



13-MED-04-0444
1724-02
K30923
06/04/2014

AGREEMENT

BETWEEN

THE CITY OF MIAMISBURG, OHIO

AND

THE OHIO PATROLMEN'S

BENEVOLENT ASSOCIATION

January 1, 2014 – December 31, 2014

TABLE OF CONTENTS

Article 1	Agreement	1
Article 2	Statement of Purpose.....	1
Article 3	Recognition and Dues Deduction.....	2
Article 4	OPBA Business	4
Article 5	Labor Management Relations	6
Article 6	No Strike-No Lockout	7
Article 7	Grievance Procedure	8
Article 8	Policies and Procedures.....	13
Article 9	Overtime Opportunity	14
Article 10	Wages	15
Article 11	Holiday Pay	19
Article 12	Vacations	19
Article 13	Sick Leave and Injury Leave.....	21
Article 14	Insurance	23
Article 15	Uniform Allowance.....	23
Article 16	Call-Back and Call-In Pay.....	24
Article 17	Military Leave	26
Article 18	Other Benefits.....	26
Article 19	Nondepartmental Training	27
Article 20	Substance Abuse.....	27
Article 21	Disciplinary Procedures and Employee Rights	32
Article 22	Compensatory Time	35

Article 23 Job Assignments..... 36
Article 24 Duration..... 36
Addendum to Agreement..... 37
Attachment A Memorandum of Understanding 39

AGREEMENT

This Agreement is between the City of Miamisburg, Ohio (City) and the Ohio Patrolmen's Benevolent Association (OPBA).

ARTICLE 1 AGREEMENT

Section 1. Sanctity of Agreement. The terms of this Agreement shall be binding upon the City and may not be amended or altered by City ordinance or resolution. To the extent such ordinances or resolutions are in direct conflict with this Agreement, the provisions of this Agreement supersede them. The express provisions of this Agreement may be changed only by mutual agreement between the parties, reduced to writing, dated and signed by the City Manager, on behalf of the City, and the OPBA representative.

Section 2. This Agreement is subject to applicable federal and state laws, Civil Service rules and regulations, and municipal charter provisions, and shall be interpreted wherever possible so as to comply fully with such laws and provisions. A unilateral determination that a provision of this Agreement is invalid under the preceding sentence, shall not constitute a waiver by any other party of any rights to dispute (including by appropriate legal action) the correctness of such determination.

ARTICLE 2 STATEMENT OF PURPOSE

Section 1. The City, the OPBA, and each employee shall use their best efforts to serve the citizens of Miamisburg and the public in general;

- A. to achieve better understanding, communication and cooperation between the City, the OPBA and its members in the Bargaining Unit;
 - B. to assure the proper and uninterrupted provision of police services to the citizens;
- and

- C. to promote orderly and harmonious employee relations and an attitude of mutual respect and fair dealing among the City, the OPBA and the employees of the Bargaining Unit.

Section 2. The City, the OPBA and each employee will cooperate fully to comply with all applicable laws, charter or constitutional provisions, or ordinances forbidding discrimination due to race, color, creed, religion, sex, political affiliation or age.

ARTICLE 3 RECOGNITION AND DUES DEDUCTION

Section 1. The City recognizes the Ohio Patrolmen's Benevolent Association as the exclusive bargaining representative for hours, wages, terms and conditions of employment for all full-time, non-probationary police officers, excluding sergeants and officers of higher rank and all other supervisors as defined in Chapter 4117 of the Ohio Revised Code. This does not prejudice the right to challenge the supervisory status of any employee, based upon changed circumstances. The terms of this Agreement cover and are limited to the employees included within the bargaining unit for which the OPBA is recognized.

Section 2. Dues Deduction. While this Agreement is in effect, the City will deduct OPBA dues from the wages of employees who individually and voluntarily authorize and direct such deductions in writing. The authorization and direction shall be revocable by written notice to revoke such authorization given by the employees to the City at any time. This revocation, however, will not become effective until forty days before the expiration of the current collective bargaining agreement. The OPBA shall hold the City harmless from liability arising out of any action taken by it or omitted by it in compliance with or in any attempt to comply with the provisions of the section.

Section 3. Management Responsibilities. Except to the extent expressly abridged by a specific provision of this Agreement, the City reserves and retains, solely and exclusively, all of its statutory rights to manage the operation of the Police Department. The sole and exclusive rights of management, which are not abridged by this Agreement, shall include (by way of example and not by way of limitation):

Such rights shall include but are not necessarily limited to the rights:

- A. To develop, alter or abolish policies, procedures, and rules to govern the operation of the Police Department and bring about discipline for just cause;
- B. To determine work assignments and establish, alter or eliminate work schedules, locations or functions in accordance with municipal and departmental needs and in accordance with the terms of this agreement;
- C. To transfer, promote or lay-off employees, or to terminate, demote, suspend or otherwise relieve employees from duty for just cause;
- D. To recruit, select and determine the number, qualifications and characteristics of all employees required;
- E. To establish basic and in-service training programs and reasonable requirements for upgrading of employees and in accordance with the terms of this agreement;
- F. To take such measures as the City or Police Administration may determine to be necessary for the orderly and efficient operation of the Police Department for the City; and

To the extent that the above rights are specifically limited by the provisions of this Agreement, alleged violations are subject to the grievance and arbitration procedure.

Section 4. Part-time and Seasonal Employees. Seasonal employees are those working no more than four (4) months in any calendar year. Part-time employees are those working no more than thirty (30) hours in one calendar week nor more than 110 hours per month, but not one in the classified service who has survived the applicable probationary period. Part-time employees will not be utilized beyond these defined limits unless (1) properly made full-time, or (2) other full-time employees in the classification are not available.

Section 5. The City will not discriminate as to any employee due to membership or non-membership in the OPBA.

ARTICLE 4 OPBA BUSINESS

Section 1. OPBA officers will be admitted to the City's facilities provided their activities do not interfere with work duties of the employees, except to the extent authorized.

Section 2. The OPBA may select five employees to serve as OPBA representatives. The OPBA shall appoint one (1) associate and one (1) alternate per bargaining unit. The membership shall elect the negotiations committee in accordance with the OPBA constitution and by-laws. The negotiations committee shall elect their chairperson. The OPBA representatives and alternate names and shifts shall be furnished to the Chief of Police, the City Manager and the Finance Department by the OPBA. This list shall be kept current by the OPBA. The OPBA representative involved will not be unreasonably denied permission to leave his work to be present at a grievance presentation, to process and participate in the adjustment of grievances and to confer with the City regarding urgent or immediate problems related to employee relations. In such instances, the OPBA representative will be permitted reasonable time to investigate and process grievances, provided his immediate Supervisor has been notified, in advance. OPBA business, other than that provided in this Agreement, shall not be conducted by OPBA representatives on City time, nor shall it, in fact, interfere with the work assignment of the OPBA representative involved or the work assignment of any other employee.

- A. OPBA Business: The OPBA Associate, Alternate and Delegates shall be authorized to use holidays, vacation or other available time off to attend OPBA functions such as seminars, conferences, conventions and training, provided such requests are made within at least seven (7) days of the requested off day(s).

Section 3. The OPBA will elect a President who shall have the following functions:

- A. posting of OPBA notices on the bulletin board;
- B. replacing an OPBA representative who is absent or unavailable, or when special circumstances warrant, participation by such individual in matters designated for an OPBA representative.

Section 4. The OPBA shall appoint an Associate and an alternate who shall have the following functions:

- A. attendance at Labor-Management meetings;
- B. represent the OPBA in processing and investigating grievances;
- C. participate in contract negotiations;
- D. any other duties as assigned by the OPBA.

