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***AGREEMENT BETWEEN THE  
CITY OF FAIRLAWN  
AND  
OHIO PATROLMEN'S BENEVOLENT ASSOCIATION  
(PART-TIME PATROL OFFICERS)  
  
EFFECTIVE JANUARY 1, 2016  
THROUGH DECEMBER 31, 2018***

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Approved by Fairlawn City Council on April 18, 2016 by Ordinance 2016-030

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**ARTICLE 1**  
**PREAMBLE**

Section 1.1. This Agreement is entered into by and between the City of Fairlawn, hereinafter referred to as the “City” or “Employer,” and the Ohio Patrolmen’s Benevolent Association, hereinafter referred to as the “OPBA” or “Union.”

**ARTICLE 2**  
**RECOGNITION**

Section 2.1. The City hereby recognizes the OPBA as the sole and exclusive bargaining agent for the purpose of collective bargaining on any and all matters related to wages, hours, or terms and conditions of employment of all Part-Time Patrol Officers employed by the City of Fairlawn, as identified in SERB Case No. 2004-MED-03-0340.

Section 2.2. Positions excluded from the above-described bargaining unit shall be all other positions, including but not limited to, all management-level, supervisory, confidential, seasonal, casual and student employees, all Communications Specialists, the Chief of Police, all Police Sergeants and above, all full-time Police Patrol Officers, and all other employees.

**ARTICLE 3**  
**DUES DEDUCTION**

Section 3.1. Dues Deduction. The Employer agrees to deduct OPBA membership dues in accordance with this Article for all employees eligible for the bargaining unit upon the successful completion of a sixty day period.

Section 3.2. Requirements of Deduction. The Employer agrees to deduct regular OPBA membership dues once each month from the pay of any employee in the bargaining unit eligible for such deduction upon receiving written authorization signed individually and voluntarily by the employee. The agreed-to signed payroll deduction form must be presented to the Employer by the employee. Upon receipt of the proper authorization, the Employer will deduct OPBA dues from the first payroll check for each calendar month in which dues are normally deducted. Such dues will be remitted to the OPBA within thirty days from the date of making said deduction.

Section 3.3. Indemnification. The parties agree that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of OPBA dues. The OPBA hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions or proceedings by any employee 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 3.4. Termination of Deductions. 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) written revocation of the check-off authorization in accordance with the terms of this Agreement; or (5) resignation by the employee from the OPBA.

Section 3.5. Insufficient Wages for Deduction. 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 dues.

Section 3.6. Errors in Processing. The parties agree that neither the employees nor the OPBA shall have a claim against the Employer for errors in processing of deductions, unless a claim of error is made to the Employer in writing within sixty (60) 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 3.7. Notification. The OPBA shall notify the Employer in writing of any increase in the current dues being deducted. Such increase of dues shall be deducted in the second pay period following notification of any increase in dues.

**ARTICLE 4**  
**FAIR SHARE**

Section 4.1. Fair Share Contribution. The Union shall establish a fair share fee not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union.

After completion of the probationary period, a police officer, who is a member of the bargaining unit covered by this Agreement, as a condition of continued employment, must either become a member of the Union or pay to the Union a "Fair Share Fee" not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union.

Section 4.2. Payroll Deduction. Fair share fees shall be paid by automatic payroll deduction. Fair share fee deductions do not require prior authorization from the affected employees.

Fair share fee deductions and transmittals shall be made in the same manner provided by this Agreement for regular dues deductions.

Fair share fees shall equal regular OPBA dues reduced, in advance, by the payer's proportionate share of all expenses which do not arise, directly, out of the OPBA's duty of fair representation to the employees governed by this Agreement.

Any employee required to pay a fair share fee under this Article may challenge the amount of that fee as set forth in the OPBA challenge and rebate procedure. The Employer's obligation to deduct fair share fees is contingent upon:

- A. The OPBA's fulfillment, on behalf of each non-member, bargaining unit employee, of each obligation established in the OPBA challenge and rebate procedure.
- B. Maintenance of a constitutionally adequate challenge and rebate procedure.
- C. The OPBA may amend its challenge and rebate procedure by providing the employee a written copy of the procedure as amended. Changes in the amounts to be deducted shall become effective on the thirtieth (30) calendar day after their actual receipt by the Employer.

