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AGREEMENT

between

THE CITY OF LORAIN, OHIO

AND

THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

TELECOMMUNICATOR/INFORMATION OFFICER

EFFECTIVE: JANUARY 01, 2014

EXPIRES: DECEMBER 31, 2016

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ARTICLE 1 – PREAMBLE

Section 1.1. This Agreement, entered into by the City of Lorain, hereinafter referred to as the "Employer" and the Ohio Patrolmen's Benevolent Association, representing the Telecommunicator/Information Officer (hereafter referred to as "TIO") for the Lorain Police Department, hereinafter referred to as the "OPBA" has as its purpose the following:

To comply with the requirements of Chapter 4117 of the Ohio Revised Code; to set forth the full and complete understandings and agreements between the parties governing the wages, hours, terms and other conditions of employment for those employees included in the Bargaining Unit as defined herein; and to provide a peaceful procedure for the resolution of differences.

ARTICLE 2 – RECOGNITION

Section 2.1. The Employer recognizes the OPBA as the sole and exclusive representative for the purpose of negotiating wages, hours, terms and other conditions of employment for the employees of the Employer in the bargaining unit. Wherever used in this Agreement, "Bargaining unit" shall be deemed to include those individuals employed full time by the Employer in the classification of Telecommunicator/Information Officer (TIO).

Section 2.2. All positions and classifications not specifically established herein as being included in the Bargaining Unit shall be deemed excluded from the bargaining unit.

ARTICLE 3 – NON –DISCRIMINATION

Section 3.1. The provisions of this Agreement shall be applied equally to all employees in the Bargaining Unit without discrimination as to age, race, sex, color, creed, or national origin.

Section 3.2. Where there is an alleged violation of the provisions of this Article that qualifies for appeal under the Employer's Internal Equal Employment Opportunity Complaint Procedure or the Rules of the Equal Employment Opportunity Commission, or the Ohio Civil Rights Commission, such matters shall not be appealable through the grievance procedure contained in this Agreement. If the alleged violation also constitutes a violation of other provisions of this Agreement, said alleged violation shall be subject to the Grievance Procedure to the extent that such alleged violation is not discriminated-related. The Employer, the employees, and their representatives, however, may meet in an effort to resolve the alleged grievance prior to the appeal to any outside agency.

Section 3.3. The Employer agrees not to interfere with the rights of Bargaining Unit employees to become members of the OPBA and the Employer shall not discriminate, interfere, restrain, or coerce any employee because of any legal employee activity in an official capacity on behalf of the OPBA as long as that activity does not conflict with the terms of this Agreement.

Section 3.4. The OPBA agrees not to interfere with the rights of employees to refrain or resign from memberships in the OPBA and the OPBA shall not discriminate, interfere, restrain, or coerce any employee exercising the right to abstain from membership in the OPBA activities.

Section 3.5. All references to employees in this Agreement designate both sexes and wherever the male gender is used, it shall be construed to include male and female employees.

ARTICLE 4 – DUES, CHECK-OFF

Section 4.1. The Employer agrees to deduct OPBA membership dues in accordance with this Article for all employees eligible for the Bargaining Unit and who elect to join the OPBA upon the completion of sixty (60) days from the date of hire.

Section 4.2. The Employer agrees to deduct OPBA membership dues once each month from the pay of any employee in the Bargaining Unit eligible for membership upon receiving written authorization signed individually and voluntarily by the employee.

The signed payroll deduction form must be presented to the Employer by employee. Upon receipt of the proper authorization, the Employer will deduct OPBA dues from the payroll check for the next pay period in which dues are normally deducted following the pay period in which the authorization was received by the Employer.

Section 4.3. The parties agree that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of Union dues. The OPBA hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions or proceedings by any member of the Bargaining Unit arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the OPBA, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the OPBA.

Section 4.4. The Employer shall be relieved from making such individual "check-off" deductions upon an employee's; (1) termination of employment; (2) transfer to a job other than one covered by the Bargaining Unit; (3) layoff from work; (4) an unpaid leave of absence; (5) revocation of the check-off authorization or (6) resignation by the employee from the OPBA.

Section 4.5. The Employer shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of OPBA.

Section 4.6. The parties agree that neither the employees nor the OPBA shall have a claim against the Employer for errors in the processing of deductions unless a claim of error is made to the Employer in writing within thirty (30) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that the OPBA dues deduction would normally be made by deducting the proper amount.

Section 4.7. The rate at which dues are to be deducted shall be certified in writing to the payroll clerk by the OPBA upon ratification by the Union of this Agreement and during January of each year, or at the effective date of this Agreement. One (1) month advance notice must be given the payroll clerk prior to making any changes in an individual's dues deductions.

ARTICLE 5 – FAIR SHARE

Section 5.1. It is agreed between the parties that each employee in the Bargaining Unit who is not a member of the OPBA shall be required, as a condition of continued employment, to pay the OPBA a Fair Share Fee.

Section 5.2. The Fair Share Fee shall be established to cover the employee's pro-rata share of: (1) the direct costs incurred by the OPBA in negotiating and administering the Agreement and of settling grievances and disputes arising under the Agreement; and (2) the OPBA's expenses incurred for activities normally and reasonably employed to effectuate its duties as the exclusive representative of the employees in the Bargaining Unit covered by the Agreement.

Section 5.3. On an annual basis, the OPBA shall provide to each Fair Share Fee contributor a copy of the OPBA's Annual Financial Accounting Report upon written request.

Section 5.4. In the event that any employee who is required to pay a Fair Share Fee to the OPBA objects to the propriety of the OPBA's uses of such fee, the OPBA shall immediately, with the next Fair Share Fee payment thereafter received, deposit the Fair Share Fees received from the challenging member/employee in an interest-bearing escrow account. These deposits shall continue until such time as the challenge is resolved either by an AAA Arbitrator or by agreement of the parties.

Section 5.5. The Employer shall not be obligated to make Fair Share Fee deductions from any employee who, during the months involved, shall have failed to receive sufficient wages to make all legally required deductions, in addition to the deduction of Fair Share Fee. The Fair Share Fee shall be deducted and remitted during the same period as OPBA dues.

Section 5.6. Any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization and which is exempt from taxation under the provisions of the Internal Revenue Code shall not be required to join or financially support the OPBA. Upon compliance with the provisions set forth in the Ohio Revised Code, Section 4117.09(C), the employee shall be required, in lieu of the Fair Share Fee, to pay an amount of money equal to the Fair Share Fee to a non-religious charitable fund mutually agreed upon by the employee and the OPBA.

Section 5.7. The employee shall furnish to the OPBA receipts evidencing such payment and failure to make such payment or furnish such receipts shall subject the employee to the same sanctions, as would non-payment of dues under the Agreement.

Section 5.8. The OPBA, its agents, representatives, associates and members, hereby agrees that it will indemnify and hold harmless the Employer from any claims, actions or proceedings by any employee arising from deductions made pursuant to this Article. Once the funds are remitted to the OPBA, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the OPBA.

Section 5.9. The parties agree that neither the employees nor the OPBA shall have a claim against the Employer for errors in the processing of deductions made pursuant to this Article, unless a claim of error is made to the Employer in writing within thirty (30) days after the date such alleged error was made. Any such error(s) will be corrected in the next pay period that the OPBA Fair Share Fee deduction would normally be made by deducting the proper amount.

ARTICLE 6 – UNION REPRESENTATION

Section 6.1. The Employer will recognize OPBA as representatives to negotiate and to administer this Agreement. The Bargaining Unit shall elect a member of the Bargaining Unit to represent the OPBA as an associate for the purpose of assisting in the processing of grievances and attending meetings with the Employer in accordance with the provisions of this Agreement. No employee shall be recognized by the Employer as an associate or an alternate until the OPBA has presented the Employer with written certification of that person's selection.

Section 6.2. The investigation and writing of grievances shall be non-duty time unless prior approval is obtained from the Chief of Police or his designee. Attendance at grievance hearings and other meetings in accordance with the provisions of this Agreement during regular duty hours shall be without loss of pay. However, employees shall not be compensated for attendance at such hearings and/or meetings during non-duty hours.

Section 6.3. Rules governing the activity of OPBA representatives are as follows:

1. The OPBA agrees that no official of the OPBA shall interfere, interrupt, or disrupt the normal work duties of other employees. The OPBA further agrees not to conduct OPBA business during working hours except to the extent specifically authorized by this Agreement and the Employer.
2. The Associate shall not leave his assigned work area to conduct OPBA business until he has been released by the Chief or his designee. The OPBA shall not conduct OPBA activities in any work areas without notifying the supervisor in charge of that area of the nature of the OPBA activity.

3. The OPBA representative or the associate shall cease OPBA activities immediately upon the request of the supervisor of the area where the OPBA activity is being conducted, or upon the request of the Chief of Police or his designee.
4. Lodge officers or other union representatives found to be abusing the rules of this Article may be subject to disciplinary action.

ARTICLE 7 – LABOR MANAGEMENT MEETING

Section 7.1. In the interest of sound labor/management relations, unless mutually agreed otherwise, once every quarter on a mutually agreeable day and time the Safety/Service Director and/or his designees shall meet with not more than two (2) representatives and a representative of the OPBA to discuss those matters addressed in Section 7.2. Additional representatives may attend by mutual agreement.

Section 7.2. An agenda will be furnished and/or exchanged at least five (5) working days in advance of the scheduled meeting with a list of the matters to be taken up at the meeting. The OPBA shall also supply the names of those OPBA representatives who will be attending. The purpose of such meeting shall be to:

1. Discuss the administration of this Agreement;
2. Discuss the grievances which have not been processed beyond Step 3 of the Grievance Procedure but only when such discussions are mutually agreed to by the parties;
3. Disseminate general information of interest to the parties;
4. Discuss ways to increase productivity and improve efficiency;
5. Give the OPBA representatives the opportunity to share the views of their members on topics of interest to both parties;
6. Consider and discuss health and safety matters relating to employees.

Section 7.3. Labor/Management Meetings are not intended to be negotiation sessions to alter or amend the basic Agreement.

Section 7.4. If special Labor/Management Meetings have been requested and mutually agreed upon, they shall be convened as soon as feasible.

ARTICLE 8 – HEALTH & SAFETY

Section 8.1. It is agreed that health and safety must be a concern of all parties to this Agreement. Therefore, the Employer reaffirms its responsibility to provide safe working conditions. Employees shall accept the responsibility to operate equipment safely and to follow all safety rules, safe working methods, and precautions as established by the Employer. Either the union or employees shall report all unsafe conditions to the Employer as soon as such unsafe conditions are known.

ARTICLE 9 – GRIEVANCE PROCEDURE

Section 9.1. The Grievance Procedure is a formal mechanism intended to assure that employee grievances arising under this Agreement are given an adequate forum for relief. Punitive action shall not be taken against any Bargaining Unit employee for submitting the grievance in good faith.