The President and the OPBA Associate will be given reasonable consideration for assignment to a day shift, so as to facilitate communication between the President and the OPBA Associate and the Chief of Police and other City representatives during their regular hours; provided, however, that the City's assignment of the President and/or OPBA Associate under this paragraph shall not be subjected to arbitration.

Section 5. The privileges listed above do not authorize employee representatives of the OPBA to be absent other than as authorized by this Agreement.

Section 6. OPBA Business. The OPBA will be permitted to conduct its regular monthly meetings and such special meetings as may be called from time to time on City premises at reasonable times which do not conflict with other scheduled activities for the space involved.

Section 7. One bulletin board out of the view of the public may be provided by the OPBA and used for posting notices which do not have the effect of criticizing the City. Notices may be of the following type:

- A. recreation and social events;
- B. OPBA elections and election results;
- C. general OPBA membership meetings and other related meetings; and
- D. general OPBA business of interest to membership.

Section 8. Negotiations. A bargaining committee not to exceed four members will be permitted to attend negotiations. Where possible, negotiation meetings will be arranged so that committee members may attend without loss of pay or benefits. The trading of shifts among the committee

members and other officers, arranged by the committee, will be freely permitted to accomplish this purpose.

ARTICLE 5 LABOR MANAGEMENT RELATIONS

Section 1. To insure the realization of the purpose of this Agreement as stated in Article 2, there shall be a Labor-Management Committee which shall, if requested by either party, meet monthly to discuss matters of mutual concern as they arise including the dissemination of general information of interest to the parties and to give suggestions on subjects of interest to both parties. The purposes of such meetings may include, but are not limited to:

- A. discuss the administration of this Agreement;
- B. discuss grievances which have not been processed beyond the pre-arbitration steps of the grievance procedure when such discussions are mutually agreed to by the parties;
- C. notify the OPBA of changes contemplated by the City which may affect members of the OPBA; jointly discuss the need for upgrading the current employees in terms of providing and/or identifying training and educational opportunities to meet the future needs and programs of the City and thereby reduce the likelihood of changing skill requirements not being met by current personnel;
- D. disseminate general information of interest to the parties;
- E. give the OPBA representatives the opportunity to share the views of their members and/or make suggestions on subjects of interest to their members, including alleged inequities in the treatment of employees in the bargaining unit; and
- F. discuss matters of health and safety.

The above list illustrates the type of subjects to be discussed, and is not intended to create additional contractual liabilities. More frequent meetings may be held when in the opinion of both parties such meetings would serve to fulfill the purpose of this Agreement as previously stated.

Section 2. The OPBA shall be entitled to a maximum of three bargaining unit representatives on the Committee, one of whom shall be the President.

Section 3. Written responses promised by either party in meetings of the Labor-Management Committee will be submitted to the top representative of the OPBA and City who attend such meetings within 14 calendar days; provided, however, that the parties may mutually agree to extend this time.

Section 4. Bargaining unit representatives participating in Labor-Management meetings pursuant to this Article during working hours will not suffer loss of pay or benefits, however, this privilege shall not be abused.

Section 5. The Chief of Police may conduct quarterly meetings of divisional personnel to discuss developments which affect all employees and to receive comments and suggestions regarding division operations and policies.

ARTICLE 6 NO STRIKE-NO LOCKOUT

Section 1. Inasmuch as this Agreement provides machinery for the orderly resolution of grievances, including resolution by an impartial third party, and inasmuch as the City and the OPBA recognize their mutual responsibility to provide for uninterrupted services to the citizens of Miamisburg, neither the OPBA, its officers, agents, or representatives or bargaining unit employees will authorize, instigate, cause, aid, condone or participate in any strike or work stoppage, including any slow-down picketing (so as to encourage employees not to work), or any other concerted activity, or attempt at concerted activity which would interrupt or limit the performance of services, or any speed-up, by its members or other employees of the City for the duration of this Agreement.

When the City notifies the OPBA by certified mail that any of its members is engaged in any such strike activity, the OPBA shall immediately order such members to return to work. In addition to other rights and remedies prescribed by law, the City shall have the right to discharge

or otherwise discipline any employee violating this section and no such discharge or discipline may be set aside if the employee is found guilty of any violation of this section. Such disciplinary action shall be subject to the grievance and arbitration procedure of this Agreement for the sole purpose of determining whether the employee violated this section. The OPBA shall publicly denounce any violation of this section and shall use all reasonable efforts to prevent and terminate any such violations. If the OPBA takes such steps it shall not be liable for a violation of this section.

In the event of a claim by the City of a violation of this section, written notice shall be given to the OPBA. The City may request the American Arbitration Association to appoint an arbitrator to hear and decide the claim on an emergency basis. The hearing shall be held within 48 hours or as soon after that as possible. The parties may not file and the arbitrator shall not receive post-hearing briefs with respect to the issuance of an immediate restraining order. The arbitrator shall rule from the bench and, if he finds that this section has been violated, he shall immediately issue an award prohibiting continuation or resumption of the strike or work stoppage. This arbitration provision does not affect the City's right to seek direct relief, injunctive or otherwise, in the courts.

Section 2. During the term of this Agreement, the City will engage in no lockout of employees covered by this Agreement.

ARTICLE 7 GRIEVANCE PROCEDURE

Section 1. Purpose. It is the intent of this article to provide a means for the reasonable settlement of certain disputes between an employee and management. All employees and supervisory personnel should, however, make every possible effort to settle differences without making use of the procedure contained in the following section.

Section 2. For the purpose of this Agreement, a grievance shall be defined to mean a dispute between an employee and/or the OPBA with the City over the interpretation or application of a specific section of this Agreement (including amendments to it). Any grievance must be

presented in writing for disposition through the grievance procedure set forth below within (7) seven calendar days of the occurrence of the facts or conditions giving rise thereto, or within (7) seven calendar days of the grievant's knowledge of their occurrence, whichever comes later, but in no case later than an additional 30 calendar days from their occurrence. Any grievance not presented within the specific time limits, shall not be honored.

Section 3. Steps.

Step 1. Preliminary Step. An employee having a grievance will first attempt to resolve it informally by meeting with his immediate supervisor at, or after, the time the incident giving rise to the grievance occurred. Because this step is meant to be informal between the employee and his supervisor, there is no reason to put the grievance in writing, no report needs to be submitted by the supervisor, and there will typically be no OPBA representative present. However, the parties recognize that it may be beneficial in a particular case to have an OPBA representative present, and if an employee requests that an OPBA representative be present at this step, the request will not be unreasonably denied. The supervisor shall render a decision no later than three (3) calendar days from the date of the meeting. In all cases, the grievant shall follow the procedure outlined in this preliminary step of the grievance process. If the employee is not satisfied with the response from his immediate supervisor at this step, he may pursue the formal steps which will follow:

Step 2. Assistant Chief or Captain.

- A. If the grievance is not resolved at Step 1, the employee may then submit it in writing to his Assistant Chief or Captain within the time limit specified in Section 2 above.
- B. The Assistant Chief or Captain will meet with the grievant to discuss the problem within seven (7) calendar days after receipt thereof, and shall answer the grievance within seven (7) calendar days after said meeting.
- C. The grievant may bring with him one other employee of the City, who may be an OPBA representative. The grievant will see that the OPBA representative is notified and the City will give the OPBA representative the opportunity to be present at the meeting.

Step 3. Chief of Police.

- A. Should the grievant not be satisfied with the written answer received in Step 2 within seven (7) calendar days after receipt thereof, he may submit the original of the grievance form and one copy to the Chief of Police. The grievance will be heard at this step by the Chief of Police.
- B. The grievant may choose one other employee of the City to accompany him to the meeting at this step. Such other employee may be an OPBA representative. In addition, a duly accredited representative of the OPBA may attend this meeting. Also the employee's immediate supervisor and section manager may attend at the City's option. The grievant may request the presence of the supervisor and section manager and the City may grant or deny the request as it determines to be proper at its discretion. The grievant will see that the OPBA representative is notified and the City will give the OPBA representative the opportunity to be present at the meeting.
- C. At the conclusion of this meeting, and not to exceed ten (10) calendar days after his receipt of the grievance forms, the Chief of Police or his designee shall respond to this grievance by writing his answer on the original and one copy thereof to the grievant.
- D. Where the grievant's immediate supervisor is the Chief of Police, the grievant shall take the grievance to Step 1 and proceed through the steps outlined in Step 2 of this grievance procedure without going through Step 3.