The OPBA warrants and guarantees that no provision of this Article violates the laws or constitutions of either the United States of America or the State of Ohio. The Employer's financial liability under this Article is limited to deduction and transmittal of fair share fees. The OPBA shall indemnify, save and hold the Employer harmless from any claim, actions or proceedings brought by a person or entity as a result of deductions made by the Employer pursuant to this Article.

Section 4.3. Political Contribution. If a unit member does not wish to contribute that portion of his "Fair Share Fee" which is used in support of partisan politics or ideological causes which are not germane to the Union's role in collective bargaining with employer entities, he may seek a rebate of this portion of his "Fair Share Fee" payment. Once such a rebate is requested and granted, it shall be made monthly until the unit member withdraws his/her request for this rebate.

Section 4.4. Religious Contribution. Any unit member who also is a member of, and adheres to, established and traditional tenets and 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 provision of the Internal Revenue Code, shall not be required to join or support financially any employee organization, the employee shall be required, in lieu of a "Fair Share Fee" to contribute a like amount to a non-religious charitable fund exempt from taxation under Sections (501) (C) (3) of the Internal Revenue code mutually agreed upon by the employee and a representative of the employee's organization to which the employee would otherwise be required to pay a "Fair Share Fee". The employee shall furnish to the employee organization written receipts evidencing such payment, and failure to make such payment or furnish such receipt shall subject the employee to the same sanctions as would non-payment of dues under the applicable collective bargaining agreement. This Section shall not be construed as a provision requiring any public employee to become a member of an employee organization as a condition of securing or retaining employment.

**ARTICLE 5**  
**NO STRIKE**

Section 5.1. No Strike. The Employer and the Employees realize that the grievance procedure provided herein is an adequate means to provide for the orderly resolution of grievances. The parties, therefore, agree to the following:

- A. Neither the OPBA nor any member of the bargaining unit, for the duration of the Agreement, shall directly or indirectly call, sanction, encourage, authorize, instigate, aid, condone, participate in or assist in any way any strike, sympathy strike, slowdown, walkout, mass resignation, work stoppage, concerted failure to be available for work or to report for work, or any other concerted activities which interrupt the operations or services of the Employer by its members.
  
- B. In all cases of strike, sympathy strike, slowdown, walkout, or any unauthorized cessation of work in violation of this Agreement, the OPBA shall undertake every reasonable means to induce any such bargaining unit members to return to their jobs, during any such period of unauthorized stoppage of work mentioned above. It is specifically understood and agreed that the Employer during such unauthorized work stoppage or job action shall have the whole and complete right to discipline.

Section 5.2. Lockout. The Employer shall not lockout any employees for the duration of this Agreement.

**ARTICLE 6**  
**MANAGEMENT RIGHTS**

Section 6.1. Management Rights. Not by way of limitation of the following paragraph, but to only indicate the type of matters or rights which belong to and are inherent to the Employer, the Employer retains the right to:

- A. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the Employer, standards of services, its overall budget, utilization of technology, and organizational structure.
- B. Determine the qualifications and basis for selection, retention and promotion of its employees.
- C. Determine the number of persons required to be employed, laid off or discharged.
- D. Hire, direct, supervise, evaluate and manage the employees covered by this Agreement.
- E. Suspend, discipline, demote or discharge the employees covered by this Agreement.
- F. Determine the starting and quitting time and the number of hours to be worked by the employees covered by this Agreement
- G. Determine the work assignments of employees covered by this Agreement.
- H. Determine the work standards and the quality and quantity of work to be produced.
- I. Establish, modify, consolidate, layoff or abolish jobs.
- J. Reorganize, discontinue, reduce or enlarge the number of employees providing services under this Agreement.
- K. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted.
- L. Implement any and all rules, regulations, policies and procedures.
- M. Determine the type of equipment used and the sequence of work processes.
- N. Establish, expand, transfer and/or consolidate work processes and facilities.