Section 9.2. The term "grievance" shall mean an allegation by a Bargaining Unit Employee, group of employees, or the Employer that there has been a breach, misinterpretation, or improper application of this Agreement. It is not intended that the Grievance Procedure be used to effect changes in the Articles of this Agreement nor those matters not otherwise covered by, superseded by, or in conflict with this Agreement which are controlled by federal, state, or local laws.

Section 9.3. All grievances must be processed at the proper step in the progression in order to be considered at the subsequent step, except for grievances involving disciplinary suspension which shall be introduced at Step 3 of the Grievance Procedure.

Section 9.4. Any employee(s) may withdraw a grievance at any point by submitting to the City and the OPBA representative a written statement to that effect. Any grievance which is not submitted by the employee within the time limits provided herein shall be considered resolved based upon management's last answer. Any grievance not answered by management within the stipulated time limits shall be considered to have been answered in the negative and shall be automatically advanced to the next step of the Grievance Procedure. All time limits on grievances may be waived upon mutual written consent of the parties.

Section 9.5. The Union may designate an Official Grievance Committee consisting of three (3) members of the Bargaining Unit and shall notify the Employer in writing, as to the membership of this committee. At least one (1) member of the Official Grievance Committee shall be notified of and have the right to attend all grievance meetings as an observer, if not as a representative, and the Official Grievance Committee shall receive a copy of all grievances filed and the responses of the Employer.

Section 9.6. All written grievances must contain the following information to be considered:

1. Aggrieved employee's name and signature;
2. Aggrieved employee's classification;
3. Date grievance was first discussed and with whom the grievance was discussed;

4. Date grievance was filed in writing;
5. Date and time grievance occurred;
6. Location where grievance occurred;
7. Description of incident giving rise to the grievance;
8. Articles and Sections of Agreement violated;
9. Relief requested.

The Employer and Union will develop jointly a grievance form (Appendix C), which shall provide the information as outlined in this section. The Union shall have the responsibility for the duplication, distribution and their own accounting of grievance forms.

Section 9.7. The following steps shall be followed in the processing of a grievance:

Step 1 – Division Commander

In order for a grievance to receive consideration under this procedure, the employee who has a grievance shall file the grievance in writing using the form jointly developed by the parties (Appendix C), with the employee's Division Commander within five (5) work days after the aggrieved employee's knowledge of the occurrence giving rise to the grievance. The Division Commander shall have five (5) work days in which to schedule a meeting, if he deems necessary, with the aggrieved employee and at the employee's discretion, a member of the Official Grievance Committee. The Division Commander may also call the necessary parties to attend this meeting. The Division Commander shall investigate and respond in writing and state the reason for the response to the grievance within five (5) work days following the meeting date. If no meeting was deemed necessary by the Division Commander, he shall investigate and respond to the grievance within ten (10) work days following the aggrieved employee's written submission of the grievance to the Division Commander. The Division Commander shall provide a copy of his written answer to the aggrieved employee, the Official Grievance Committee and the Chief of Police.

Step 2 – Chief of Police

If the grievance is not resolved in Step 1, the grievant may within five (5) work days after receipt of the Step 1 answer, appeal the grievance in writing to the Police Chief. The Police Chief shall have five (5) work days in which to schedule a meeting, if he deems necessary, with the aggrieved employee and, at the employee's discretion, a member of the Official Grievance Committee. The Police Chief may also call the employee's immediate supervisor to attend this meeting. The Police Chief shall investigate and respond in writing and state the reason for the response to the grievance within five (5) work days following the meeting date. If no meeting was deemed necessary by the Police chief, he shall investigate and respond in writing and state his reason for the response to the grievance within ten (10) work days following the aggrieved employee's written submission of the grievance to the Supervisor. The Supervisor shall provide a copy of his written answer to the aggrieved employee, the Official Grievance Committee and the Police Chief.

Step 3 – Director of Public Safety/Service

If the grievance is not resolved in Step 2, the grievant may within five (5) work days after

the receipt of the Step 2 answer, appeal the grievance in writing to the Director of Public Safety/Service. The Director of Public Safety/Service shall have seven (7) work days in which to schedule a meeting, if he deems necessary, with the grievant. The Director of Public Safety/Service may also have the Chief of Police, the Officer in Charge and/or the immediate Supervisor present at such meeting. The Director of Public Safety/Service shall investigate and respond in writing and state the reasons for the response to the grievance within ten (10) work days following the meeting date. If no meeting was deemed necessary by the Director of Public Safety/Service, he shall investigate and respond in writing and state the reasons for the response to the grievance within ten (10) work days following the grievant's written submission of the grievance to the Director of Public Safety/Service. The Director of Public Safety/Service shall provide a copy of his written answer with the reasons stated therein to the aggrieved employee, the Official Grievance Committee and, if necessary, the aggrieved employee's Officer in Charge and/or immediate Supervisor.

Step 4 - Arbitration

If the grievance is not satisfactorily resolved in Step 3, it may be submitted to arbitration upon request of the Union in accordance with this Section of the Grievance Procedure. The Union, based on the facts presented, has the right to decide whether to arbitrate a grievance on behalf of a Bargaining Unit Member. The right of the Union to arbitrate a grievance is limited to a period of ten (10) work days from the date a written answer to the grievance with the reason stated therein was provided by the Safety Director in Step 3 of the Grievance Procedure and any grievance not submitted in such period shall be deemed settled on the basis of the last answer given by the Employer.

An alleged grievance brought by the Employer shall be submitted to the Official Grievance Committee, within five (5) work days of the occurrence that gave rise to the grievance. The parties shall have five (5) work days within which to meet to attempt to resolve the alleged grievance. If the grievance is not satisfactorily resolved, the Employer may make a written request that the grievance be submitted to arbitration within ten (10) work days of the date the parties met.

- A. Upon receipt of a notice to arbitrate, the Employer and the Union shall each appoint a chief spokes person to represent them at the arbitration hearing. The two designated chief spokes persons will meet and appoint a person to act as Arbitrator. In the event the two designated chief spokespersons cannot agree upon the person within ten (10) work days of the demand for arbitration, the parties will jointly request the Federal Mediation and Conciliation Service to submit a list of seven (7) impartial persons qualified to act as an Arbitrator in accordance with its applicable rules and regulations. Upon receipt of the list of seven (7) Arbitrators, the parties shall meet to select an Arbitrator within ten (10) working days from the date the list is received. The parties shall use the alternate strike method to select from the list of seven (7) Arbitrators submitted to the parties by the Federal Mediation and Conciliation Service. The party requesting arbitration shall be the first to strike a name from the list, then the other person shall strike a name and alternate in this manner until one name remains on the list: the Arbitrator. Each party shall have the right to reject only one list.

The Arbitrator shall limit his decisions strictly to the interpretation, application or enforcement of the specific articles and sections of this Agreement and he shall be without power or authority to make any decision:

1. Contrary to or inconsistent with or modifying or varying in any way the terms of this Agreement or of applicable laws, except as those laws have been superseded by or are in conflict with this Agreement.
 2. Limiting or interfering in any way with the powers, duties or responsibilities of the Employer under this Agreement or applicable law, except as those laws have been superseded by or are in conflict with this Agreement.
 3. Limiting or interfering in any way with the powers, duties or responsibilities of Lorain City Council under its rule-making powers not inconsistent with and to the extent not superseded by, in conflict with, or covered by this Agreement.
 4. Contrary to, inconsistent with, changing, altering, limiting or modifying any practice, policy, rules or regulations presently or in the future established by the Employer so long as such practice, policy or regulations do not conflict with, are not covered by, or are not superseded by this Agreement.
 5. That would change the established wage scales, rates on new or changed jobs, or change any wage rate which has been negotiated as part of this Agreement.
 6. Granting any right or relief for any alleged grievance occurring at any time other than the contract period in which such right originated or to make any award based upon rights arising under any previous agreement.
- B. The question of arbitrability of a grievance may be raised by either party before the arbitration hearing on the grievance on the grounds that the matter is non-arbitrable or beyond the Arbitrator's jurisdiction. The first question to be placed before the Arbitrator will be whether or not the alleged grievance is arbitrable. If the Arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same Arbitrator.
- C. The decision of the Arbitrator resulting from any arbitration of grievances shall be in writing and sent to the Employer, the Union and the Grievant. The decision shall be final and binding, and the Employer will notify the Union and the Grievant within ten (10) working days after his receipt of the Arbitrator's decision as to when the Employer will implement at the Arbitrator's decision, provided that the implementation will occur in a reasonable period of time subject to post-arbitral review of the Arbitrator's decision or award.
- D. The cost of the service of the Arbitrator, the cost of any proof produced at the discretion of the Arbitrator, the fee of the Arbitrator and rent, if any, for the hearing room, shall be shared equally by the parties. The expenses of any non-employee witness shall be borne, if at all, by the party calling such a witness. 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. Any Bargaining Unit member whose attendance is required for such hearing shall not lose pay or benefits to the extent such hearing hours are during his normally scheduled working hours on the day of the hearing.

Section 9.8. The time limits set forth in the grievance procedure shall, unless extended by mutual written agreement of the Employer and the Union, be binding on both parties. Working days as provided in the Grievance Procedure shall not include Saturdays, Sundays or recognized holidays.

Section 9.9. The Grievance Procedure set forth in this Agreement shall be the exclusive method of reviewing and settling disputes between the Employer and the Union and/or between the Employer and employee(s).

Section 9.10. Special Expedited Arbitration

A. The process of special expedited arbitration may be selected by either party for any grievance involving ten (10) or less days of suspension and all non-disciplinary issues. The parties shall first attempt to mutually select an arbitrator. If they can't agree, the a list of seven (7) local arbitrators shall be requested from FMCS. The Arbitration process shall follow the regular arbitration process outlined in the contract except for the following:

1. No pre-hearing briefs shall be submitted.
2. No court recording shall take place.
3. No post hearing briefs shall be submitted.
4. The Arbitrator shall have three (3) work days to submit the decision to the Parties.
6. The Arbitrator's fee shall be split by the parties.

B. The Right of the Union to advance a grievance to expedited Arbitration is limited to ten (10) days from the date a written answer to the grievance was provided by the Safety Director as provided for in Step 3 of the grievance procedure. The limitations on the authority of the Arbitrators as hereinbefore provided for in this Agreement shall also be applicable to special expedited arbitrations.

ARTICLE 10 – BILL OF RIGHTS

Section 10.1. This Article only applies to non-criminal investigations.

Section 10.2. At the time that any Bargaining Unit employee is notified to report for an investigation, upon his request, he shall be provided with an opportunity within a reasonable time frame to contact a Union Director or OPBA Representative for the purpose of representation; provided however that "within a reasonable time frame" shall mean two hours or less, unless no Union Director or OPBA Representative is available. In no event shall an

investigation be disrupted where circumstances require immediate action. No Union Director or OPBA Representative shall be permitted to represent a bargaining unit employee where the representative is directly or indirectly involved in the matter under investigation.

Section 10.3. Bargaining Unit employees shall be informed of the nature of the investigation prior to any questioning and shall be informed, to the extent known at the time, whether the investigation is focused on the employee for a potential charge. The person conducting the questioning shall have all written reports prepared by the employee concerning the matter being investigated available for review at the time of the questioning. In the event the employee desires to produce and/or review other written materials or notes, he shall be given an opportunity to secure them and report back immediately.