Step 4. City Manager or Assistant City Manager.

- A. Should the grievant not be satisfied with the written answer received in Step 3 within seven (7) calendar days after his receipt thereof, he may submit the original of the grievance form and one copy to the City Manager and request that the meeting contemplated by this step be scheduled.
- B. Upon receipt of the original and one copy of the written grievance form, the City Manager or Assistant City Manager shall have them date stamped to show the date of receipt and shall schedule a meeting to be held within seven (7) calendar days to discuss the grievance.

- C. Prior to the Step 4 meeting, the City Manager or the Assistant City Manager shall inquire into the circumstances and allegations surrounding the grievance. Such inquiry may include the taking of written statements, reviewing all available written reports, answers at the prior steps, corrective action reports, assignment sheets, time records, written instructions, policies, rules and regulations and all other pertinent information concerning the grievance.
- D. The grievant shall bring with him the President, or if absent, an OPBA representative. In addition, a duly accredited representative of the OPBA may attend this meeting.
- E. Upon completion of the Step 4 meeting, the City Manager or the Assistant City Manager shall determine whether the contemplated answer is consistent with City policies, Civil Service rules, ordinances, and this agreement.
- F. The City Manager or the Assistant City Manager shall render his decision in writing and return a copy to the grievant and the OPBA within 14 calendar days after the meeting with the grievant.

Section 4. The time limits specified at any step may be extended in a particular instance by a written agreement between the City and the OPBA. If a grievance is not timely answered by the City, it shall proceed automatically to the next step.

Section 5. In each step of the grievance procedure, certain specific representatives are given approval to attend the meetings. It is expected that, in the usual grievance, these will be the only representatives in attendance at such meetings. However, in the interest of resolving grievances at the earliest possible step of the grievance procedure, it may be beneficial that other representatives be in attendance. Therefore, either party may bring additional representatives to any meeting in the grievance procedure, but only upon advanced mutual agreement to do so among the parties specifically designated to attend, except that an OPBA representative may be present at any and all grievance proceedings at the request of the employee. The grievant and employee representatives shall attend grievance hearings on a “no loss – no gain” basis.

Section 6. Grievance Forms. Grievances shall be filed on the appropriate form prepared and provided by the OPBA.

Section 7. An employee shall be given a reasonable time to consult with his appropriate OPBA representative during working hours relative to a grievance matter after first notifying his immediate supervisor of such desire. Such privilege will not be abused by the employee and shall not be unfairly withheld by the supervisor and shall be consistent with mutual duties of all parties to insure the safety of the citizens.

Section 8. Arbitration. Should a grievant, after receiving the written answer to his grievance at Step 4 of the grievance procedure, still feel that the grievance has not been resolved to his satisfaction, he may request that it be heard before an arbitrator. The OPBA must provide a written letter of intent to arbitrate to the American Arbitration Association and City Manager within ten (10) calendar days of its receipt of the written answer from the City Manager or the Assistant City Manager at Step 4. A copy of such application shall be sent to the grievant by the OPBA.

Section 9. Thereafter, the American Arbitration Association will submit a list of arbitrators who maintain offices within the State of Ohio or one hundred twenty-five (125) miles of Miamisburg, Ohio, from which an arbitrator will be selected by the parties pursuant to the strike and ranking method of the American Arbitration Association rules, unless the OPBA and the City have agreed otherwise.

Section 10. The arbitrator shall conduct a fair and impartial hearing on the grievance, hearing and recording testimony from both parties, and applying the rules of the American Arbitration Association. No more than one grievance will be heard at a proceeding unless the City and the OPBA agree otherwise or unless they have selected a standing umpire to hear all arbitration cases.

The arbitrator's sole function shall be to interpret this Agreement. The arbitrator shall not have any authority to change, amend, modify or otherwise alter this Agreement or any part thereof in any respect.

The ruling and decision of the arbitrator within his function as described shall be final and binding upon the parties. The award, if in favor of the grievant, will be implemented by the City at the earliest possible date, but no later than 30 days from the receipt of the decision.

Section 11. Cost of the services of the American Arbitration Association, the fee of the arbitrator and the rent, if any, for the hearing room, shall be borne equally by the City and the OPBA. The expenses of any non-employee witness shall be borne, if at all, by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. Where it will not interfere with the provisions of the City's services, witnesses will be excused without loss of pay; in other cases, witnesses will, upon reasonable notice, be permitted to trade shifts or use annual leave.

Should the City withhold permission for a witness to leave work to attend an arbitration hearing, the hearing shall be delayed until such time as the witness is available and applicable time limits will be extended accordingly.

Section 12. The arbitrator shall render in writing his findings, awards, and all supporting data to the Office of the City Manager and the OPBA.

Section 13. Complaints concerning working conditions, not constituting a grievance defined in Section 2 of this Article, and not subject to the jurisdiction of the Civil Service Commission, may be signed and processed through all steps of the grievance procedure, but shall not be subject to arbitration.

ARTICLE 8 POLICIES AND PROCEDURES

Section 1. The City has the right to promulgate reasonable work rules, policies and procedures consistent with its charter authority to regulate employees in the performance of the City's police services and programs. This includes the right to promulgate rules preventing the abuse of sick leave.

To the extent any work rules, policies and procedures have been or will become reduced to writing, every employee shall be provided copies of them.

Work rules, policies and procedures are to be interpreted and applied uniformly to all employees covered by this Agreement under similar circumstances.

Nothing herein shall be interpreted as a waiver by any member of his right to challenge the reasonableness, uniformity of application or interpretation of any such work rule, policy or directive, through the grievance procedure and arbitration, the Civil Service Commission, or appropriate legal action.

ARTICLE 9 OVERTIME OPPORTUNITY

Section 1. The City will maintain an overtime list by seniority. When the City determines to offer an overtime opportunity, other than detective work or shift supervisor work, it shall offer the opportunity to the first employee on the list. If that employee rejects the opportunity, the City shall move down the list until the opportunity is accepted. If the first employee on the list accepts or rejects the opportunity, that employee shall be moved to the bottom of the list. This process will continue until the overtime opportunity has been accepted.

Section 2. If, after offering the overtime, an insufficient number of employees accept the overtime assignment, the City may order employees in the group to work overtime in reverse order of seniority. The City, at its option, may order the least senior officer working at that time to remain on duty after his shift for up to four hours of the next shift, and then may require the least senior officer from the following shift to report early to work the last four hours of the shift. An employee will be considered to have been offered overtime if he was either actually offered this overtime or cannot be personally reached by telephone.

Section 3. Qualifications. Where the City determines that it is required, an employee with special qualifications may be assigned the overtime, and that overtime may be outside the employee's group. An employee who has already begun a task may be directed to complete that task during overtime hours. When the City determines that there is an emergency situation, or that there is any other operational necessity, the City may direct an employee to work overtime.

Section 4. Mistakes in assignment shall be corrected by offering the employee the next available opportunity after the mistake is discovered.

Section 5. Nothing precludes the City from determining whether it shall offer two 4-hour shifts, one 8-hour shift, or any other portion or portions of a shift to replace a missing employee.

ARTICLE 10 WAGES

The wages in effect for this contract shall be in accordance with the following schedules.