- O. Terminate or eliminate all or any part of its work or facilities; consolidate, merge or otherwise transfer any or all of its work or facilities with or to any other department, division, municipality or entity; or change in any respect the legal status, management or responsibility of such work or facilities.

Section 6.2. Waiver. The Union agrees that all of the functions, rights, powers, responsibilities and authority of the Employer in regard to the operation of its work and business, and the direction of its workforce, which have not been specifically modified by the express and specific written provisions of this Agreement, are reserved to the sole and exclusive management and discretion of the Employer, and the Employer is not required to bargain on its exercise of its management rights.

Section 6.3. Authority of Chief or designee. The Chief, or his designee, shall have the authority to make and implement decisions and exercise management rights in the operation of the Police Department.

## **ARTICLE 7**

### **EMPLOYEES' BILL OF RIGHTS**

Section 7.1. Employee Rights. When a member of the bargaining unit is subject to formal interview in regard to a matter directly related to immediate disciplinary action or apparent future disciplinary action which may result in suspension or dismissal, the interview shall be conducted under the following conditions.

Interviews shall be conducted when the member is on duty or after 48 hours notice if the member is not on duty unless the seriousness of the investigation is of such a degree that immediate action is required.

Such interview shall take place at the Fairlawn Police Department.

The member under interview shall be informed of the officer in charge of the interview and all persons present during the interview. All questions directed to the member shall be asked by and through one interrogator unless waived by the member.

The member under interview shall be informed of the nature of the investigation and his right to Union representation prior to any interview.

Interview sessions shall be for a reasonable period and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

At the request of the bargaining unit member under interview, he shall have the right to be represented and have present counsel or any other bargaining unit member designated as a representative, unless waived by the member. The interview shall be suspended for a reasonable time until representation can be obtained.

The member under interview shall not be threatened during any interview, but if applicable, shall be advised that they may be placed on unpaid administrative leave until completion of the investigation.

If a member, while being interviewed, becomes a suspect of a criminal action, and/or such interview becomes an interrogation, as a result of the interview, he shall be informed of his constitutional rights.

A complete record, either written, taped or transcribed, shall be kept of the complete interview of the member, and all recess periods shall be noted. A copy of the record shall be available to the member or his counsel upon request.

The member shall receive a copy of the final Departmental or Administrative decision as to the investigation.

This Article provides for the protection of the bargaining unit members of job-related incidents that require interviews stemming from an ongoing investigation.

Any member who has been accused of misconduct or a violation of the departmental rules and regulations, and such accusations are made by a citizen, which requires an investigation by the department, shall be provided a written and signed statement by the party or parties who have made such accusations. A copy of this report shall be made available to the bargaining unit member upon any interview.

**ARTICLE 8**  
**DISCIPLINE**

Section 8.1. No non-probationary employee shall be suspended or discharged, except for just cause. This just cause standard does not apply to newly hired probationary employees who are employees at-will and may be given verbal warnings, written reprimands, suspensions or have their employment terminated any time during their probationary period without recourse. Forms of disciplinary action include:

- A. Documented verbal warning;
- B. Written reprimand;
- C. Suspension without pay; and
- D. Discharge from employment.

Discipline shall be applied in a corrective, progressive and uniform manner within the bargaining unit, except in cases of serious misconduct. The Employer reserves the right to decide what discipline, if any, is appropriate.

Section 8.2. Whenever the Employer determines that a non-probationary employee may be suspended or terminated for disciplinary reasons, a pre-disciplinary conference will be scheduled to give the employee an opportunity to offer an explanation of the alleged misconduct. In the pre-disciplinary conference, the employee facing disciplinary charges, at his/her request, shall be permitted the opportunity to have counsel or a Union officer present. The Employer shall determine who will conduct the pre-disciplinary conference. The pre-disciplinary conference shall be informal, and shall not be a full-blown evidentiary hearing. The Employer may place an employee facing potential suspension or termination on unpaid administrative leave prior and/or subsequent to the pre-disciplinary conference, in cases where the Employer determines that it is in the best interests of the City to do so.