Section 10.4. A Bargaining Unit employee who is to be questioned as a suspect in an internal investigation that may lead to criminal charges against him shall be advised of his constitutional rights in accordance with the law.

Section 10.5. Any interrogation, questioning or interviewing of a Bargaining Unit employee will be conducted at hours reasonably related to his shift, preferably during his working hours. Interrogation sessions shall be for reasonable periods of time, and time shall be allowed during such questioning for attendance to physical necessities.

Section 10.6. Before a Bargaining Unit employee may be charged with insubordination or a like offense for refusing to answer questions or participate in an investigation, he shall be advised that such conduct, if continued, may be made the basis for a charge, except that no employee shall be charged with insubordination where such refusal is premised on his exercise of the rights and advice afforded him in Section 10.3 of this Article.

Section 10.7. When a Bargaining Unit Member suspected of a violation is being interrogated in an internal investigation, such interrogation shall be recorded by the Police Department at the request of either party.

Section 10.8. Any evidence obtained in the course of an internal investigation through the use of administrative pressures, threats, coercion, or promises shall not be admissible in a subsequent criminal action or Civil Service Commission hearing. However, notification of an employee that potential corrective or disciplinary action could result if the employee continues to refuse to answer questions or participate in an investigation shall not be construed as administrative pressures, threats, coercion or promises for the purposes of this Section.

Section 10.9 When a Bargaining Unit employee is to be interviewed in an investigation of any other bargaining unit employee, such interview shall be conducted in accordance with the procedures established in this Article.

Section 10.10. A Bargaining Unit employee who is charged with violating police rules and regulations, and his attorney, when one is involved, shall be provided access to transcripts, records, written statements and video tapes. Such access shall be provided reasonably in advance of any hearing.

Section 10.11. At the request of either party, interviews or portions thereof with a Bargaining Unit Employee conducted during the course of an inquiry will be audio taped. Tapes can also be made by the Employee. The Bargaining Unit employee and his attorney will be afforded the opportunity, upon written request directly to the Chief of Police or his designee, to listen to and make personal notes or verify the accuracy of a transcript regarding a tape made of this interview subsequent to that interview. If a transcript of the tape is made by the Employer, the Bargaining Unit employee will be provided a copy of such transcript upon written request directly to the Chief of Police or his designee. If the Bargaining Unit Employee makes a tape of the hearing the Employer will be provided the same opportunity to hear the tapes as provided above and will be provided a transcript if one is made by the Employee.

Section 10.12. All complaints, internal investigations and departmental charges shall be under the province of the Chief of Police or his designee to investigate. Prior to any disciplinary actions being taken against any bargaining unit employee based on complaints to charges, the Chief of Police or his designee shall conduct an independent hearing at which the Bargaining Unit employee or his representative shall have the opportunity to confront or cross examine any employee of the Police Department or any other person who can be compelled to testify and offer testimony and other evidence on his own behalf. Reasonable, advance notice of a hearing date, time, as well as the charges to be heard, witnesses to be called or whose testimony will be used, and the copies of any pertinent evidentiary documents, will be provided the employee by the Chief of Police in advance of any hearing on the charge.

Section 10.13. If any of these procedures are violated, such violations shall be subject to the Grievance Procedure beginning at Step 3.

Section 10.14. The appointing authority may request an employee to submit to a polygraph test and/or "stress analysis" test if:

- a) Such test is administered in connection with an ongoing investigation involving economic loss or injury to the employer's business, such as theft, embezzlement, misappropriation or other unlawful and criminal acts; or
- b) The employee had access to property that is the subject of the investigation;
or
- c) The employer has a reasonable suspicion that the employee was involved in the incident or activity under investigation.

No employee may be discharged, disciplined, denied promotion or otherwise discriminated against in any manner on the basis of the analysis of a polygraph test or the refusal to take a polygraph test if such analysis or refusal is the sole basis and with additional supporting evidence upon which an adverse employment action is taken against the employee. A refusal to take a polygraph test may serve as additional supporting evidence upon which adverse employment action may be taken.

Prior to the administration of any polygraph test, the appointing authority shall provide the employee with written notice containing the following information:

- a) The date, time and location of the test;
- b) A statement that the employee has a right to obtain and consult with counsel or with employee's representative;
- c) The nature and characteristics of the test and of the instruments involved;
- d) A statement that a refusal to take the test or that any statement made during the test may constitute additional supporting evidence for the purposes of an adverse employment action.

Throughout all phases of the polygraph test, the examinee shall be permitted to terminate the test at any time and questions shall not be asked in any manner to degrade or needlessly intrude on the privacy of such examinee. The polygraph examiner shall not conduct a test if there is sufficient written evidence by a physician that the examinee is suffering from a psychological condition or undergoing treatment that might cause abnormal response during the actual testing phase.

The polygraph examiner shall have a valid and current license granted by licensing and regulatory authorities in Ohio. The examiner shall render any opinion or conclusions regarding the test in writing and solely on the basis of an analysis of polygraph charts. The report shall not contain information other than admissions, information, case facts and interpretations of the charts relevant to the purpose and stated objectives of the test, and shall not contain information or any recommendation concerning the employment of the examinee.

A person, other than the examinee, may not disclose information obtained during a polygraph test except as follows:

- a) To the examinee or any other person specifically designated in writing by the examinee;
- b) To the appointing authority;
- c) To any court, agency, Arbitrator or mediator in accordance with due process of law, pursuant to an order of court of competent jurisdiction.

ARTICLE 11 – DISCIPLINARY/CORRECTIVE ACTION

Section 11.1. No non-probationary employee shall be disciplined except for just cause as defined in Ohio Revised Code, Section 124.34. Probationary employees shall have no right to file an appeal of such action through the grievance procedure provided for in this Agreement.

Section 11.2. Except in instances of gross misconduct, discipline will be applied in a corrective and progressive manner in accordance with the Employer's policy and Article 10 of the Agreement. All discipline shall be administered in a fair and equitable manner.

Section 11.3. Whenever the Chief of Police or the Safety/Service Director determines that there may be just cause for an employee to be suspended or discharged, the employee shall be apprised of the alleged charges in writing, and a pre-disciplinary conference as provided for in Article 10 Section 10.12 will be scheduled to give the employee an opportunity to offer an explanation of the alleged conduct. The pre-disciplinary conference procedures shall be in accordance with Article 10 of this Agreement. The affected employee may elect to have a representative of the OPBA present at any such pre-disciplinary conference.

Section 11.4. Depending upon the severity of the offense/violation, the Chief of Police may suspend an employee with loss of pay for up to three (3) days for just cause as defined in Ohio Revised Code Section 124.34.

Section 11.5. Depending upon the severity of the offense/violation, the Safety/Service Director has the sole authority to:

1. Suspend an employee for more than three (3) days without pay;
2. Reduce an employee in pay or position;
3. Demote an employee; or
4. Discharge an employee for just cause as defined in Ohio Revised Code Section 124.34.

Section 11.6. All discipline involving a reduction, demotion, suspension or discharge shall be appealable at the option of the employee through the grievance procedure or to the Civil Service Commission but not both.

Records more than two (2) years old of disciplinary action consisting of a verbal, a written reprimand or a suspension of less than ten (10) days, shall not be used for disciplinary purposes and shall be expunged from all files.

Records more than five (5) years old of disciplinary action involving a suspension of ten (10) days to thirty (30) days, or of a reduction or demotion, shall not be used for disciplinary purposes and shall be expunged from all files.

Records more than ten (10) years old of disciplinary action consisting of a suspension in excess of thirty (30) days shall not be used for disciplinary purposes and shall be expunged from all files.

Section 11.7. The Employer agrees that all disciplinary procedures shall be carried out in a private and businesslike manner.

ARTICLE 12 – LAYOFF & RECALL

Section 12.1. When it becomes necessary in the TIO Department, through lack of work or lack of funds, or for job abolishment to reduce the force of such department, the least senior Bargaining Unit member shall be the first laid off, provided however: all part-time, seasonal employees within this classification within the TIO are laid off first.

Section 12.2. Reinstatement rights and preservation of Civil Service and lay-off status of employees so laid off who enter into the active military service of the United States, shall be governed by the provisions of applicable Civil Service law.

Section 12.3. In the event two or more employees have the same seniority date, the employee with the lowest total entrance score at the time of original appointment without reference to efficiency points shall be the first laid off.

Section 12.4. Bargaining Unit members shall be given at least fourteen (14) days advanced written notice of layoff. The effective date of such notice shall be on the date when said written notice is either sent by certified U.S. mail to the employee's last home address, or hand delivered to the employee at the workplace.

Section 12.5. The Employer shall, prior to the layoff of any Bargaining Unit members, canvas all such members to determine whether any Bargaining Unit Member is willing to be voluntarily laid off, regardless of seniority. In the event there is not a sufficient number of Bargaining Unit members who will agree to a voluntary layoff, the Employer shall canvas the remaining Bargaining Unit Members to determine whether any such member is willing to voluntarily take a leave of absence, without pay, for up to two (2) years in order to prevent or reduce anticipated layoffs.

Section 12.6. In the event an employee is laid off, the member shall receive payment for his earned but unused vacation time. Such payment shall be made in the first pay period following the request of such vacation payment as per Article 18.

Section 12.7. All members of the Bargaining Unit shall be recalled in reverse order in which they were laid off. A member shall retain rights to be recalled for a period of two (2) years from the effective date of the affected employee's date of layoff. A member who is to be recalled shall be given a thirty (30) day notice of such recall by certified mail, email or text to the member's last known address or contact numbers as shown on the Employer's records. A member who fails to notify the Employer within said thirty (30) day period of his or her acceptance or rejection of recall shall be deemed to have forfeited his or her rights to recall and shall be removed from the recall list.

Section 12.8. Bargaining Unit members who are recalled from layoff shall not serve a probationary period unless such member was on probationary status at the time his layoff became effective.

Section 12.9. No employees of the City or contracted workers shall work within this Bargaining Unit's classification while any member of the Bargaining Unit is laid off.

ARTICLE 13 – HOURS OF WORK & OVERTIME COMPENSATION

Section 13.1. The regular scheduled work week for all full-time Bargaining Unit Member shall be forty (40) hours in a seven day period, and a regular scheduled work day shall be eight (8) hours in a twenty-four (24) hour period, inclusive of a one thirty (30) minute lunch break and two (2) fifteen (15) minute breaks. At the supervisor's discretion, a dispatcher may combine all the breaks into one (1) one-hour lunch break. Such a change will not be unreasonably denied. Whenever possible, the Employer shall post assignments in advance, in four (4) week increments. However, nothing herein shall prevent the Employer from changing work schedules at any time for emergency reasons.