WAGE SCHEDULE POLICE OFFICER

12/23/13 - 12/31/14

	Step A	Step B	Step C	Step D	Step E	Step F
Months	0-12	13-24	25-36	37-48	49-60	61+
Hourly	\$24.361	\$25.725	\$27.166	\$28.691	\$30.280	\$31.979
Annually*	\$50,670.17	\$53,508.87	\$56,504.57	\$59,676.36	\$62,981.82	\$66,516.40

*Based upon 2,080 hours worked

Section 1. Employees will normally start at Step A and progress according to the above pay scale, however, the City may at its sole discretion start such employees at higher steps based upon significant experience outside the bargaining unit.

Section 2. Step Increase. Employees placed in Step A will be advanced one step at the completion of 12-months of employment. Employees then will automatically advance one step at 12-month intervals. However, employees who start at steps higher than Step A under Section 1 above, must complete 12-months of employment before being advanced to the next step. The final pay step for employees shall be granted on the same basis as the preceding steps unless the City has a good faith belief that the employee has not attained the high level of performance expected of employees at such steps.

Section 3. Probationary Evaluation Period. An Employee's 12-month probationary period shall begin on the first day the Employee reports for duty or the first day the Employee reports for duty after graduation from the police academy, whichever is later. All time in service prior to reporting to the police academy will be considered part of the probationary period.

Section 4. When a new job specification is established by the City, the OPBA may grieve the rate of pay assigned to the class by presentation of a grievance to the Assistant City Manager. The City will furnish the OPBA with a copy of the class specification and rate of pay when a new classification is established. When a bargaining unit position held by a member of the police department is to be deleted or such position's classification is to be changed to a civilian status, this matter will be discussed by the bargaining unit and the City before the change is implemented. The bargaining unit's views will be advisory only. In all cases, the final decision will be the City Manager's.

Section 5. Monthly work schedules shall be posted on appropriate bulletin boards at least ten (10) days prior to the effective date. Schedule changes, other than for unforeseen absences or other unforeseen circumstances, shall not be made without a 5-day written notice to the affected employees. A posted modified work schedule will be considered sufficient written notice. When overtime will result because of a shift change for training purposes, if feasible, the employee so affected will receive the overtime compensation.

Section 6. Upon the prior approval of the appropriate supervisor, employees may be allowed by mutual agreement between involved employees and supervisors to trade days off. Should this privilege result in positions not being covered consistent with such agreements, the City may withdraw it. Overtime will not be paid as a result of the trading of time under this section.

Section 7. Employees shall be scheduled to work annually 2,080 hours. One and one-half times the regular rate shall be paid for hours worked in excess of the regularly scheduled work day and work week. There shall be no pyramiding of overtime. The work week shall start at the beginning of the day shift on Monday of each week, and the work day shall start at the beginning of the assigned shift. The OPBA and the employees agree that there will be no attendance or scheduling abuse, particularly in view of the provision for daily overtime rates. In computing hours worked, each completed six (6) minute interval will be used for payroll purposes.

Section 8. Overtime Pay for Travel – Department Training. The City will continue to provide transportation or pay for mileage for all travel to and from training sites as authorized by the Chief of Police or his designee.

If any employee is assigned to attend training for more than one day, the Chief of Police or his designee shall determine if the employee should remain at the training site. If the City determines that the employee should stay at the training site (or nearby location), the City shall be responsible for room and board at a rate not to exceed guidelines as established by the City Manager for payment of same. When an employee is provided room and board, no overtime payment shall be paid.

An employee may choose to travel to and from the training site at his own expense and with no payment of overtime authorized, if the nature of the training does not require the employee's attendance on site during evening hours. The employee should give the City prior notice as to whether he is going to remain at the training site overnight or whether he will commute.

If the City determines that an employee should travel to and from the training site daily, overtime payment may be authorized for all time in excess of the actual training day, but not to exceed two (2) hours under normal circumstances.

Section 9. Wages for employees will be paid on a bi-weekly basis.

Section 10. Employees assigned to the positions of Officer In Charge (OIC) or Field Training Officer (FTO) shall receive \$1.50 per hour in addition to the salary set forth in this Article.

Section 11. Shift Preference. Patrol Officers shall select their shift in seniority order. Subsequently, the Chief of Police or his designee may assign probationary employees to any shift regardless of seniority; however, any non-probationary employee displaced due to the assignment of a probationary employee may bump any less senior non-probationary employee. Non-probationary bargaining unit members shall not be moved from their selected shift for disciplinary reasons or for arbitrary or capricious reasons. If a patrol position becomes available on any shift, and is declared vacant by the Chief of Police, that opening shall be posted on the

bulletin board containing the patrol schedule for five (5) days. Any patrol unit interested, in the posted position or a vacancy created by filling that position shall indicate their showing of interest in writing to their supervisor during the positing period. At the conclusion of the five day posting period, the senior officer indicating interest in the vacant position shall be assigned to that shift. If that assignment creates a vacancy, then that position shall be filled simultaneously from a shift other than the shift affected by the move.

If no patrol officer indicates interest in the vacancy, the officer with the least seniority from the other shifts shall be moved to that position. If a vacancy is created by that move, the least senior officer from a shift, other than those shifts affected by that move, shall fill that vacancy. All vacancies shall be filled within 7 days following the conclusion of the five day posting period without regard to the notice provisions in Article 10, Section 5. For the purposes of this Section a vacancy is defined as a position on any shift that is expected to be vacant for a period of more than 30 days.

Shift bidding shall occur once annually during the month of November and shall take effect at the beginning of the first pay period after January 1 of the following year.

Section 12. Patrol officers on a schedule with permanent days off shall select their days off in seniority order; provided, however, that the Chief of Police may change an Employee's days off for valid business reasons that are not arbitrary or capricious.

This Section 12 shall remain in effect until 60 days prior to the expiration of this contract as set forth in Article 24 hereof (Duration). At such time the Employer or Union may by written notice to the other party, continue the above language or opt to have Section 12 deleted from the contract.

ARTICLE 11 HOLIDAY PAY

Section 1. The following shall be recognized holidays: New Year's Day, Martin Luther King Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Eve, Christmas and three (3) personal business days. Personal business days shall be scheduled at the mutual convenience of the employee and the City. Personal business days may be taken in minimum increments equal to one half work shift. Employees shall give as much notice as possible, but no less than 24 hours notice of intent to schedule a personal business day. If 24 hours minimum notice is given, the City will not deny the request for a personal business day because it would create an overtime situation. No more than one bargaining unit employee within each classification per shift will be permitted to take a personal business day.

Section 2. In order for an employee to receive his pay for the holiday, he must work his regularly scheduled day before and his regularly scheduled day after the holiday. Employees on vacation, sick leave with pay, injury leave with pay, or on leave of absence with pay shall be considered as working their regularly scheduled day for the purposes of this Section.

Section 3. Eligible employees who are not scheduled to work on a designated holiday shall be paid for eight (8) hours at applicable straight time. Eligible employees who work on a designated holiday shall receive time and one-half of his regular rate for all hours worked plus eight (8) hours of holiday pay. Employees on the administrative work schedule or who are on injury leave with pay status are not eligible for the additional holiday premium.

Section 4. The City, by December 15 of each year, shall designate the official dates which will be recognized as the holiday dates for the coming year.

ARTICLE 12 VACATIONS

Section 1. Crediting of vacation will be done on a bi-weekly basis in accordance with the following schedule:

<u>Completed Years</u>	<u>Total Entitlement in Any One Vacation Year</u>	<u>Credit/Pay Bi-Weekly</u>
0-1*	72 hours (9 working days)	2.76 hours
After 1	80 hours (10 working days)	3.08 hours
After 4	88 hours (11 working days)	3.38 hours
After 5	136 hours (17 working days)	5.24 hours
After 7	144 hours (18 working days)	5.54 hours
After 10	152 hours (19 working days)	5.85 hours
After 15	160 hours (20 working days)	6.16 hours
After 20	192 hours (24 working days)	7.38 hours

*Probationary employees may not take vacation until six (6) months after their appointment date.

