injury, for absences greater than seven (7) days.

ARTICLE 28. FUNERAL LEAVE

28.1 An employee shall be granted time off with pay ***for the purpose of attending the funeral*** of a member of the employee's immediate family. The employee shall be entitled to a maximum of three (3) days for each death in his immediate family, up to and including the day of interment, which days shall not be deducted from his sick leave credits.

28.2 Immediate family is defined as to only include the employee's spouse, children, step-children, parents, step parents, sisters, brothers, parents-in-law, aunts, uncles, grandparents, grandchildren, son-in-law, daughter-in-law, or any other relative residing with the employee at the time of death.

28.3 If an employee requires more time than contained in the above section, he may utilize vacation time, sick leave, or leave without pay, with the approval of the Chief.

ARTICLE 29. COURT ATTENDANCE

29.1 When any employee of the Division of Police is subpoenaed or ordered to appear in Court, on a City matter, on a day which is that employee's day off, outside the four (4) contiguous hours for the second shift, or when he is working the third shift, he shall be paid a minimum of four (4) hours' pay when an appearance is made at the scheduled time required, and such time shall be included in determining hours worked for purposes of overtime.

ARTICLE 30. JURY DUTY

30.1 Those employees who receive subpoenas or other notices requiring their presence for jury duty shall notify their Supervisor(s) within 48 hours of receiving such notice. A copy of the subpoena or other notice shall be forwarded to the Patrol Commander and the Administrative Secretary.

30.2 That employees assigned to the second (afternoon) or third (night) shift shall be temporarily assigned to the first (day) shift during the time period covered by the subpoena or other notice.

30.3 That if a temporary assignment made pursuant to Section 30.2 above would cause overtime to be expended in order to cover the temporarily assigned employee's absence, then the Department will be allowed to avoid such overtime expenditure by reassigning another employee from another shift.

30.4 That if the employee is excused from jury duty prior to the end of their workday, that employee will report for duty in a timely manner for the remainder of that or any other scheduled workday that he is excused.

30.5 That any employee who is called for jury duty, either Federal, County, or Municipal shall be paid his regular salary and must remit any monies received for jury duty to the City, when such jury duty occurs during his regularly scheduled shift.

ARTICLE 31. UNIFORM MAINTENANCE ALLOWANCE

31.1 Full-Time Officers. Effective in January, 2004, all permanent, full-time members of the Police Department shall receive, in addition to the compensation provided herein, a yearly maintenance allowance for uniform, clothing, and equipment in the amount of One Thousand Dollars ($1,000), paid in January of each year. Should the employee terminate employment during the year, such amount shall be prorated.

ARTICLE 32. TUITION REIMBURSEMENT

32.1 At the discretion of the Employer, the City will pay for costs incurred for registration, fees, books, and tuition for courses upon successful completion of any police training classes with prior approval of the Chief. There shall be no tuition reimbursement for non-police training courses. Employees shall be granted leave from shift, manpower levels permitting, to attend these classes with prior approval of the Chief. All books remain the property of the Employer.

ARTICLE 33. FIREARM PROFICIENCY ALLOWANCE

33.1 Annually, and in accordance with standards set forth in Ohio Revised Code Section 109.801, *et. seq.*, all bargaining unit members shall be required to complete an approved Firearms Requalification Program consistent with requirements of the Ohio Revised Code and Regulations issued pursuant thereto.

33.2 All eligible employees as set out in this Section, who have qualified in firearms proficiency as set out in Section 33.1 of this Article shall be entitled to a proficiency allowance as set out below:

Sergeant	$1,500
Lieutenant	$1,500

Firearm proficiency allowances shall be paid in a separate lump sum check, within thirty (30) days of submission of qualification lists.

ARTICLE 34. SHIFT EXCHANGE

34.1 Employees have the option to exchange shifts or portions thereof as long as the change does not interfere with the operation of the Division of Police. All requests shall be submitted to the Chief or his designee for approval.

ARTICLE 35. BODY ARMOR (VEST)

35.1 Body Armor (Vest) shall be provided at no cost to employee's who shall be required to wear such protective device while in the performance of their duties.