Section 13.2. Employees who are required by the Employer to work more than forty (40) hours in a seven (7) day work period shall be entitled to overtime compensation at one and one-half (1 ½) times their regular base rate of pay for all hours worked, and for all hours worked in excess of eight (8) hours in a work day. **If a dispatcher works more than forty (40) hours in a week or eight (8) hours in a day, solely as the result of voluntarily swapping shifts with another dispatcher, they will not be paid overtime. All swaps must be paid back within twelve (12) months.** If forced to work overtime, up to four (4) hours of overtime will be paid at time and one-half (1 ½) and forced overtime in excess of four (4) hours will be paid at double time. There shall be no pyramiding of overtime pay. For the purposes of this Section, the work day is the twenty-four (24) hour period beginning with the time the employee begins work. Payment for all such overtime shall be paid in cash, unless the employee exercises his right under Section 13.3.

The Employer shall have the right to change the beginning of the work period. If such change is intended to be permanent, the Union shall be notified forty-eight (48) hours in advance of any such permanent change.

Section 13.3. Any employee may, in lieu of cash payments for all actual hours worked in excess of the above-defined overtime thresholds, utilize compensatory time calculated at one and one-half (1 ½) times the excess hours worked. Compensatory time shall be accumulated and used in accordance with the Fair Labor Standards Act and regulations promulgated pursuant to it. Compensatory time records shall be imputed to the department's record keeping system. Thereafter accumulated compensatory time may be taken off by the employee at the employee's request and at the discretion of and with the approval of the Chief of Police. Accumulated compensatory time shall be taken off within a reasonable period of time after it is earned. If compensatory time cannot be taken off within a reasonable period of time after it is earned, the employee may elect to accumulate a FLSA Compensatory Time Bank not to exceed three hundred and sixty (360) hours. Once an employee reaches the max of three hundred sixty (360) hours, he may not accumulate more compensatory time. Employees may cash out compensatory time in order to reduce their bank to an amount below the compensatory time maximums. During the term of this Agreement the employer and the employees may mutually agree to change work schedules to provide for abnormal shifts or the current work schedule for other employees.

Section 13.4. Employees who wish to be paid for their accumulated compensatory time may request such payment from the Employer up to a maximum of three hundred and sixty (360) hours per year. Upon proof of a bona fide emergency, as determined by the Employer, an employee shall be entitled to payment within fourteen (14) days of making his request for all accumulated compensatory time at any time during the duration of this Agreement.

Section 13.5. It is the intent of the Employer to distribute overtime that is offered to the employees in the dispatcher's classification as equally as possible. The Employer shall be responsible for promulgating rules and procedures for the distribution of overtime. Overtime "when necessary", as determined by the Chief of Police or his designee, the least senior employee(s) on duty shall be ordered held over their regular shift in an overtime situation, but such emergency overtime shall not exceed four (4) hours for the bargaining unit member who shall be ordered to stay over. Where a violation of the rules and procedures pertaining to overtime equalization occurs, resulting in a lost overtime turn for an employee, the remedy shall be for the Employer to provide the employee an opportunity to make up the lost turn without the offered turn being charged against the employee.

Section 13.6. For the purpose of determining overtime compensation eligibility, any hours paid to an employee as "sick leave pay" shall be included for calculating the employee's overtime compensation eligibility.

ARTICLE 14 – COURT CALL IN ASSIGNMENT

Section 14.1. Full-time regular employees of the Employer in the Bargaining Unit scheduled' for court appearances on off-duty time shall be guaranteed a minimum of four (4) hour compensation for court appearances at Lorain Municipal Court and a minimum of six (6) hours of compensation for court appearances at Lorain County Courts, irrespective of the number of appearances made during such period. Any hours actually worked in excess of the aforementioned minimums shall be compensated on an hour-for-hour basis. The applicable rate of pay shall be in accordance with the provisions of Article 14 of this Agreement. Scheduled appearances on off-duty times at Courts or Commissions which are a distance greater than thirty (30) miles from the City of Lorain shall be compensated on an hour-for-hour basis. The employee shall have the Office of the Clerk of Courts time-stamp his arrival at the commencement of his court appearance and departure at the conclusion of his court appearance on a form provided by and returned to the Employer.

Section 14.2. "Call-In" pay is defined as payment for work assigned by the Chief of Police or his designated representative and performed by an employee at a time disconnected from and not abutting his normally scheduled hours of work. Employees who are called in to work shall be guaranteed a minimum of four (4) hours' pay for said call-in at the applicable rate of pay in accordance with the provisions of Article 13 of this Agreement.

ARTICLE 15 – TRAINING TIME

Section 15.1. Required training time, portal to portal, and required departmental business time to be compensated under the Fair Labor Standards Act shall be considered

hours worked and compensated on an hour-for-hour basis, at the applicable rate of pay, in accordance with other provisions of this Agreement. Matron training of at least sixteen (16) hours shall be provided to each TIO annually.

Section 15.2. In the event the Employer assigns an employee to attend a training session where an overnight stay is required, the employee shall be entitled to receive a per diem payment, in accordance with policies established by the Employer for other employees, for each day of the training school. **The per diem rate will be in accordance with the United States General Service Administration per diem rate for the city of travel per day for meals including gratuities.** When the duration of the school is known, per diem advances shall be provided upon written request of the trainee.

Section 15.3. Employees who are designated to train other employees in their classification shall receive **one-quarter (1/4) of an hour for each hour** of training that has been performed in accordance with the criteria established by the TIO/OPBA. Compensation shall be provided in the form of compensatory time for the first four (4) hours earned in a week, with additional hours earned in a week paid in either cash or compensatory time as determined by the City.

ARTICLE 16 - NEGOTIATIONS

Section 16.1. Employee members of the Union negotiation team who may be required to meet for purposes of labor contract negotiations during their regularly scheduled working hours, shall suffer no loss of straight time pay and shall be paid only for such time actually spent in negotiations for which the employee would have been otherwise scheduled to work.

ARTICLE 17 - LONGEVITY

Section 17.1 Longevity will be capped at \$225.00 per year times the number of years employed, after three (3) years.

<u>Years of Service</u>	<u>Years x \$225.00</u>
3	\$ 675.00
4	\$ 900.00
5	\$1125.00
6	\$1350.00
7	\$1575.00
8	\$1800.00
9	\$2025.00
10	\$2250.00
11	\$2475.00
12	\$2700.00
13	\$2925.00
14	\$3150.00
15	\$3375.00
16	\$3600.00
17	\$3825.00
18	\$4050.00
19	\$4275.00

Section 17.2. All time employed by the City of Lorain shall be counted towards seniority.

Section 17.3. An employee shall receive each applicable payment increase to which he is entitled beginning on the second scheduled pay date following his anniversary date or revised anniversary date of employment.

ARTICLE 18 - VACATIONS

Section 18.1. Bargaining Unit members who have completed one (1) full year of continuous service with the OPBA shall earn vacation with pay. An employee's length of continuous service for the purpose of this Article shall be determined by the employee's original date of hire and deducting any time in unpaid status. The amount of vacation leave to which an employee is entitled is based upon continuous length of service as follows:

<u>Length of Service</u>	<u>Vacation Hours</u>
One (1) year but less than seven (7) years	80 hours
Seven (7) years but less than fifteen (15) years	120 hours
Fifteen (15) years but less than twenty-five (25) years	160 hours
Twenty two (22) years or more	200 hours

The vacation hours for the current year shall be credit to the TIO's annual payroll vacation account (AVAC) by the second pay period in January. If an TIO changes vacation level during the year, the yearly vacation hours will be prorated based on the new step and the TIO's anniversary date (seniority date).

Newly hired employees of the OPBA shall have their first year vacation hours credited to their annual vacation account (AVAC) on the first anniversary of their employment. They will also receive a prorated number of hours for their second year of employment – these hours will be credited to their payroll account (VAC) - for example, an employee hired on July 1, 2007 will have on July 1, 2008, eighty (80) hours credited to the AVAC account and forty (40) hours credited to the VAC account – starting January 2009. Thereafter, the vacation credits will be added to the AVAC account on the first pay in January.

Section 18.2. Employees of the OPBA shall be allowed to accumulate up to three (3) years vacation leave in their VAC Account. Any balance in a VAC or any other banked time may be used to sign up for time off, which shall not be unreasonably denied. However, such time may not be used until the first two (2) rounds of vacation preference have been completed.

Beginning in 2008, any hours in the VAC account in excess of three (3) years shall be paid to the employee in the first pay period of April in the next succeeding year at the prior year's rate of pay.

In time of emergency, the Chief of Police may postpone annual vacation days. Emergency, as used in this Section, is defined as a situation whereby the absence of the dispatcher would have an adverse effect upon the health and safety of the citizens of Lorain. Any unused annual vacation during the calendar year shall be permitted to be carried over the next succeeding year for a period of six (6)

months. After six (6) months, any unused prior year vacation will be automatically paid to the dispatcher.

Employees of the TIO/OPBA should make every attempt to use their vacation days in the year they earn them. The Chief of Police is encouraged to allow employees of the OPBA to take their vacations each year. Should a TIO be terminated or retire during the year, any time off that will not be used shall be allowed to be bid upon by seniority. Any time off that does not cause overtime shall be allowed.

Section 18.3. The Chief of Police shall have the jurisdiction over the scheduling of vacation and shall have, in time of emergency, authority to suspend, postpone, or cancel vacation days. Such cancellations shall not be arbitrary or capricious. Reservations made after vacations are approved shall be reimbursed should they be cancelled.

Section 18.4. Upon separation from service, employees of the TIO/OPBA shall be entitled to compensation at their current rate of pay for all lawfully accrued and unused vacation leave in their VAC payroll account to their credit at the time of separation up to a maximum accrual period of three (3) years.

Upon separation from service, employees of the TIO Department shall be entitled to pay for any accrued but unused vacation time in their annual vacation payroll account (AVAC). Separation pay for this AVAC account will be prorated from January 1 of the year to the date of separation (the vacation credits in this account are for the current year. Thus, if an employee of the OPBA/TIO's separates, the vacation will be prorated.) If an employee has used all of their vacation time but separates before the end of the year, they will owe a prorated amount of the vacation used to the City of Lorain or it will be deducted from their separation pay.

ARTICLE 19 - HOLIDAYS

Section 19.1. There are hereby established the following paid holidays in the calendar year, comprising eleven (11) in number:

1. New Year's Day
2. Memorial Day
3. Veterans Day
4. Thanksgiving Day
5. Day after Thanksgiving
6. Christmas Day
7. Good Friday
8. Fourth of July
9. Labor Day
10. Day before Christmas
11. Martin Luther King Day (effective 1990)

Section 19.2. In addition to the above enumerated holidays, employees who have completed six (6) or more months of continuous service shall be entitled to the following days off with pay:

1. The employee's birthday
2. One (1) day during the calendar year for personal business

Section 19.3. In lieu of said holidays in Sections 19.1 and 19.2 above, employees shall be credited with leveling off time in the amount of one hundred four (104) hours, which time off shall be given at the discretion of the Police Chief. In addition, each employee shall receive one-half (1/2) hour of overtime pay for each hour worked on any holiday listed in Section 19.1, beyond the regular hourly wage. Employees may elect to take said pay in compensatory time.