Section 2. Vacations will be scheduled on a first come/first serve basis. Requests must be made at least 14 days in advance for vacations of more than five (5) days duration, and 7 days in advance for vacations of five (5) days or less duration. No requests will be considered if made more than six (6) months in advance. (The Chief may still grant any request at his discretion.) If two (2) or more employees simultaneously request vacation for the same time period, the employee with the most seniority will be granted the vacation request. (For purposes of the preceding sentence, requests are considered submitted simultaneously if submitted to the Sergeant during the same shift.) No more than one (1) bargaining unit employee per shift will be permitted to take a vacation day. However, a second bargaining unit employee per shift may be permitted to take a vacation day in the sole discretion of the Chief. The decision whether or not to permit a second employee off is not subject to the grievance/arbitration article of this Agreement.

Section 3. Accumulation rates change on the employee's anniversary date in accordance with the schedule contained in Section 1. If the anniversary falls on a Monday, Tuesday, Wednesday or Thursday the new earning will be on payday. If it falls on Friday, Saturday or Sunday, it will be on the following paycheck. No prorated credit will occur on the change.

Section 4. Vacation credit may be accumulated to a maximum of two (2) times their current annual earning rate. Credit in excess of this maximum is eliminated from the employee's vacation leave balance.

Section 5. With the approval of a supervisor, employees may take vacations in a minimum of four (4) hours increments, restricted to the first four (4) or last four (4) hours of a shift.

ARTICLE 13 SICK LEAVE AND INJURY LEAVE

Section 1. Sick Leave. All employees shall accrue sick leave credits at the rate of one and one-fourth (1 ¼) work days per completed month of service and sick leave accrued, but not used or converted as hereinafter provided in any year, shall be cumulative without limit in succeeding years. Employees hired after January 1, 1984 may not accumulate more than 1,500 hours of sick leave. Employees who are granted a leave of absence without pay for sick leave purposes shall continue to accrue sick leave, but not vacation or personal business leave at the regularly prescribed rate during such leave. Sick leave so accrued will not be available to employees until return from the leave. Employees on other types of leave without pay or on suspension will not accrue sick leave, vacation or personal business leave. Sick leave will be charged on the basis of actual time off.

Section 2. Injury Leave. Any employee of the bargaining unit who becomes unable to perform duties as assigned by the City due to a physical injury suffered in the discharge or performance of his official duties, as an employee of the City, shall receive his regular rate of pay less the amount of any compensation received by the employee from any other governmental unit or agency due to said disability during such period of such disability, but in no case for a longer period than 120 calendar days. This 120 day period shall include any/all reoccurrences of an existing condition. This 120 day period may be extended at the sole discretion of the City.

Section 3. Types of Absences. An employee eligible for sick leave may be granted such leave with full normal pay when absent for the following reasons:

- A. Personal illness or physical incapacity.
- B. Illness of a member of employee's immediate family, requiring the employee's personal care and attendance, may be granted in accordance with the guidelines established.
- C. Enforced quarantine of the employee in accordance with community health regulation.

- D. Injury, on or off the job, resulting in physical incapacity.

If any employee is absent pursuant to the reasons set forth in A or B above on the day before, or the day after, his regularly scheduled two (2) days off, the employee must furnish a satisfactory, written signed statement to justify the use of sick leave, and if medical attention was required, a certificate from a licensed physician, before sick leave pay shall be paid. Falsification of either the statement or certificate is grounds for disciplinary action including discharge. In all cases, before pay for sick leave may be granted, the employee must fill out a sick leave form.

Employees awarded a disability retirement by the Ohio Police and Fire Pension Fund shall notify the Chief of same within seven (7) calendar days of the date employee is notified of such award.

Section 4. Conversion of Credits

- A. For Vacation. An employee may convert accrued sick leave over 90 days to vacation leave at the rate of one (1) day of vacation leave for every three (3) days of sick leave credit; provided, however, that no more than five (5) such vacation days thus obtained shall be taken in any one year.
- B. Retirement. Upon retirement with the Ohio Public Employees Retirement System (PERS) or the Ohio Police and Fire Pension Fund (OP&F), eligible employees may convert their sick leave on a two (2) to one (1) basis: two (2) sick days equaling one (1) day's pay at the employee's final hourly rate, provided there is no gap in time between the last day of City employment and the effective date of retirement; and the employee provides documentation from the pension system indicating the effective date of the retirement.
- C. Upon Death. In the event that an active employee should die, the City will pay the following to the deceased employee's beneficiary: (1) any sick leave which the employee has accumulated as of the time of death on the basis of one (1) day's pay for each day's leave, (2) any accrued vacation credit, and (3) any accrued personal business days.
- D. For conversion purposes, sick leave accrual shall be limited to 1,000 hours for employees hired after January 1, 1984 under Section B.

ARTICLE 14 INSURANCE

Section 1. Health Insurance. Effective July 1, 2007, the City shall provide the same health insurance options enjoyed by the managerial (unclassified) employees of the City. Employees will pay through payroll deductions ten percent (10%) of the cost of the total premium. For employees who wish to opt out of the insurance program, the City agrees to research and consider such a program. If such an opt out program is generally available to other employees, such program will be made available to members of the bargaining units on the same basis.

Section 2. Life and Accidental Death and Dismemberment Insurance. The City shall provide for each employee under age 60 term life insurance in the amount of \$20,000 and accidental death and dismemberment insurance in the amount of \$20,000. Employees over age 60 will receive the life insurance and accidental death and dismemberment benefit if, and to the extent, provided by the insurance policies.

Section 3. The City will make every reasonable effort to provide professional liability insurance under the terms provided by the carrier of such insurance to a maximum of \$500,000 per incident and \$1,000,000 aggregate.

ARTICLE 15 UNIFORM ALLOWANCE

Section 1. The Police Officer uniform allowance will be \$750.00 effective July 1, 2006, payable annually on the first pay date in January.

Section 2. In addition to the above clothing allowance, Detectives will receive an additional \$250 clothing allowance annually on the first pay date in January.

Section 3. Employees who damage issued equipment, time pieces (maximum value \$30.00) and flashlights (maximum value \$75.00) in the line of duty should apply in writing to their sergeant for reimbursement or replacement. Prescription eye wear and contact lenses may be replaced at the current cost to replace the same prescription and/or frames. Requests for the replacement of

prescription eye wear and contact lenses shall not be unreasonably denied. The sergeants will investigate the request and turn in an evaluation to the Chief. The Chief will then decide if a requisition or reimbursement shall be made. Each situation will be judged on a case-by-case basis. If the employee follows this procedure, the Chief will decide the matter and requisition a replacement of comparable value or repair (if the decision is favorable) within 15 days of the application. Any court ordered restitution up to the amount paid under this section shall be remitted to the City.

Section 4. Employees must return all issued equipment and material equivalent in number to the initial issue when they terminate their employment with the City and also any uniforms that have been furnished to them by the City in order to receive their final payroll check.

Section 5. The City will furnish each new employee a complete uniform when he begins his duties with the City. If the City substantially changes specifications on uniforms, it will furnish the new uniform piece to each employee.

ARTICLE 16 CALL-BACK AND CALL-IN PAY

Section 1. Reporting Pay. An employee who reports for work at a scheduled starting time on a scheduled day, who has not been told not to report shall receive a minimum of three (3) hours pay.

Section 2. Call-Back. An employee called back for work outside regularly scheduled hours shall either be paid for the actual hours worked if he has received continuous pay from the preceding shift or to a following shift, or shall receive a minimum of three (3) hours pay. Actual time worked in such cases shall be at the applicable hourly rate, and any payment made for time not actually worked shall be at straight time and shall not be counted in computing overtime pay. Employees who work at least three (3) hours are eligible to receive pay for travel time, up to one-half (1/2) hour, in addition to time actually worked.