ARTICLE 36. DISCIPLINARY PROCEDURE

36.1 This procedure shall apply to all employees covered by this Agreement.

36.2 Discipline shall be imposed only for just cause.

36.3 Employees who are required to drive City vehicles, who have their license suspended, become uninsurable, or insurable under a high-risk category of the City's policy shall be subject to possible reassignment within the Police Department, reduction, or other disciplinary action depending on the nature of the circumstances. Such reassignment, reduction, or disciplinary action shall last no longer than the period during which the license is suspended, the employee is uninsurable, or insurable under a high-risk category. All drivers license suspensions/revocations, moving violations, and BMV point warning letters shall be reported to the Chief within forty-eight (48) hours or as practical.

36.4 In cases where an employee is not terminated, an employee who has tested positive to a drug or alcohol test or is charged with a driving violation under the influence, will be responsible for the cost of any return to service or follow up testing required by the Employer.

36.5 Based on the merits and severity of an offense, discipline of an employee shall normally follow the principle of progressive discipline, taking into account prior events that have led to disciplinary action. Disciplinary steps may be skipped for serious infractions.

Disciplinary action may include any of the following actions based on the nature of the offense:

A. cautionary warning

B. written reprimand

C. suspension (duration based on severity of case)

D. reduction in rank or position

E. discharge

36.6 Disciplinary action of suspension or greater may be appealed through the grievance procedure, including arbitration, as set out in this Agreement and shall be entered at Step 4.

36.7 Written reprimands may be grieved to a level one step higher than the issuing officer which will be the final resolve of the grievance.

36.8 Any employee may place a letter of rebuttal in his/her personnel file for any cautionary warning, written reprimand, or suspension.

36.9 In such cases where the employer proposes disciplinary action of suspension or greater, an employee shall be offered a pre-disciplinary hearing before a detached hearing officer assigned by the safety director.

In such cases, the employee shall receive advance notice of the charges, proposed action, date, place, and time of the pre-disciplinary hearing. The notice shall also advise that the employee will be permitted to present evidence in his/her own behalf in the form of documentation and/or witnesses and the right to have representation of their choice. Failure to appear at the pre-disciplinary hearing will result in a waiver of the employee's right to a hearing.

36.10 Records of prior disciplinary actions shall cease to have effect in the progressive disciplinary steps as follows:

A. Any cautionary warning or written reprimand shall cease to have effect after one (1) year from the effective date of the reprimand, providing there is no intervening disciplinary action during the one (1) year period.

B. Any suspension of three (3) days or less shall cease to have effect after three (3) years from the effective date of the suspension, providing there is no intervening disciplinary action during the three (3) year period.

C. Any suspension greater than three (3) days shall cease to have effect after five (5) years from the effective date of the suspension, providing there is no intervening disciplinary action during the five (5) year period.

36.11 The discipline imposed shall remain in effect until reversed/modified during the grievance and/or arbitration procedures as outlined in this Agreement.

ARTICLE 37. GRIEVANCE PROCEDURE

37.1 Any member of the Bargaining Unit shall have the right to present his grievance in accordance with the procedure herein provided, free from any interference, coercion, restraint, discrimination, or reprisal and except for 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 lower step of this procedure.

37.2 For the purpose of this procedure, the below-listed terms are defined as follows:

A. **Grievance** - shall be defined as a dispute or controversy arising from the misapplication or misinterpretation of expressly-written provisions of this Agreement.

B. **Aggrieved Party** - shall be defined as only any employee or group of employees within the bargaining unit actually filing a grievance. The Union through its local representative may file a grievance in cases where an action affects the Unit as a whole.

C. **Party in Interest** - shall be defined as any employee of the Employer named in the grievance who is not the aggrieved party.

D. **Days** - As used in this procedure, a "day" shall mean calendar days, excluding Saturdays, Sundays, or Holidays celebrated by the Employer.