Section 8.3. Not less than twenty-four (24) hours prior to the scheduled starting time of the pre-disciplinary conference, the Employer will make available to the employee a written outline of the charges that may form the basis for the action, together with written notification of the date, time and place of the pre-disciplinary conference. The employee must choose to:

- A. Appear at the pre-disciplinary conference to present an oral or written statement in his/her defense;
- B. Appear at the pre-disciplinary conference and have one (1) Union representative present an oral or written statement in his/her defense; or
- C. Elect in writing to waive the opportunity to have a pre-disciplinary conference.

Failure to elect or pursue one of these three (3) options will be deemed a waiver of the employee's right to a pre-disciplinary conference.

Section 8.4. Employees shall be given a copy of any written reprimand, or other written disciplinary action in their personnel file. An employee's signature on any document shall mean that he/she has seen and received a copy of the document, but does not necessarily mean that the employee agrees with the content of the document unless it is so stated in the document itself or in any accompanying document.

Section 8.5. Any non-probationary employee who is suspended or discharged will be given a written statement describing the reason or reasons for which he or she has been suspended or discharged. In the case of a suspension, he/she will be advised of the duration of the suspension.

Section 8.6. Verbal warnings, written reprimands and suspension of three (3) working days or less may be appealed by non-probationary employees only up through Step 4 of the Grievance Procedure, and shall not be arbitrable. If a verbal warning, written reprimand or suspension of three working days or less is used as a basis for further disciplinary action, such warning or reprimand will be incorporated into the higher level of discipline. Records of verbal warnings and written reprimands which are more than two (2) years old shall not be considered when determining the appropriate discipline to be imposed, provided that there is no intervening disciplinary action taken during the two (2) year period.

Section 8.7. All grievances involving suspensions of more than three (3) working days and dismissals shall start at Step 4 of the Grievance Procedure.

## **ARTICLE 9**

### **PRESS RELEASES**

Section 9.1. Press Releases. When an officer is charged with or under investigation for violations of the Fairlawn Police Department rules and regulations, reasonable efforts, consistent with applicable law shall be made to withhold the name of such officer(s) and the extent of disciplinary action taken until such time as the officer(s) has been served with charges or exonerated.

**ARTICLE 10**  
**PERSONNEL FILES**

Section 10.1. Personnel Files. The City Administration and/or Civil Service Commission shall maintain the only official personnel files of the bargaining unit members. No other file shall be used for the purpose of reference to any action for discipline of the member, or evaluation. Except as provided herein, any member of the bargaining unit shall, upon written request, be permitted to review and have a copy of any material in his or her personnel file during hours the City Administrative Office is normally open for business. Medical information that is restricted by the provider shall not be subject to review and/or copying by the member.

Should a bargaining unit member upon review of his or her file, read/observe material of an adverse nature, said bargaining unit member may provide a written and signed comment in response to said adverse material. Such comment shall remain in the bargaining unit member's file as long as the adverse material remains.

**ARTICLE 11**  
**PROBATIONARY PERIOD**

Section 11.1. All employees shall be required to complete a probationary period of one (1) year from their date of appointment. No appointment is final until the employee has satisfactorily served his or her probationary period. Probationary employees are employees at-will and are subject to disciplinary action, including but not limited to, termination without recourse at any time during their probationary period.

**ARTICLE 12**  
**ACTIVE SERVICE**

Section 12.1. Except as otherwise defined in this Agreement, where the term "active service" is used, it means active service with the Division of Police, beginning at the Employee's initial date of hire with that Division.

**ARTICLE 13**  
**OFFICERS AND UNION REPRESENTATIVES AND UNION REPRESENTATION**

Section 13.1. The Union shall at all times keep the Mayor and the Chief of Police advised in writing of the name of its officers and members of all committees authorized to act on behalf of the Union. Any changes in Union personnel are to be immediately forwarded to the above-mentioned individuals in writing.

Section 13.2. Union members who are working during a Union meeting may attend such meeting, but must be available to respond to any dispatched call without delay. Meetings must be conducted in the City of Fairlawn to qualify the member for attendance.

Section 13.3. Two (2) members of the bargaining unit shall be entitled to attend all meetings between the City and the Union for the purpose of contract negotiations. When such a negotiations session takes place at a time when a member is scheduled to work for the City, the member will be granted leave with pay for the period that the negotiations session occurs during the member's scheduled shift. Such attendance shall not interfere with the effective operations of the Department.