Section 3. Court Appearances. When it is necessary for an employee of the bargaining unit to attend court as a part of his duties outside his regular hours, he shall notify the supervisor as soon

as possible. The supervisor shall determine whether the employee is to remain on duty between the last preceding or next shift and the time of the court appearance, in which case he shall be paid for only the additional hours at the applicable rate, or whether he shall go off duty and return for such court appearance, in which case the employee shall receive a minimum of three (3) hours pay at the rate of one and one-half (1 ½) times the employee's regular rate of pay. Whenever an employee is required to appear during off-duty time before any official court or before the Prosecutor for pre-trial conferences on matters pertaining to or arising from the employee's official duties, the employee shall receive a minimum of three (3) hours pay at the employee's overtime rate of pay. If an employee appears before a court or the Prosecutor for more than three (3) hours, such excess time shall be paid as overtime. Furthermore, if multiple off-duty day appearances on separate cases are required (one in the a.m. and one in the p.m.), two such minimum three (3) hour appearances will be awarded, provided at least one (1) hour and thirty (30) minutes of down-time exists between such appearances on such separate cases.

Section 4. Training. When an employee is called back for training sessions, including divisional meetings, outside his regular hours, he shall be paid continuous pay from his last shift or to his next shift, or shall be guaranteed one (1) hour.

Section 5. In all guaranteed time under this Article (except court appearances), actual time worked shall be at the applicable rate and the remaining hours shall be at straight time.

ARTICLE 17 MILITARY LEAVE

All employees who are members of the Ohio National Guard, the Ohio Defense Corps, the State and Federal Militia, or members of other reserve components of the Armed Forces of the United States are entitled to leave of absence from their respective duties, and to the difference between their regular rate of pay and their military base rates of pay for such time as they are in the military service on field training or active duties for periods not to exceed a total of 31 calendar days in one (1) calendar year. Employees are required to submit to the Employer an order or statement from the appropriate military commander of evidence of such duty. There is not a requirement that the service be in one continuous period of time. The maximum number of hours for which payment will be made in any one (1) calendar year under this provision is 176 hours. Employees who are members of those components listed above will be granted emergency leave for mob, riot, flood, civil defense, or similar duties when so ordered by the Governor to assist civil authorities. Such leave will be without pay if it exceeds authorized military leave for the year. The leave will cover the official period of the emergency.

ARTICLE 18 OTHER BENEFITS

Section 1. Bereavement Leave. In the event an employee is required to be absent on a regularly scheduled work day as a result of a death in his immediate family (parent, spouse, parent-in-law, step-parent, child, step-child, brother, sister, grandparent, grandchild, half brother, half sister, brothers-in-law, sisters-in-law), he may be granted up to three (3) days leave with pay (not to exceed eight (8) hours per day) at his regular straight time pay for such time lost. Other relatives living in the employee's household shall be considered as immediate family. The City may require proof of death, relationship and necessity for absence. Bereavement pay of up to one (1) day's pay shall be paid for absence necessitated by a death of the employee's spouse's grandparent.

Section 2. Election Day. Employees working overtime on election day shall be provided sufficient time to vote.

Section 3. Meal Allowance. The meal allowance is \$4.00. When an employee works 12 consecutive hours of work, the employee will be paid a meal allowance and thereafter at five (5) hour intervals. The City may, at its discretion, fulfill the meal allowance by providing the meal itself at the work site.

ARTICLE 19 NONDEPARTMENTAL TRAINING

Section 1. The Police Chief shall inform the OPBA President of all upcoming seminars, classes, training sessions, on-the-job experience with other departments, etc., that deal with police-related matters. This file will be available for review by all departmental personnel. Any employee who wishes to participate in these programs shall notify the Chief who will grant or deny these requests based upon the value of the program to the Department, funds, and available manpower.

Police Officers who attend these seminars during working hours with the prior approval of the Chief shall not suffer a loss of pay. Off-duty employees who are granted permission to attend these seminars, etc., shall be reimbursed for reasonable expenses incurred in attending outside seminars including, for example, meals, lodging, tuition and expenses associated with travel.

ARTICLE 20 SUBSTANCE ABUSE

Section 1. Definition. The City, the OPBA, and every employee recognize illegal drug usage as a threat to the public welfare and to the employees of the department and therefore will cooperate fully to prevent and correct any actual or threatened drug substance abuse or alcohol problems. "Drugs" as used in this policy includes alcohol, illegal substances, and any other substance which causes or threaten to cause either an interference with City operations, a threat to the public welfare, or to other employees, or a violation of law.

It is the goal of this provision to prevent drug abuse or impairment on the job and to promote rehabilitation.

Section 2. Prohibition. At all times on the job employees are prohibited from using, selling, purchasing and possessing the following: alcohol, illegal drugs, look-alikes, act-alikes, or any other substance which could alter motor or sensory functions in a human being, and all related paraphernalia except in the performance of their official duties as Police Officers in accordance with the provisions set forth in the Ohio Revised Code. Employees are prohibited from being impaired or under the influence of any of the above mentioned substances except for authorized police activity.

Possession of prescription drugs is permissible only if the following conditions are met:

- A. the prescription drug is kept in the original bottle with the original label and both the employee's name and the prescribing doctor's name on it;
- B. the drug was dispensed within 12 months;
- C. written permission is submitted from the prescribing doctor which permits the employee to work while taking the indicated dosage.

The City reserves the right to have a second physician at the City's expense determine whether the prescription drug might affect job performance.

Section 3. Reasonable Suspicion Any test except individuals randomly selected as set forth below, must be based on reasonable suspicion or belief of drug impairment or use. The City's reasonable suspicion of drug impairment on the job may be based upon, but is not limited to the following:

- A. the employee's involvement in an accident or other incident which results in bodily damage or damage to property provided there is reasonable suspicion to believe that the employee was under the influence of drugs at the time;
- B. excessive, unexplained absences;
- C. confirmed reports that the employee uses or is under the influence of drugs while on duty;
- D. the odor of drugs on the employee's breath;
- E. unusual behavior such as slurred speech and/or unusual lack of coordination;
- F. possession of drug/alcohol paraphernalia used in connection with drugs of abuse, except in the performance of his duties as a Police Officer.

When a supervisor has reason to believe that the employee has violated Section 2 of this Article, he must communicate his observations in writing and submit them to the Police Chief or his designee. The Assistant City Manager or his designee and Police Chief or designee shall jointly determine whether there is sufficient evidence to warrant a drug test. If the decision is made to require an employee to take a drug test, the employee will be relieved of duty upon notification of said test with pay.

Section 4. Random Selection. Test by random selection may be conducted by the City on the same basis as is required for CDL purposes under Federal law. The same procedures and protocols will be used as apply for testing City of Miamisburg CDL holders in other bargaining units if they differ from the procedures and protocols set forth below.

Section 5. Testing. Prior to testing, the employee will be provided with the reason for the test request. The test will be conducted solely for administrative purposes only and the test results obtained will not be used in criminal proceedings unless required by judicial order. Under no circumstances may the results of the drug screening or testing be released to a third party for use in a criminal prosecution against the affected employee unless required by judicial order. The following procedure shall not preclude the employer from other administrative action consistent with this policy.

All drug screening tests shall be conducted by medical laboratories accredited by the College of American Pathologists. The procedure utilized by the City and the testing laboratory will include chain of custody procedure and Mass Spectroscopy Confirmation or any superior test. Testing will be conducted in a manner to ensure that the employee's legal drug use does not affect the test results. The test results will be treated with the same confidentiality as other employee medical records. Information or results related to negative initial or confirmation tests shall not appear in the employee's personnel file.