37.3 The following procedures shall apply to the administration of all grievances filed under this procedure.

A. Except at Step 1, all grievances shall include:

(1) The name and position of the aggrieved party;

(2) Identity of the provisions of this Agreement involved in the grievance;

(3) The time and place where the alleged events or conditions constituting the grievance took place;

(4) The identity of the party responsible for causing said grievance, if known to the aggrieved party; and

(5) 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. The filing of grievances may be conducted during working hours of the employee having a grievance, providing such filing does not interfere with the employee's work.

D. Nothing contained herein shall be construed as limiting the right of the 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 Union, 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 binding upon the Employer in future proceedings.

E. The aggrieved party may have Union representation at any step of the Grievance Procedure.

F. The existence of this Grievance Procedure, hereby established, shall not impair or limit the right of any employee to pursue any other remedies available under the 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 by this procedure.

G. The time limits provided herein will be strictly adhered and any grievance not filed initially or appealed within the specified time limits will 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. The time limits specified for either party may be extended only by written mutual agreement between the Union and the Employer.

H. 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.

37.4 All grievances shall be administered in accordance with the following steps of this Grievance Procedure.

A. **STEP 1:** An employee who believes he may have a grievance shall notify the Shift Commander of the possible grievance within five (5) days of the occurrence of the facts giving rise to the grievance. The Shift Commander will schedule an informal meeting with the employee within five (5) days.

B. **STEP 2:** If the dispute is not resolved informally at Step 1, it shall be reduced to writing by the aggrieved party and presented to the Assistant Chief within five (5) days of the informal meeting. The Assistant Chief shall convene a meeting within five (5) days of receipt of the grievance. The Assistant Chief shall issue a written decision to the employee within five (5) days from the date of the meeting.

C. **STEP 3:** If the aggrieved party is not satisfied with the written decision at the conclusion of Step 2, a written appeal of the decision may be filed with the Chief within five (5) days from the date of rendering of the decision at Step 2. A copy of the written decision

shall be submitted with the appeal. The Chief shall convene a meeting within Five (5) days of receipt of the appeal. The Chief shall issue a written decision to the employee within ten (10) days from the date of the meeting.

D. **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 rendering of the decision at Step 3. Copies of the written decisions shall be submitted with the appeal. The Mayor or his designee shall convene a meeting within ten (10) days of receipt of the appeal. The Mayor or his designee shall issue a written decision to the employee within ten (10) days from the date of the meeting. If the aggrieved party is not satisfied with the written decision at Step 4, he may proceed to arbitration pursuant to the arbitration procedure herein contained.

ARTICLE 38. ARBITRATION PROCEDURE

38.1 In the event a grievance is not satisfactorily settled in Step 4 of the Grievance Procedure, the Union may make a written request that the grievance be submitted to Arbitration. A request for Arbitration must be submitted within ten (10) days following the date the grievance was answered in Step 4 of the Grievance Procedure. In the event the grievance is not referred to Arbitration within the time limits prescribed, the grievance shall be resolved based upon the reply at Step 4.

38.2 The Employer and the Union Representatives shall agree to request a list of seven (7) impartial Arbitrators with no special instructions from the Federal Mediation and Conciliation Service (FMCS) within ten (10) days of submission of the request for Arbitration. The parties shall meet or arrange to select an Arbitrator within ten (10) days of receipt of the list.

38.3 For the first Arbitration between the Employer and the Union during the term of this Agreement, the Employer shall be the first to strike a name from the list, then the other party shall strike a name, and alternate in this manner until one name remains on the list. The remaining name shall be designated as the Arbitrator to hear the dispute in question. All procedures relative to the hearing shall be in accordance with the rules and regulations of the FMCS. Each party reserves the right to strike one (1) list in its entirety. For subsequent Arbitrations, the first strike shall alternate between the parties.

38.4 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 or the Charter of the City.

38.5 The Arbitrator shall not decide more than one (1) grievance on the same day or series of hearing days except by mutual agreement between the parties.

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

38.7 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 expenses incurred by the other party.

38.8 The Arbitrator's decision and award will be in writing and delivered within thirty (30) days from the date the record is closed. The decision and award of the Arbitrator shall be final and binding on all the parties.