Section 13.4. The Union will notify the Chief of the time and date of the Union monthly meetings, and such meetings will be within the City of Fairlawn. All officers on duty may attend but must be available to respond to any dispatched call without delay.

Section 13.5. The Union Director and/or a non-employee representative of the Union may attend any disciplinary hearings should such presence be required.

**ARTICLE 14**  
**GRIEVANCE PROCEDURE**

Section 14.1. The term "grievance" shall mean an allegation by a bargaining unit employee that there has been a violation or misinterpretation of the express terms of this Agreement. The grievance procedures shall not be used to affect changes in the Articles of this Agreement nor those matters not covered by the express terms of this Agreement. A Grievance Chairperson will be elected, and all grievances will be reviewed, then presented to the designated supervisor by the Grievance Chairperson.

Section 14.2. Process. All grievances must be processed at the proper Step in order to be considered at subsequent Steps. Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse. Any grievance which is not processed by the employee within the time limits provided, shall be considered resolved based upon the Employer's last answer.

Any grievance not answered by the Employer within the stipulated time limits may be advanced by the employee to the next step in the grievance procedure. All time limits on grievances may be extended by mutual consent of the parties within five (5) working days from the last day that the Employer had to respond to the grievance.

Section 14.3. Procedure. It is the mutual desire of the Employer and the Union to provide for prompt adjustment of grievances, with a minimum amount of interruption of the work schedules. Every reasonable effort shall be made by the Employer, the Grievance Chairperson and Union to effect the resolution of grievances at the earliest step possible. No settlement of any grievance shall conflict with the terms of this Agreement. In furtherance of this objective, the following procedure shall be followed:

Step 1: The grievance must be presented in writing to a designated supervisor by the Grievance Chairperson within five (5) working days from the date that the alleged incident occurred, but in no case later than twenty (20) calendar days following the date of such incident. Within five (5) working days from the date the employee first presents his written grievance, the supervisor will deliver his written response.

Step 2: If the grievance is not resolved, the Grievance Chairperson may pursue the matter by presenting the grievance and the supervisor's response in writing to the Chief of Police or his designee, within five (5) working days of the reply received in Step 1. The Chief, or his designee, shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step.

Step 3: If the grievance is not resolved, the Grievance Chairperson may pursue the matter by presenting the written responses to the Safety Director within five (5) working days of the reply received in Step 2. The Safety Director shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step. If the Mayor is also serving as the Safety Director, this Step 3 shall be omitted and the grievance may be advanced from Step 2 to Step 4.

Step 4: If the grievance is not resolved, the Grievance Chairperson may pursue the matter by presenting the written responses to the Mayor within five (5) working days of the reply received in Step 3. The Mayor shall meet with those concerned and attempt to resolve the matter, and shall respond in writing within fifteen (15) working days following timely receipt of the grievance at this step.

Step 5: Arbitration: If the grievance is not satisfactorily settled at STEP 4, the Union may file a Notice of Arbitration. A Notice of Arbitration must be mailed, certified mail, return receipt requested, to the Mayor within ten (10) working days following the issuance of the Mayor's written decision in STEP 4. In the event the grievance is not mailed, certified mail, within the time limits prescribed, the grievance shall be considered resolved based upon the STEP 4 reply.

Section 14.4. Grievance Information. All grievances must contain the following information to be considered, and must be filed using the grievance form mutually agreed upon by the parties. All grievances must be reviewed by the Grievance Chairperson and numbered, prior to Step One.

- A. Grievied Employee's name and signature.
- B. Grievied Employee's classification.
- C. Date grievance was filed in writing.
- D. Date and time grievance occurred.
- E. The location where the grievance occurred.
- F. A description of the incident(s) giving rise to the grievance.
- G. Specific Articles and Sections of the Agreement violated.
- H. Desired remedy to resolve the grievance.

Section 14.5. Who May File. A grievance may be brought by any employee covered by this Agreement. Where a group of employees desire to file a grievance involving an incident affecting several employees in the same manner, the Grievance Chairperson shall process the grievance. Each employee who desires to be included in such grievance shall be required to sign the grievance.