All drug screening tests shall be given to employees to detect the use of drugs as defined by this provision. If the screening is positive, the employee shall be ordered to undergo a confirmation test, which shall be administered by a medical laboratory and accredited by the College of

American Pathologists. A list of three laboratories shall be maintained by the City. Any lab on the list may conduct any testing directed by the City.

Section 6. Positive Test Results. A negative confirmation test will result in the entire test being considered negative. The employee will then be permitted to return to work unless other non-test related circumstances prohibit such return. A positive test for the purposes of alcohol shall be a blood-alcohol urine level of .02 or greater. If the confirmation test results are positive and not contradictory, the employee shall be deemed in violation of this Article and will be subject to Section 6 of this provision.

Section 7. Rehabilitation & Counseling. If all the screening and confirmation tests are positive, the City shall require the employee to participate in a rehabilitation or detoxification program. Any refusal to attend will be grounds for discipline up to and including discharge. An employee who participates in a rehabilitation or detoxification program shall first use sick leave, then vacation leave and finally personal business days for the period of the program. If no such leave is available, the employee shall be placed on unpaid medical leave of absence for the period of the program. Upon the completion of the program and a re-test that demonstrates that an employee is no longer illegally using drugs, the employee shall return to duty as a Police Officer. The employee may be subject to periodic re-testing upon his return to work for a period of one (1) year from the date of his return to work. Any employee in the above mentioned rehabilitation and detoxification program will not lose any seniority or benefits.

If the employee chooses to seek professional counseling outside the Employee Assistance Program or the City's health insurance program, the rehabilitation expense shall be borne by the employee.

Within 45 days of entering the treatment program, the employee must provide satisfactory medical evidence that he has completed the program and is fit to return to work, and pass a drug test. This time limit may be extended by the Assistant City Manager if medical or scientific evidence indicate that a longer period of time is justified. However, no period longer than six (6) months from the date of the original positive test result will be permitted.

If the employee refuses to undergo rehabilitation, or if he fails to complete the program, or if he tests positive during a periodic testing within one (1) year after his return to work, such employee shall be subject to disciplinary action including discharge from his position. Except where otherwise provided herein, costs of all drug screening tests and confirmation tests shall be borne by the City.

“Periodic testing” as referred to in this Article shall mean not more than three (3) times during the year after completion of the rehabilitation or detoxification program. The City may conduct periodic testing of an employee during this one (1) year period after completion of the program on a random basis, not to exceed the above three (3) tests, and need not be based on any reasonable suspicion.

For the purposes of implementing the provisions of this Article, each employee shall not refuse to execute a medical release in order for the City to obtain the results of the drug test provided for in this Article. Except as otherwise provided by state or federal law with regard to communicable diseases, or without further authorization of the employee, the releases referred to in this Article shall authorize only the release of examination results and progress reports pertaining to the drug screening test results. No other medical finding may be released without the express written permission of the employee.

Section 8. Disciplinary Action. Employees who voluntarily admit to a drug problem or who fail a drug test will not be disciplined provided they follow the procedures outlined in this Article. Discharge may occur, however, if an employee is found to be in violation of the below items:

- A. an employee who sells or traffics illegal drugs outside of his official duties as a Police Officer;
- B. an employee who upon reasonable suspicion by the City pursuant to Section 3 refuses to be tested for drugs;
- C. an employee who has tested positive for drug use and refuses to seek or fails to complete rehabilitation or counseling that has been requested by the City;
- D. an employee who has been found to have used drugs for a second time within a ten (10) year period;

- E. an employee who fails to report their conviction for drug-related crimes per the Federal Drug Free Workplace Act for a second time.

ARTICLE 21
DISCIPLINARY PROCEDURES AND
EMPLOYEE RIGHTS

Section 1. The tenure of every employee subject to the terms of this Agreement shall be during good behavior and efficient service. The Employer may take disciplinary action against an employee in the bargaining unit only for just cause. Forms of disciplinary action shall include:

- A. counseling;
- B. written reprimand;
- C. suspension without pay;
- D. reduction in rank;
- E. discharge.

Section 2. Rights of Employees While Under Investigation. When an employee is under investigation and has a reasonable belief that answering the questions may result in disciplinary action, the following minimum standards shall apply:

- A. The employee under investigation shall be informed in writing of the nature of the investigation prior to any questioning.
- B. The employee under investigation shall be entitled to the presence of a non-employee representative, (or any other one person of the employee's choice), at any questioning of the employee, unless the employee consents in writing to being questioned outside the presence of the non-employee representative. The non-employee representative may not interfere with the investigation or inhibit the investigation in any way.
- C. An employee who is brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports, audio and video tapes, except privileged statements of counsel, pertinent to the case that:
 - 1. contain exculpatory information;

2. are intended to support any disciplinary action, or
3. are to be introduced in the disciplinary hearing.

Section 3. An employee who has been notified he is under disciplinary investigation shall be provided with status reports every 14 days. These reports shall contain the status of the investigation (open or closed), the progress of the investigation, any orders that the employee may be required to follow pursuant to the investigation and the results of any testing conducted.

At the completion of the disciplinary investigation and recommendation to the City Manager, or a determination of a final disposition as determined by the Chief of Police, discipline will be administered within 30 days from such determination or recommendation by the Chief of Police. The written notification to the employee, at the conclusion of the investigation, shall include the results and/or disposition of the investigation (i.e., exonerated, unfounded, sustained, or non-sustained).

Section 4. Before an employee may be charged with insubordination or like offenses for refusing to answer questions or participate in an investigation, he shall be advised that such conduct could be made the basis for a charge.

Section 5. Employees will not be disciplined solely on the basis of a polygraph examination. However, admissions made during the polygraph process may be relied upon and may be admissible at arbitration or other hearings.

Section 6. When an anonymous complaint is made against an employee on duty and when after investigation there is no corroborative evidence of any kind, then the complaints shall be classified as unfounded and the accused employee shall not face disciplinary action of any kind.

Section 7. A pre-disciplinary hearing will be scheduled to give the employee an opportunity to offer an explanation of the alleged misconduct. Prior to the hearing, the employee shall be given written specifications of the charges, time and place of the hearing and the identity of the hearing officer. The supervisor shall give notice to the employee of his right to have an OPBA representative present, however, a disciplinary meeting or discipline will not be unreasonably delayed by the unavailability of a representative.

Prior to the pre-disciplinary hearing the employee may choose to:

- A. appear at the hearing to present oral or written statements in his defense;
- B. appear at the hearing and have an employee or non-employee representative of the OPBA present oral or written statements in his defense;
- C. elect in writing to waive the opportunity to have a disciplinary hearing.

At the disciplinary hearing, the hearing officer will ask the employee or his representative to respond to the allegations of misconduct which were outlined to the employee. At the hearing, the employee may present any relevant testimony, witnesses, or documents. The employee will be permitted to confront and cross examine witnesses called by the City on its behalf. The employee shall provide a list of witnesses, and the name and occupation of his representative, if any, to the City as far in advance as possible, but no later than eight (8) hours prior to the hearing. It is the employee's responsibility to notify his witnesses that he desires their attendance at the hearing.

A written report will be prepared by the hearing officer and will be made available to the employee within a reasonable period of time.

Section 8. General Order 52.1, 52.2, and 52.3 as is in effect at the signing of this Agreement and attached hereto shall be incorporated into this Agreement. If any portion of the General Order is in conflict with this Agreement, the Agreement language shall prevail. The City will give the Union notice of any proposed change in these General Orders and no change will be made until the Union has had an opportunity to meet and discuss the changes.

Section 9. Disciplinary action consisting of a suspension, demotion or termination may be appealed through Article 7, Grievance Procedure.

Section 10. Contents of Personnel File. The City shall not insert any adverse material into the file of any employee unless the employee had an opportunity to review and comment in writing on the adverse material.