38.9 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.

38.10 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 any inquiry by the Safety Director, or to appeal any form of disciplinary action (e.g., suspension, demotion, discharge, or other action) to any civil service commission.

38.11 For the purpose of this Arbitration Procedure, a "day" shall mean calendar days, excluding Saturdays, Sundays, or Holidays celebrated by the Employer.

ARTICLE 39. GENDER AND PLURAL

39.1 By the use of either "his" or "her" or any derivatives thereof, it is understood that said use is not to be interpreted to be discriminatory by reason of sex, and that when "his" or "her" or any derivatives thereof are used in this Agreement, they are to be interpreted as meaning either his or her or both, as appropriate.

ARTICLE 40. HEADINGS

40.1 It is understood and agreed that the use of headings before the various articles or sections is for convenience and that no heading shall be used in the

interpretation of said article or section nor effect any interpretation of any article or section.

ARTICLE 41. CONFORMITY TO LAW

41.1 This Agreement shall be subject to any applicable present and future Federal and State and local laws, and the invalidity of any provisions of this Agreement by reason of any such applicable existing or future law shall not affect the validity of the surviving portions.

41.2 If 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 portions of this Agreement, which shall remain in full force and effect.

41.3 In the event of an unlawful determination, the Employer and the O.P.B.A. shall meet within thirty (30) calendar days for the purpose of negotiating a lawful alternative provision for only such affected provisions.

ARTICLE 42. OBLIGATION TO NEGOTIATE

42.1 The Employer and the O.P.B.A. acknowledge that during the 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.

42.2 Therefore, for the life of this Agreement, the Employer and the O.P.B.A. 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 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.

42.3 This Article shall not operate to bar negotiations over any subject or matter which the Employer and the O.P.B.A. mutually agree to negotiate.

ARTICLE 43. PERSONNEL POLICIES

43.1 All of the provisions of the City's Personnel Policies, so long as they do not conflict with the provisions of this Agreement, are hereby made a part hereof as though fully rewritten herein.

ARTICLE 44. TOTAL AGREEMENT

44.1 This Agreement represents the entire agreement between the Employer and the O.P.B.A. and, unless specifically and expressly set forth in the express written provisions of this Agreement, all rules, regulations, benefits, and practices previously and presently in effect may be modified or discontinued by the Employer upon notification to the O.P.B.A.

ARTICLE 45. DURATION

45.1 This Agreement shall become effective at 12:01 a.m. on the 1st day of April, 2013, and shall continue in full force and effect along with any other amendments made and annexed hereto until midnight on the 31st day of March, 2016.

45.2 Written notice shall be given at least ninety (90) days but not more than one hundred and twenty (120) days prior to March 31, 2016, by either party requesting a change or termination of this Agreement. If written notice is given in a timely fashion, negotiations shall commence not later than thirty (30) days from receipt of such notice. If written notice is not given, then this Agreement shall continue in full force and effect from year to year until such notice is given at least ninety (90) but not more than one hundred and twenty (120) days prior to March 31st of any subsequent year.

45.3 The parties agree that the March 31, 2016, expiration date shall not prohibit the O.P.B.A. and the Bargaining Unit from receiving any retroactive wage or economic increase to April 1, 2016 from a conciliator pursuant to Section 4117.14 (G) (11), Ohio Revised Code.

ARTICLE 46. EXECUTION

46.1 IN WITNESS WHEREOF, the parties hereto have caused three originals of this Agreement to be duly executed on this 8th day of ~~February~~ March, 2013.

FOR THE UNION:

O.P.B.A.

Randy Weltman

FOR THE EMPLOYER:

CITY OF WILLOUGHBY, OHIO

David E. Anderson, Mayor

UNION NEGOTIATORS:

Randy Sevel, Lt

Matthew Tartaglia, Det. Sgt.

EMPLOYER NEGOTIATORS:

Jack Beckwith, Police Chief

Rickard Cooper, Assistant Chief

Raymond J. Rogowski, Finance Director

APPROVED AS TO FORM:

John W. Wiles, Director of Law

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