Section 19.4. In addition to the holidays provided for in Sections 19.1 and 19.2 of this Article, employees shall be entitled to one (1) day, eight (8) hours, during the calendar year for the purpose of providing release from duty, when required, due to duty-related stress. Time off for such "Stress Day" shall be scheduled at the discretion of the Police Chief and in accordance with the Employer's procedures established for the scheduling of the "Personal Day" in Section 19.2, (#2) of this Article. Employees shall forfeit their right to take a stress day not scheduled off in the calendar year in which it is accrued. Employees shall not be entitled to compensation for an "accrued but unused stress day" upon layoff or separation from service with the Employer.

Section 19.5. Employees shall be entitled to eight (8) hours compensatory time slips for each full day in which a majority of the non-uniformed employees of the Employer are released from duty for holidays not otherwise provided for in Sections 19.1 and 19.2 of this Article due to emergencies declared by the Mayor of Lorain, Governor of Ohio, or President of the United States.

Section 19.6. If any employee takes time off from work based upon the Family Medical Leave Act, they shall be paid for all sick, compensatory, vacation and holiday time prior to going on an unpaid status. However, if said employee were to request in writing to the City, they may "save" **up to forty (40) hours of sick leave** any accrued holiday time for their return to work.

ARTICLE 20 – INSURANCE COVERAGE

Section 20.1 (A). All health, vision, prescription drugs and dental benefits coverage levels in effect on the date of execution of this Agreement will be continued in full force and effect for the duration of this Agreement unless otherwise mutually agreed upon.

The City of Lorain agrees to provide equivalent medical insurance coverage at or above the previous benefit levels including vision coverage, prescription drug coverage and dental coverage for all members of the Bargaining Unit.

Health Insurance Premiums:

2014 & 2015 - \$154.00 per month for Family Coverage
Family: \$15.00 non-tobacco use discount;
Family: \$15.00 completion of a physical discount

2014 & 2015 - \$71.00 per month for Single Coverage
Single: \$7.50 non-tobacco use discount;
Single: \$7.50 completion of physical discount

There shall be one COBRA rate determined by the Plan Administrator and that rate shall be determined on an annual basis and shall be comprised of the sum total of all City employees' medical, prescription, vision and other costs as provided under federal and/or state law.

Section 20.1 (B). Medical, prescription drug and Vision Benefits are defined in Appendix A.

Section 20.1 (C). The City shall provide all Bargaining Unit Members with a copy of the current medical and benefits plan within 120 days of execution of this Agreement. Any updates or changes to an equivalent plan shall be given to all Bargaining Unit members within a reasonable period of time.

Section 20.2. If an employee is covered by the City's Insurance and chooses to leave the City's coverage and elect coverage elsewhere, the City will pay the employee's monthly premium, up to two hundred dollars (\$200.00) per month.

Section 20.3 The City of Lorain will continue to provide for the administration of a Section 125 "Cafeteria Plan". This Cafeteria Plan will have an Open Enrollment period each January. The plan shall allow for employee pre-tax contributions to a Medical Savings Account. See Appendix B.

Section 20.4. The City will provide a High Deductible HSA with no employee premium.

Section 20.5. The City will provide Guardian Dental Insurance and will pay 85% of the dental premium.

Section 20.6. The City agrees to keep all insurance plan money separate from other City money and shall pay all insurance plan premiums and bills in a prompt and timely manner.

The City will abide by any applicable state or federal regulations with regard to the administration of Employee Health and Medical Insurance Coverage, however, the parties agree that ERISA is not an applicable federal regulation at this time. (Refer to Paragraph 37.036 Governmental Plans; state, local, and regional agencies)

The City shall require that any "In House" or Third Party Administrator of the Medical Insurance Plan will adhere to the following guidelines and will allow a Bargaining Unit Member an appeal provision that will include allowing a Bargaining Unit claimant to:

- A. Request from the Plan Administrator or Third Party Administrator a review of the eligibility status for any claim denied in whole or in part,
- B. Request from the Plan Administrator or Third Party Administrator a review of any claim payments for that Bargaining Unit member. Such requests shall include the name of the employee and the Social Security Number, the name of the patient and Group Identification Number, if any.
- C. File his request for review in writing, stating in clear and concise terms the reason or reasons for the disagreement with the handling of his claim.
- D. The request for review shall be directed to the Plan Administrator or the Third Party Administrator within sixty (60) days after the claim payment date or the date of the notification of denial of benefits.
- E. A review of the denial will be made by the Plan Administrator or the Third Party Administrator and the Plan Administrator or the Third Party Administrator shall provide the claimant with a written response within sixty (60) days of the date he receives the claimant's request for review. The Plan Administrator or the Third Party Administrator's response to the claimant shall, if the denial is upheld, cite the specific Plan provision(s) upon which the denial is based.
- F. If the claimant is not satisfied with the adjustment of any claim as provided herein, a grievance may be filed directly to Step 3 of the Grievance Procedure of this Agreement.
- G. In addition to the above and in the interest of encouraging employees to assist in the monitoring of the Health Insurance Plan, the following Hospital Self Audit Incentive Service shall apply to the Health Insurance Plan for all Bargaining Unit Members:

This service is payable in the event that a covered person discovers a billing error in a hospital or health care provider statement representing a claim for charges covered under the Plan.

The deductible and coinsurance level otherwise applicable in a calendar year will be adjusted to the extent necessary to reduce the "out of pocket expenses" of the covered person or the covered person will receive twenty five percent (25%) of the Plan's savings resulting from the discovery of an overcharge by the hospital and all medical providers, whichever amount is greater.

Section 20.7. Enrollment Criteria/General Information

1. For medical insurance, an open enrollment period shall be held every December/January. If an employee does not enroll in the Medical Insurance Plan at the time he is first eligible, a ninety (90) day waiting period may be required before coverage is effective. Coverage shall be effective the first of the month following the ninety (90) day waiting period. Pre existing condition exclusions shall apply.

2. If an employee and his dependents involuntarily lose insurance coverage(s) from any other plan, that employee and/or spouse and/or dependents are automatically eligible to enroll in the City's insurance coverage(s) with no pre-existing condition exclusions or waiting period. Notification of loss of insurance coverage(s) must be received by the Payroll Department within thirty (30) days of the loss of insurance coverage(s). If not received within thirty (30) days, pre-existing conditions and a waiting period may apply. Premium payments and insurance coverage(s) will begin the first of the month following notification or the first of the month following loss of insurance coverage(s), whichever is later. Written verification indicating date of loss of insurance coverage(s) from the previous employer shall be required.

3. For any insurance coverage, an employee already enrolled in the plan may switch from single to family coverage or family to single coverage, due to changes in marital status and/or additions and deletions of family members. Notification must be received in writing by the Payroll Department within thirty (30) days of the event in order for there to be no waiting period and pre-existing conditions exclusion. After thirty (30) days from the event, the ninety (90) day waiting period and pre-existing conditions and exclusions policy will apply.

4. Health Plans, optional insurance coverage (life, cancer, accident, etc.), must have a minimum of ten percent (10%) of the Bargaining Unit participation in order to maintain a payroll deduction status. All participants shall have thirty (30) days notice of coverage that no longer qualifies for availability through payroll deduction.

5. New employees will be eligible the first day of employment of the following month they are hired, provided proper enrollment forms are completed and turned in to the Benefits Manager. Pre-existing condition rules apply. Forms should be turned in within the first two (2) weeks of employment.

6. The City of Lorain provides spousal coverage as a Secondary Payer. The City of Lorain will be the Primary Payer if the spouse is not eligible for coverage elsewhere or if the reimbursement cost of the spousal coverage is, in the opinion of the City's Plan Administrator, detrimental to the financial integrity of the City of Lorain's Health Plan. Spouses provided coverage with their employer must elect coverage as provided herein.

The City of Lorain will not reimburse spouse's contributions for elective, dental, life insurance, vision, disability, family or a "high level" plan if a lesser-cost option is available.

Those spouses who have elected other employer coverage will still be eligible for those benefits offered by the City under family coverage, that are not covered by their employer's coverage. (i.e., prescription drug, vision, Flex Account, etc.)

Spouses will be reimbursed for their contributions on a quarterly basis with the spouse providing proof of coverage and proper documentation of their contributions.

Should a spouse no longer be eligible for benefits from their employer due to a qualifying event (full to part-time status, coverage of employer is no longer available, the City's Plan Administrator deems reimbursing contributions are detrimental to the City's Plan, termination of employment, etc.), the spouse will be covered under the City's Family Coverage.

Waiting limits and pre-existing conditions will be waived, providing the spouse notifies the City's Benefits Department of such change within thirty (30) days of occurring event. See Appendix 8 regarding Spousal Reimbursement.

7. Additions, changes and annual enrollment forms must be returned in thirty (30) days. Coordination of Benefits (COB) is applicable to ALL benefits. Requested COB information must be furnished or the City will be a secondary payer.

8. Plan changes that occur and are detected as enhancement or reductions in benefits due to errors, misunderstandings or misinterpretations of the claims administrator, will not become grandfathered or past practice inclusions, unless the enhancements or reductions are specifically negotiated.

Section 20.8. Each member of the Bargaining Unit who is actively employed by the City shall be entitled to Group Life Insurance Coverage in the face amount of twenty-five thousand dollars (\$25,000) with the cost of premiums for such coverage to be borne by the Employer. An employee who elects to retire and who has completed twenty (20) or more years of service with the Employer, shall be entitled to Group Life Insurance in the face amount of twelve thousand five hundred dollars (\$12,500) with the cost of premiums for such coverage to be borne by the Employer.

In addition to the above, the Employer shall continue to provide an Accidental Dismemberment and Accidental Death Policy in benefit amounts at least equivalent to those in effect on December 31, 1994 without cost to the Employees.

ARTICLE 21 – CLOTHING ALLOWANCE

Section 21.1. The City shall pay a lump sum uniform allowance to a Bargaining Unit Member for the purchase and/or replacement of uniforms and equipment in the amount of nine hundred dollars (\$900.00) per employee per year. The Employer shall replace any uniform or equipment, at no cost to the employee, if such is damaged or destroyed in the line of duty.

Section 21.2. The clothing allowance shall be paid by the second scheduled pay period in May and shall be pro-rated as to employees laid off or separated from service with the Employer prior thereto. There shall be no pro-ration in the event the employee separates from service with the Employer after payment of the clothing allowance has already been received.

ARTICLE 22 – PENSION PICK-UP

Section 22.1. Within a reasonable period of time after written approval of the Internal Revenue Service and the Employees Pension Fund (Public Employees Retirement System), the Employer will pick up the employee's ten percent (10%) contribution to the Public Employees Retirement System and any subsequent increases therein through the salary reduction method.

ARTICLE 23 – SICK LEAVE

Section 23.1. Sick leave will be earned and accumulated without limit at the rate of 4.6 hours for each bi-weekly period in active pay status. Pay for sick leave shall be at the employee's regular straight time hourly rate of pay.

Section 23.2. Sick leave shall be charged in minimum units of one (1) hour. An employee shall be charged for sick leave only for days upon which he would otherwise have been scheduled to work. Sick leave payment shall not exceed the normal scheduled work day or work week earnings.