Section 11. Corrective Action Records. An employee who has no discipline of record for two (2) full years may apply for the removal of all written reprimands. An employee who has no discipline of record with respect to like or related offenses for five (5) years may apply for the removal of suspensions of five (5) days or less. This will be granted under normal circumstances. Where the Division finds unusual circumstances justifying retention of such records, it will notify the employee of this, and of the reasons for it, in writing. If the employee disagrees with the City's decision, he may then appeal it through the grievance procedure, or avail himself of the rights described below in Section 12. Any records removed under this section shall not be counted as an offense in determining the appropriate step of progressive discipline.

Section 12. Employees shall have the right to review their personnel files at reasonable times upon request, and to have placed in such files non-derogatory factual memoranda authored by the employee. Petitions shall be excluded from this Section.

ARTICLE 22 COMPENSATORY TIME

Section 1. All overtime worked shall be compensated, at the employee's election, either at the rate of one and one-half (1-1/2) the employee's regular rate of pay or in compensatory time, accrued at the same rate, which may be accumulated up to a maximum of one hundred (100) hours.

Section 2. Compensatory time pursuant to the minimum standards of the Fair Labor Standards Act ("FLSA") shall be granted according to law, provided 72 hours advance notice is given by the employee. Compensatory time earned in excess of the minimum standards of the FLSA shall be granted, provided 72 hours advance notice is given by the employee, and provided that the City will not incur overtime liability as a result of honoring the compensatory time request. The notice provisions of this section may be waived upon mutual agreement of the parties.

Section 3. Employees may choose to receive pay up to a maximum of fifty (50) hours of accumulated compensatory time once annually, by notifying the employer of his or her desire to

be paid for a designated amount of compensatory time prior to November 1 of each calendar year. The payment will be made to the employee in the first pay period in December.

ARTICLE 23 JOB ASSIGNMENTS

Section 1. Effective with the commencement of this Agreement, and thereafter, a notice concerning an available job vacancy, other than short term assignments which are made based on the operational needs of the department within the bargaining unit, shall be posted for a period of seven (7) consecutive calendar days to permit interested candidates to apply for the position. No job vacancy will be filled until the posting requirement is complied with. Short term assignments shall be defined for purposes of this Article as no more than 45 days in duration which can be extended for good cause shown by an additional 45 days with notice to the Union.

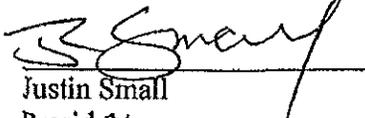
ARTICLE 24 DURATION

Section 1. This contract shall be effective as of January 1, 2014 and shall remain in force and effect until 11:59 p.m. December 31, 2014, and shall thereafter be automatically renewed for successive periods of one (1) year unless written notice is served at least 60 days prior to that date or to any subsequent December 31, by either party of its desire to modify or terminate the agreement.

Section 2. Notwithstanding anything else in this Agreement, no act, or omission, or event occurring after the termination of this Agreement shall give rise to any rights of liabilities under this Agreement nor shall it be subject to arbitration.

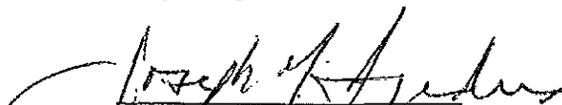
Section 3. Nothing in this paragraph affects the automatic renewal provisions of the first paragraph of this Article; nor does it affect the parties' right to agree to extend the contract.

For the OPBA


Justin Small
President

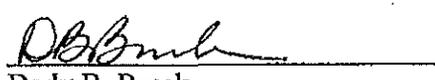

Joshua Hman
Bargaining Committee Member

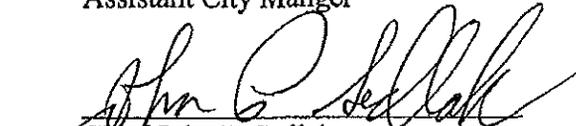

Craig Griffith
Bargaining Committee Member

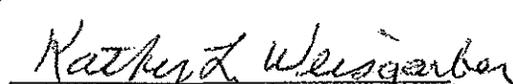

Joseph Hegedus
Counsel for the OPBA

For the City


Keith D. Johnson
City Manager


Dody B. Bruck
Assistant City Manger


Chief John P. Sedlak
Police Chief


Kathy L. Weisgarber
Human Resources Director


Donald L. Crain
FROST BROWN TODD LLC, Counsel

ADDENDUM TO AGREEMENT

For the duration of the Agreement, the parties agree as follows:

With respect to Article 10, Section 6¹, it is the intent of the parties to allow the schedule to be changed from the current 40 hours per week, five (5) days on and two (2) days off to a different type of schedule so long as all of the following criteria are met:

1. 2,080 hours per year are worked on duty, on shift;
2. overtime is not created by the new schedule;
3. the schedule must be approved by the Police Chief;
4. 70 percent of the affected employees must approve by formal vote the new schedule;
5. service levels are not affected.

¹ As of January 1, 2005, Section 6 became Section 7.

It is the intent of this addendum to allow both parties to work cooperatively to arrange a schedule that meets all of the above criteria and that is satisfactory to each stakeholder involved; employees, administration and citizenry. The City shall retain the right to set the schedule and the starting and ending times of each shift as it deems appropriate.

It is the understanding of the parties that these police officers will not be paid on a bi-weekly basis until a majority of the City employees (including this unit) is paid bi-weekly.

Finally, employees will not be positively or negatively impacted as a result of changes made to Article 10.

ATTACHMENT "A"

MEMORANDUM OF UNDERSTANDING

January 18, 2005

WHEREAS, the parties entered into a compensatory time agreement for the first time during their collective bargaining negotiations in 2004;

WHEREAS, the parties agree that the compensatory time agreement was specifically intended not to cause or create any additional overtime expenses for the City;

WHEREAS, for at least the last eighteen years, and subject to any applicable collective bargaining agreement, the City has paid overtime based on a 28-day work period according to section 7(k) of the Fair Labor Standards Act, as amended; the payment of overtime is subject to the parties' current collective bargaining agreement.

NOW THEREFORE, the parties agree to the following regulations regarding the administration of the new contractual compensatory time benefits:

1. Any overtime worked (except grant overtime) can be taken as either pay or compensatory time, except that all hours in each overtime occurrence must be one or the other.
2. Requests to use compensatory time must be made at least 24 hours in advance and no more than 30 days in advance. The Chief of Police or his designee shall have the discretion to approve a compensatory time request made less than 24 hours in advance.
3. Compensatory time (FLSA and non-FLSA) shall be approved unless it creates overtime at the time of the request or is otherwise unduly disruptive.
4. No more than one bargaining unit employee within each classification per shift shall be permitted to be off on compensatory time. The Chief of Police may still grant any request at his discretion.
5. The City shall not direct an employee to use compensatory time.
6. Once a compensatory time request has been approved, it shall not be cancelled unless it causes an undue disruption, as defined by the FLSA or if emergency circumstances exist, as determined in the sole discretion of the Chief of Police.
7. Grant overtime must be taken in cash.
8. The agreements made in this MOU modify the compensatory time agreement in the parties collective bargaining agreement.

9. At the expiration of any collective bargaining agreement between the parties, either party may declare in writing that this MOU is no longer valid. Compensatory time would then revert back to the actual language in the collective bargaining agreement.
10. If a claim is brought regarding the language contained in this MOU or if the MOU is challenged or questioned in any manner (including by grievance, a report to the Department of Labor, or as a result of an independent investigation by the Department of Labor) by any person regarding the provisions of paragraph 3 above, this MOU and any agreement between the parties regarding compensatory time in any collective bargaining agreement will automatically become void and invalid on a going forward basis.

WCHLibrary 0057902.0576226 105261vvv10