Section 23.3. Sick leave may be granted to an employee upon approval of the Employer and in accordance with procedures established by the Police Chief for absence due to:

- a) Illness or injury of the employee or a member of his immediate family wherein the employee's presence is required;
- b) Death of a member of his immediate family (for definition of immediate family see Article 24.3)
- c) Exposure to a contagious disease wherein the presence of the employee at his job would jeopardize the health of others;
- d) Pregnancy and/or childbirth and other conditions related thereto.

Section 23.4. To be eligible for paid sick leave an employee must, prior to his scheduled starting time and in accordance with procedures established by the Police Chief, report the reason for his absence to the Chief of Police or his designee on each day involved, unless otherwise approved by the Employer.

Section 23.5. If medical attention is required, a certificate stating the nature of the illness from a licensed physician shall be required to justify the use of sick leave. When sick leave is requested to care for a member of the employee's immediate family, the Employer may require the employee to furnish a satisfactory written signed statement to justify that the presence of the employee is necessary to care for such family member. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action.

Section 23.6. An employee who is absent for more than three (3) consecutive work days due to an illness or injury, may be required at the discretion of the Chief of Police, to submit a physician's statement to the Employer for such illness or injury that required such absence.

Section 23.7. At the discretion of the Employer, an employee absent for more than thirty (30) work days due to an illness or injury may be required to undergo a medical examination by a licensed physician, to verify the employee's physical or mental ability to perform his duties, before being permitted to return to work. The Employer will pay the expense of said examination and shall further pay the employee for all time lost or sick leave used that is solely due to the Employer's

demand for examination, in the event the Employer's physician approves the employee's return to work.

Section 23.8. Application for sick leave with intent to defraud may result in disciplinary action. The Employer may initiate investigations when an employee is suspected of abusing sick leave privileges.

Section 23.9. Upon separation from service, an employee who has been employed by the City of Lorain for at least ten (10) years and not terminated for cause shall be paid:*

One hundred percent (100%). up to a maximum of nine hundred sixty (960) hours accrued sick leave at the employee's base rate of pay with thirty (30) years of service;*

Seventy-five percent (75%). up to a maximum of nine hundred sixty (960) hours of accrued sick leave at the employee's base rate of pay with twenty-five (25) years of service;*

Fifty percent (50%). up to a maximum of nine hundred and sixty (960) hours of accrued sick leave at the employee's base rate of pay with less than twenty-five (25) years of service.*

*Years of service for purposes of the Article, shall be as determined by the Public Employees Retirement System.

Section 23.10. Beginning on November 15th of each year starting in 1997, all employees who have at least two hundred forty (240) hours of banked sick time accumulated are eligible to participate in a sick leave "Buy Back" Program. Those employees will be allowed, if they so choose, to sell the sick time they have not used from November 15th to November 14th of the following year at a 2:1 ratio (50% pay). Banked sick leave may not be sold until retirement. This bonus is not subject to the PERS for either the employee or the Employer.

Each occurrence of sick leave (occurrence is any consecutive number of sick days) that is not accompanied with a medical excuse will be tracked by the City for possible discipline in each calendar year (January 1 to December 31). There shall be no discipline imposed for the first ten (10) sick leave occurrences without a medical excuse. The following chart indicates the various steps of progressive discipline for sick abuse.

<u>OCCURENCES IN A</u> <u>CALENDAR YEAR</u>	<u>DISCIPLINE</u>
11	Verbal Reprimand
12	Written Reprimand
13	1 Day Suspension
14	2 Day Suspension
15	3 Day Suspension
16	5 Day Suspension
17	10 Day Suspension
18	Termination

Family Medical Leaves shall not be counted as occurrences.

Section 23.11. Employees may donate sick leave to fellow employees. The intent of the Sick Leave Program is to allow employees to voluntarily provide assistance to their co-workers who are in critical need of sick leave due to the serious illness or injury of the employee.

- A. An employee may receive donated sick leave at a dollar per sick hour conversion rate. Donated hours shall be calculated by multiplying the hours donated by the rate of pay of the donor. Then the total will be divided by the rate of pay of the recipient to obtain the sick hours to be credited to the employee. Leave may be donated up to the number of hours the employee is scheduled to work each pay period. If the employee who is to receive the donated sick leave:
 - 1. Has a serious illness or injury;
 - 2. Does not have enough accrued sick leave for the pay period or has not been approved to receive other state paid benefits;
 - 3. Has requested in writing to receive donated sick time, certifying that the employee has a serious illness or injury;
 - 4. Has used the vacation, personal and/or comp hours they are entitled to and has applied for any paid leave, workers' compensation or benefits programs for which the employee is eligible. Employees who have applied for these programs may use donated leave to satisfy the waiting period for such benefits where applicable;
 - 5. Has, prior to the onset of the serious illness or injury, accrued sick leave in the amount of thirty-two (32) hours multiplied by the years of service of the employee. (Example: 10-year employee must have at least three hundred (300) hours at time of onset of serious illness or injury)
- B. Employees may donate sick leave if the donating employee:
 - 1. Voluntarily elects to donate sick leave and does so with the understanding that donated unused sick leave will be returned;
 - 2. Donates a minimum of eight (8) hours of accrued sick leave;
 - 3. Retains a sick leave balance of at least one hundred-twenty (120) hours.
- C. The sick leave donation program shall be administered on a pay period-by-pay period basis.
- D. Sick leave accrued by an employee while using donated sick leave shall be used, if

necessary, in the following pay period before additional donated leave may be used.

E.. Employee who wishes to donate sick leave shall put in writing:

1. The name of the employee for whom the donated sick leave is intended;
2. The number of hours to be donated. These donated hours will be deducted from the employee's bank of accrued sick leave as needed on a pay period-to-pay period basis.

ARTICLE 24 – BEREAVEMENT LEAVE

Section 24.1. Paid leave to attend the funeral of a member of the employee's immediate family shall be granted by the Employer for up to three (3) consecutive days. In each instance of such leave, the employee shall only be paid for those days on which he was scheduled to work. With the recommendation and approval of the Chief of Police, bereavement leave may be extended an additional three (3) consecutive days, such additional days to be drawn from the employee's accumulated sick leave.

Section 24.2. In order for an employee to be paid, proof of bereavement shall be presented to the Chief of Police upon return to work.

Section 24.3. For purposes of this Article, immediate family shall be defined as: spouse, parent, parent-in-law, step-parent, child, step-child, brother, sister, grandparent, grandparent-in-law, grandchild, half-brother, half-sister, brother-in-law or sister-in-law. Other relatives living in the same household shall be considered as immediate family.

ARTICLE 25 – INJURY-ON-DUTY BENEFITS

Section 25.1. Every full-time employee shall be entitled to apply for benefits under this Article on account of sickness or injury, provided that such disability was occasioned while ordered to assist any TIO while in the performance of his duties. In no event shall this provision entitle the employee to receive more than twelve (12) months full pay and thereafter, if further approved by the Safety/Service Director and Chief of Police, six (6) months full pay for the injury. The benefits shall be computed on the basis of forty (40) hours per week.

Section 25.2. To apply for benefits under Section 25.1 hereof, written application shall be made to the Director of Safety/Service and Chief of Police accompanied by a certificate from a registered physician stating that such employee is unable to work and that such disability is the result of or is connected with the duties of such employee. It shall be the duty of the Director of Public Safety/Service and the Chief of Police to approve or reject the application and in doing so, thereafter they may require examination by a registered physician of their selection.

Before any employee who has made application to the Chief of Police and Director of Safety/Service for benefits under this Article is entitled to receive any benefits under this Article, he shall first make application for workers' compensation benefits or any

compensation fund to which the Employer contributes and complete a reimbursement agreement. (See Appendix B). No employee shall be eligible for Employer paid injury-on-duty benefits until this requirement has been completed.

Section 25.3. When the employee's application is approved, the Chief of Police and Director of Safety/Service shall place the employee on such benefit status. The employee will be paid his full benefits as provided in Section 25.1 until such time as Worker's Compensation begins making payments, then the employee shall reimburse the Employer all back compensation for lost time from such fund and the Employer thereafter shall pay the employee his injury-on-duty benefits for lost time. Employees shall be entitled to retain Worker's Compensation benefits for temporary and permanent disabilities whether partial or total.

Section 25.4. In the event that an injury or disability requiring the employee to be off work for more than seven (7) calendar days is disallowed by the Compensation fund, the employee shall be charged with all time lost from work against this accumulated sick leave time to cover either all or part of the time off up to and including the date the claim is disallowed, then any monies paid to the employee by the Employer under this Article shall be repaid by the employee to the Employer.

Section 25.5. The City does not maintain nor are employees entitled to alternative (light duty) assignments. However, the City will consider requests for alternative assignments where such work is available and the employee has submitted medical documentation supporting the request. Decisions to grant such requests are at the discretion of the City.

ARTICLE 26 – SHIFT DIFFERENTIAL

Section 26.1. There are hereby established three (3) shifts in the TIO Department as follows:

- a) First Shift known as the day shift;
- b) Second Shift known as the afternoon shift;
- c) Third Shift known as the night shift.

Section 26.2. The employee working on the afternoon or second shift shall receive forty-five cents (\$.45) per hour in addition to their regular rate of pay. An employee working on the night or third shift shall receive fifty cents (\$.50) per hour in addition to their regular hourly rate of pay.

ARTICLE 27 – WAGES

Section 27.1. Each member of the TIO/OPBA Bargaining Unit shall be paid a base rate as follows:

	1/1/2014	1/1/2015	1/1/2016
Start (LEADS CERTIFIED)	31,056.10	31,677.22	Re-opener
1 year (LEADS CERTIFIED)	33,397.78	34,065.74	Re-opener

2 year (LEADS CERTIFIED)	35,739.90	36,454.70	Re-opener
Start (NON-LEADS)	30,444.09	31,052.97	Re-opener
1 year (NON-LEADS)	32,785.78	33,441.49	Re-opener
2 year (NON-LEADS)	35,127.90	35,830.46	Re-opener

*based on a 2% increase in 2014 and 2% increase in 2015

Section 27.2 TIO's with LEADS Certification shall receive an annual stipend of six hundred dollars (\$600.00) beginning January 1, 2014. On January 1, 2016 this amount shall be increased by four hundred dollars (\$400.00). This amount shall be applied to the TIO's base rate of pay. These are a one (1) time permanent addition.

ARTICLE 28 – NO STRIKE/NO LOCKOUT

Section 28.1. Inasmuch as this Agreement provides machinery for the orderly resolution of grievances, the Employer and the OPBA recognize their mutual responsibility to provide for the uninterrupted services essential to the public health, safety and welfare of the citizens of the City of Lorain. Therefore:

- A. The OPBA agrees that neither it, its officers, agents, representatives or members will authorize, instigate, cause, aid, condone or participate in any strike, work stoppage, sick out, walkout, slowdown or any other interruption or curtailment of operations or services of the Employer by its members.
- B. The Employer agrees that neither it, its officers, agents, representatives or employees, individually or collectively, will authorize, instigate, cause, aid, or condone any lockout of members of the OPBA unless those members shall have violated Subsection A of this Article.

Section 28.2. Nothing herein shall restrict any statutory rights of the Employer to act in regard to an illegal strike by its employees.

ARTICLE 29 – LEGAL DEFENSE & REIMBURSEMENT

Section 29.1. Civil Actions

- A. The Employer shall provide for the defense of a Bargaining Unit Member, in any state or federal court, in any civil action or proceeding or recover damages for injury, death or loss to persons or property allegedly caused by an act or omission of the employee in connection with the performance of his functions as a TIO, (whether governmental or proprietary), if the act or omission occurred or is alleged to have occurred while the employee was acting in good faith and not manifestly outside the scope of his employment or official responsibilities. Duty to

provide for the defense of an employee specified in this Section does not apply in a civil action or proceeding that is initiated by or on behalf of the Employer.

- B. Except as otherwise provided in Section 29.1 of this Article, the Employer shall indemnify and hold harmless a Bargaining Unit Employee in the amount of any judgment, other than a judgment for punitive or exemplary damages, that is obtained against the employee in a state or federal court or as a result of a law of a foreign jurisdiction and that is for damages for injury, death or loss to persons or property caused by an act or omission in connection with the performance of his functions as a TIO (whether governmental or proprietary), if at the time of the act or omission the member was acting in good faith and within the scope of his employment or official responsibilities.
- C. The Employer may enter into a consent judgment or settlement and may secure releases from liability for itself or an employee with respect to any claim for injury, death or loss to persons or property caused by an act or omission in connection with a governmental or proprietary function. No employee shall commence an action or appeal of any kind with respect to a decision of the Employer made in connection with this subparagraph (c) covering the circumstances or amount of a settlement or consent judgment.
- D. If the Employer refuses to provide a member with a defense in a civil action or proceeding as described in this Section 29.1, the member may file an action in the Lorain County Court of Common Pleas.

Section 29.2. Criminal Actions

A. (1) In the event a Bargaining Unit employee is subjected to criminal proceedings for an act or omission of the employee arising out of actions taken within the course and scope of the performance of his duties as a TIO and the employee is acquitted of any and all charges, the employee may submit an application to the City Council of Lorain, Ohio for payment of legal fees and costs incurred in connection with the defense of said charges.

(2) Lorain City Council shall consider the application for legal fees and costs on a case-by-case basis and shall consider the following factors in making its decision on the application:

- a) The extent to which the policies or procedures of the Employer and/or OPBA gave rise to the charges filed against the employee;
- b) The extent to which the criminal charges filed against the employee were the result of acts or omissions taken by the employee pursuant to direct orders of a superior officer or official employed by the Employer.

Lorain City Council may further take into account such other factors as it deems relevant to the application.

(3) Lorain City Council shall render its' decision on the application in writing and shall set forth in the decision the reason or reasons for the decision.

(4) A decision granting or denying an application in a particular case shall not be deemed a precedent for future or past cases.

B. Section 29.2 of this Article shall be subject to the Grievance Procedure provided however, the Arbitrator's authority shall be limited to the determination of whether or not Lorain City Council followed the procedural steps herein. In no event shall the substantive issues of the application or the ordering of reimbursement be subject to the Grievance Procedure or within the jurisdiction of the Arbitrator.

ARTICLE 30 - PRESENT BENEFITS & PAST PRACTICES

Section 30.1. All present benefits and past practices in effect prior to this Agreement and not covered by, in conflict with or superseded by this Agreement, shall remain in full force and effect, unless and until changed in writing by mutual agreement of the parties.

ARTICLE 31 - MANAGEMENT RIGHTS

Section 31.1. Except as specifically limited in this Agreement, the Employer shall have the exclusive right to administer the business of the City and the OPBA in addition to all other functions and responsibilities which are required by law. Specifically, the Employer's exclusive management rights include, but are not limited to the following:

- A. To manage and direct its employees, including the right to select, hire, promote, transfer, assign, evaluate, retain, layoff and recall or to reprimand, suspend, discharge, or discipline for just cause; to maintain order among employees;
- B. To promulgate and enforce employment rules and regulations and to otherwise exercise the prerogatives of management;
- C. To manage and determine the location, type and number of physical facilities, equipment, programs, and the work to be performed as it relates to recognized activities of the OPBA;
- D. To determine the TIO Department's goals, objectives, programs and services, and to utilize TIO Department personnel in a manner designed to effectively meet these purposes;
- E. To determine the size, composition, the number of shifts required, to establish work schedules, to establish hours of work, to establish, modify,

consolidate, or abolish jobs; and to determine staffing patterns, including, but not limited to the assignment of employees, qualifications required, and area worked;

- F. To determine the standards of quality and performance to be maintained in the TIO Department;
- G. To determine the necessity to schedule overtime and the amount required thereof;
- H. To maintain the security of records and other pertinent information;
- I. To determine overall budget;
- J. To maintain and improve the efficiency and effectiveness of the employer's operation;
- K. To determine and implement necessary actions in emergency situations; and
- L. To relieve employees from duty due to lack of work, or lack of funds.

Section 31.2. The OPBA recognizes and accepts that all rights and responsibilities of the employer not expressly restricted or modified in this Agreement or by law shall remain the function of the employer.

ARTICLE 32 - APPLICABLE LAWS & REGULATIONS

Section 32.1. All federal, state and local laws and regulations which relate to or affect the operation of the Lorain Police Department and/or relate to or affect the employees of the Bargaining Unit, except for those laws and regulations which are specifically and legally covered by, superseded by, or in conflict with the terms of this Collective Bargaining Agreement shall continue to be applicable to and binding upon the Employer and employees in the Bargaining Unit. Nothing in this Agreement shall be construed so as to limit the rights and liabilities of the parties to this Agreement which are provided by law or regulations except to the extent those rights and liabilities have been so modified by this Agreement.

Section 32.2. It is the further intent of the parties that no section of the Civil Service Laws contained in Ohio Revised Code Chapter 124 or the Local Rules and Regulations of the Lorain Civil Service Commission shall apply to employees in the Bargaining Unit. It is expressly understood that the Lorain Civil Service Commission shall have no authority or jurisdiction over matters subject to the Grievance Procedure of this Agreement.

The Lorain Civil Service Commission shall continue to have authority and/or jurisdiction over those matters which have not specifically been addressed in this Agreement.

ARTICLE 33 – WAIVER IN CASE OF EMERGENCY

Section 33.1. In cases of bona fide emergency declared by the President of the United States, the Governor of the State of Ohio, or the Mayor of Lorain, such acts of God or civil disorder, the following conditions of this Agreement may automatically be suspended at the discretion of the Employer:

1. Time limits for management replies on grievances or OPBA submissions of grievance.
2. Selected work rules and/or agreements and practices relating to the assignment of all employees; except that it is agreed that there be no loss of premium pay earned as set forth in this Agreement, unless otherwise mutually agreed upon between the parties.

Section 33.2. Upon the termination of the emergency, should valid grievances exist, they shall be processed in accordance with the provisions outlined in the Grievance Procedure and shall proceed from the applicable point in the Grievance Procedure to which they had properly progressed.

ARTICLE 34 - SEVERABILITY

Section 34.1. This Agreement is subject to all applicable federal laws and Chapter 4117 of the Ohio Revised Code and shall be interpreted wherever possible so as to comply fully with such laws, provisions, or any official decision interpreting them.

Section 34.2. Should any part of this Agreement or any provisions contained herein be declared invalid by operation of law or by a tribunal of competent jurisdiction, it shall be of no further force and effect, but such invalidation of a part or provision of this Agreement shall not invalidate the remaining portions and they shall remain in full force and effect.

In such event, the Employer and the OPBA will, at the request of either party hereto, promptly enter into discussions relative to the particular provision(s) deemed invalid and unenforceable. Should the parties reach mutual agreement on an alternate provision(s), such agreement shall be reduced to writing and signed by both parties.

ARTICLE 35 - DURATION OF AGREEMENT

Section 35.1. This Agreement shall be effective as of the date of ratification and shall remain in full force and effect until December 31, 2016.

Section 35.2. If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks upon receiving notice of intent.

Section 35.3. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any

subject matter not removed by law from the area of collective bargaining, and that the understanding and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The provisions of this Agreement constitute the entire agreement between the Employer and the OPBA and all prior agreements, either oral or written, are hereby canceled. Therefore, the Employer and the OPBA each voluntarily and unequivocally waive the right and each agrees that the other shall not be obligated to bargain collectively on any subject matter for the life of this Agreement.

Section 35.4. The parties have agreed that matters with cost implications will be retroactive to January 1, 2014. The parties have also agreed to wage increases in the first and second years of the contract of two percent (2%) each year with a wage re-opener in the third year. Either side may open. Article 13 – Section 13.1 – Hours of Work & Overtime Compensation may also be opened in the third year as part of the wage re-opener.

ARTICLE 36 - SENIORITY

Section 36.1. Seniority shall be defined as the uninterrupted length of continuous service as a full-time TIO. Should two (2) employees desire, they may swap shifts, so long as the switch does not cause overtime, with twenty-four (24) hours notice.

Section 36.2. New TIO's shall be considered as probationary for one (1) year following appointment to the position. Probationary employees may be removed for any reason. Upon completion of the probationary period, the employee shall be entered on the seniority list and shall rank in seniority from the first day of employment in the position.

Section 36.3. An employee who resigns or quits the department and requests to return to his employment within thirty (30) days shall be re-employed provided:

- a) The employee was not subject to disciplinary charges at the time he quit or resigned;
- b) The employee was not the subject matter of a criminal investigation or criminal charges at the time he quit or resigned;
- c) The Employer has not filled her position by other employees, probationary or non-probationary;
- d) The Employer has not abolished TIO's positions;
- e) The Employer has sufficient funds and/or sufficient work for the employee;
- f) The Chief of Police determines that the employee's return will not be detrimental to the operation and/or morale of the department,

Section 36.4. Subject to the provisions of Section 36.3 above, an employee who quits or resigns from the department and returns to his employment within thirty-one (31) days or less, shall not constitute a break in seniority, provided such employee shall not accrue any benefits during the period of absence.

ARTICLE 37 – SHIFT PREFERENCE

Section 37.1. Subject to the operational needs of the department, shift preferences will be awarded on the basis of department seniority within the employee's classification.

Section 37.2. Should a vacancy occur within a division, the shift of such vacancy will be offered, subject to the operational needs of the department, to the most senior employee that had selected that shift as a first choice, as defined in Section 37.1 in this Article.

Section 37.3. Should an anticipated specialized assignment occur that would be performed primarily outside the general duties of the radio dispatchers or records clerks, the new assignment shall be posted for two weeks and the position shall be awarded to the most qualified applicant.

ARTICLE 38 – CITY OF LORAIN ALCOHOL & DRUG TESTING POLICY

A. The City of Lorain has a strong commitment to the health, safety, and welfare of its employees, their families, and its customers. Widely available statistics and information establish that the incidence of drug and alcohol abuse is increasing and the effect is devastating to lives, business, and the community at large.

The City of Lorain is concerned that, in the event of substance abuse among our employees, the safety of our employees and the general public could be endangered. Our commitment to maintaining a safe and secure workplace requires a clear policy and supportive programs relating to the detection, treatment and prevention of substance abuse by employees.

It is the goal of the City of Lorain to provide a safe workplace by eliminating the hazards to health and job safety created by alcohol and other drug abuse. We believe this goal to be in the best interest of our employees and the general public.

B. The Personnel Department is responsible for implementing and communicating these policies. Any questions regarding these policies or

procedures should be directed to the Personnel Department.

- C. Employees are encouraged to voluntarily admit problems with drugs and alcohol prior to violating policies of the Employer.

Employees who voluntarily admit problems with drugs or alcohol prior to violating these policies will not have his or her job security or promotional opportunities jeopardized by a request for treatment. Employees should not read this to mean that a request for treatment will automatically excuse them from discipline or discharge where the Employer initiates corrective action for violation of these policies and/or for manufacturing, distributing, dispensing, possessing, or using drugs in the workplace. Rather, an employee who seeks treatment on his or her own initiative is in a better position than one who brings up a drinking or drug problem for the first time in response to an investigation on the Employer's initiation of corrective action. An Employee shall not be disciplined for first time admission of drug or alcohol dependency.

It will be the responsibility of the employee to comply with the Employer representative's referral for diagnosis, and it is also the employee's responsibility to cooperate with the prescribed treatment. An employee's refusal to accept referral or follow the prescribed plan of treatment may be considered insubordination only after first being warned that such refusal would be considered insubordination. An employee who is referred to a drug rehabilitation program and fails to satisfactorily participate in the program may be terminated from employment. Referral to a rehabilitation program is designed primarily for those employees who appear to have a treatable condition, not to protect those who manufacture, distribute, or dispense drugs in the workplace.

- D. This policy applies to all employees of the Employer while on the job and to situations where an employee's off-the-job or off-premises conduct impairs work performance or undermines public confidence in, or harms the reputation of the City of Lorain.

Although the Employer respects the private lives of its employees, we recognize that involvement with alcohol and other drugs off the job eventually takes its toll on job performance. We want to assure that employees report to work in condition to perform their duties safely and efficiently in the interest of their fellow workers and the public as well as themselves.

- E. It is the policy of the City of Lorain that all employees are prohibited from engaging in the following:
1. Reporting to duty or remaining on duty while having an alcohol concentration of .04 BAC Level Concentration or greater;
 2. Reporting to duty or remaining on duty while using a controlled substance, including prescription drugs that impair the employee's ability to perform the assigned duties, unless the prescribing doctor has approved the employee's use of the prescribed drug while working;
 3. Testing positive for illegal controlled substances;

4. Possessing alcohol or illegal controlled substances while on duty;
5. Using alcohol or illegal controlled substances while on duty;
6. Refusing to submit to a post-accident, reasonable suspicion, return-to-duty, or follow up alcohol or controlled substance test.

F. If an employee violates any of the prohibitions listed in Section E of this policy, the following consequences will result:

1. The employee may be disciplined up to and including dismissal;
2. The employee may be reassigned;
3. The employee will be provided with information regarding the services available for alcohol and substance abuse;
4. The employee will be referred for an evaluation by a substance abuse professional (SAP);
5. The employee will be subject to reevaluation, return-to-duty testing, and un-announced follow-up testing of up to three (3) times during the six (6) month period of returning to work, and is required to report the use of any prescription or nonprescription medicines containing alcohol or controlled substances to his supervisor.

G. An employee will be required to submit to testing for alcohol and/or controlled substances under the following circumstances:

1. Pre-Employment Testing: Prior to the first time an employee performs official duties for the Employer, or within ninety (90) days of employment, the employee will be tested for alcohol and controlled substances. The employee will not be hired unless the alcohol and controlled substance test results are negative.
2. Reasonable Suspicion Testing: A trained supervisor or official may require an employee to undergo testing for alcohol or controlled substances based upon specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. Such facts and inferences may be based on, but are not limited to, any of the following:
 - a. Observable phenomena, such as direct observation of drug or alcohol use, possession, or distribution, or the physical symptoms of being under the influence of drugs or alcohol, such as, but not limited to, slurred speech, odor of alcohol or marijuana, etc.;
 - b. An established pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance (e.g., frequent absenteeism, recurrent accident, etc.) which appears to be related to substance abuse and does not appear to be attributable to other factors;

- c. The identification of an employee as the focus of a criminal investigation into unauthorized drug possession, use, or trafficking;
 - d. A signed written report of alcohol or other drug use provided by a reliable, credible and identified source;
 - e. Repeated or flagrant violations of the Employer's safety or work rules, which are determined by a supervisor to pose a substantial risk of physical injury or property damage and which appear to be related to substance use that do not appear attributable to other factors.
3. Return-To-Duty Testing: Before an employee who has been found to be in violation of the prohibitions section of this policy set out in Section C may return to duty, the employee must undergo testing for alcohol and controlled substances. The results of the alcohol test must show less than .04 BAC Level Concentration if the offense involved alcohol, and the controlled substance test must be negative if the offense involved a controlled substances.
4. Follow-Up Testing: When an employee has been found to be in violation of the prohibitions section of this policy set out in Section C, the employee will be subject to a minimum of three (3) unannounced follow-up tests, in addition to the Return-To-Duty Test, within the first six (6) months following the employee's return to duty.
5. Random Testing:
- A. All employees are subject to periodic controlled substance drug testing without notice. If an employee refuses to take such a drug test, the employee may be subject to discharge or suspension at the discretion of the City of Lorain, Ohio.
 - B. Tests will be conducted on a random basis at unannounced time throughout the year. Random test for controlled substance drugs may be conducted just before, during or just after the performance of safety-sensitive functions but are not limited to the immediate time proximity of the performance of safety-sensitive functions. Once notified of selection for drug testing, the employee must proceed to a collection site to provide a urine specimen.
 - C. Employees will be selected by a scientifically random process, and each employee will have an equal chance of being tested each time selections are made. The number of employees selected for random testing will be in accordance with Level 2 or Level 3 OBWC Regulations.
6. Post-Accident Testing:
- Post-accident drug/alcohol testing shall be administered where any of the following circumstances occur:
- 1. A fatality of anyone involved in the accident;

2. Bodily injury to the employee and/or another person that requires off-site medical attention;
3. Any vehicular damage in apparent excess of \$500.00;
4. Non-vehicular damage in apparent excess of \$500.00.

H. All drug screening and confirmation tests shall be conducted by a laboratory certified under the DHHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs." The Employer and the laboratory shall have a clear and well documented procedure for collection, shipment, and accessing of urine specimens. The procedures utilized by the Employer and the laboratory shall include an evidentiary chain of custody and control and split sample collection and testing.

The collection site person is responsible for maintaining the integrity of the specimen collection and transfer process. All procedures shall be outlined in writing and provided to the Employer representatives and donors.

Each specimen will be tested for the following ten (10) substances:

<u>Substance</u>	<u>Initial Level</u>	<u>Confirmation Level</u>
Amphetamines	1,000	Level
Barbiturates	300	200
Benzodiazepines	300	300
Cannabinoids	50	15
Cocaine Metabolites	300	150
Methadone	300	300
Methaqualones	300	100
Opiate Metabolites	300**+	300+
6-Acetylmorphine***		10***
Phencyclidine (PCP)	25	25
Propoxyphene	300	300

** 25 ng/ml if immunoassay specific for free morphine

+ Initial and confirmatory test levels are changed to 2,000 ng/ml effective May 1, 1998; also disregard ** above on that date

*** 4 test for 6-AM when the morphine concentration exceeds 2,000 ng/ml; drug confirmatory test for this drug effective May 1, 1998.

I. Alcohol tests shall be administered using a breath or saliva initial screen with a confirmatory evidential breath test administered by a trained breath alcohol technician (BAT) or a law enforcement officer certified to conduct such tests. (Note for BWC Program: If an EBT is not available or reasonably accessible, a blood test shall be made available to the employee, per the BWC requirements) All tests shall be administered in accordance with federal standards for alcohol testing.

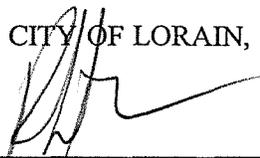
- J. Refusal to submit to any of the alcohol or controlled substance tests required by this policy may result in the employee's immediate unpaid suspension after the employee is informed that their refusal may result in said suspension. Actions constituting a refusal to submit to a test include:
1. Providing adequate breath for alcohol testing, or failing to provide adequate urine for controlled substance testing;
 2. Engaging in conduct that clearly obstructs the testing procedure;
 3. Failing to remain readily available for a post-accident test;
 4. Attempting to substitute and/or adulterate the specimen.
- K. This policy is not to be utilized for criminal law enforcement purposes. However, this policy does not prevent criminal law enforcement investigation of illegal activity. For example, an employee charged with operating a motor vehicle under the influence of alcohol and/or drugs of abuse (OMVI) may be required to submit to testing as part of the criminal investigation and the procedures of this policy would not be applicable to that investigation. Furthermore, evidence derived in a criminal investigation including drug and alcohol testing, may be used as evidence in a disciplinary proceeding.
- L. All employees shall receive at least two (2) hours of annual training covering the Employer's written policy and the dangers of, and signs and symptoms associated with, substance abuse. Each employee shall receive and sign an acknowledgment of receipt of the Employer's written policy and the required training annually.
- M. All supervisors shall receive at least two (2) hours of initial training upon implementation of this policy and two (2) hours of refresher training annually, thereafter, on the supervisor's role and responsibility in administering this program. The training shall include the signs and symptoms of substance abuse, documentation, confrontation and intervention methods, referral, and follow-up.
- N. Information regarding the effects of alcohol and controlled substance use on an individual's health, work and personal life, and information about drug and alcohol counseling, rehabilitation, and employee assistance programs is available through the Personnel Department (EAP Program), and will be periodically provided to employees.
- O. All records relating to an employee's testing shall be maintained as confidential medical records.
- P. All employees subject to this policy remain subject to all other policies, procedures, rules, regulations, and collective bargaining agreements established by the Employer under its independent authority which are not inconsistent with the requirements herein. All employees also remain subject to all other relevant federal, state and local laws and regulations.

ARTICLE 39 - EXECUTION

Section 39.1. IN WITNESS WHEREOF the parties hereto have caused this

Agreement to be duly executed this 3rd day of February, 2015

FOR THE CITY OF LORAIN, OHIO:



ROBERT FOWLER, DIRECTOR
PUBLIC SAFETY/SERVICE
CITY OF LORAIN, OHIO

DIRECTOR OF LAW

FOR THE OHIO

DATE: _____

FOR PATROLMEN'S
BENEVOLENT ASSOCIATION

Erin Sargent

UA Fairling

[Signature]

APPROVED AS TO FORM:

[Signature] (2/5/15)
LORAIN LAW DIRECTOR