Section 14.6 Work Days. The term work days in the grievance procedure shall be Monday through Friday, excluding Saturday, Sunday or celebrated holidays.

## **ARTICLE 15** **ARBITRATION**

Section 15.1. Arbitration Submission Agreement. Within fourteen (14) calendar days following the receipt of the written notification of the Union's intention to proceed to arbitration, the Mayor or Chief of Police, either personally or through an appropriate representative, and the OPBA Representative or his designee, will consult and attempt to draft a written agreement stating the issue(s) to be submitted to arbitration. If no agreement is reached as to the issue(s) by the above-referenced persons, each party shall submit a written document stating the issue(s) to be arbitrated.

Section 15.2. Arbitrator. Within fourteen (14) calendar days following the receipt of the Union's written notification to arbitrate, the parties shall attempt to select an arbitrator, by mutual agreement. If an agreement is not reached, the OPBA shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Services. Upon receipt of such names, the City and the OPBA shall select one name from the list by alternately striking the names until one (1) name remains.

Section 15.3. Authority of Arbitrator. The arbitrator shall give a fair and impartial hearing on the testimony and evidence from both parties, unless the parties mutually agree to submit their dispute on written stipulations. The arbitrator shall not have authority to add to, subtract from, modify, change or alter any provisions of this Agreement. The arbitrator shall expressly confine himself to the precise issue(s) submitted for arbitration and shall, absent mutual agreement of the parties, have no authority to determine any other issues not so submitted to him.

The arbitrator shall not issue observations or declarations of opinion which are not directly essential in reaching a decision on the issue(s) in question. The arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement. In disciplinary cases, the arbitrator shall have the authority to affirm, disaffirm, or modify said discipline.

The question of arbitrability of a grievance may be raised by either party before the arbitrator hears the merits of the grievance.

If the question of arbitrability is raised, the arbitrator must rule on this issue before hearing evidence or argument on the merits of the grievance.

The decision of the arbitrator shall be final and binding upon the Union, their grievant, and the City.

Section 15.4. Costs. The costs of any proof produced at the direction of the arbitrator, and the rent, if any, for the hearing room shall be shared equally between both parties. Each party shall pay the entire cost for any representative engaged by that party. The expenses of any non-employee witnesses shall be borne, if at all by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. All costs directly related to the service of the arbitrator shall be borne by the losing party. If the arbitrator issues a split decision, the parties shall equally share the costs directly related to the service of the arbitrator.

Section 15.5. Arbitrator's Award. The arbitrator's decision will be in writing and shall be mailed to the OPBA and the City within thirty (30) days from the date the hearing record is closed.

Section 15.6. Rules. The hearing or hearings shall be conducted pursuant to the "Rules of Voluntary Arbitration" of the American Arbitration Association.

Section 15.7. Witnesses. An employee requested to appear at the arbitration hearing by either party shall attend without the necessity of subpoena and shall be compensated at his or her regular hourly rate for all scheduled hours during which his or her attendance is required by either party. Any request made by either party for the attendance of witnesses shall be made in good faith, and employees shall return to work at the earliest time possible following the conclusion of their testimony or other involvement. At no time shall more than two (2) employees be in attendance.

**ARTICLE 16**  
**FATAL FORCE**

Section 16.1. Fatal Force. Any time a bargaining unit member participated in administering fatal force, the following provisions shall apply:

- A. The employee shall be removed from the schedule for seven (7) working days.
  - 1. An extension of time relieving the employee from the schedule shall be granted by the Chief of Police if he deems necessary.
  
- B. Should the employee require medical treatment for any mental disorder arising from his or her actions in the use of fatal force, the City shall provide the cost for the necessary treatment beyond any hospitalization benefit or Workers' Compensation benefit the employee may have received, provided that the employee submits:
  - 1. Professional verification of the treatment needed; and
  - 2. All explanation of benefits (EOB) and Workers' Compensation documentation of cost of treatment.
  
- C. The maximum financial exposure of the City under this Article is One Thousand Five Hundred Dollars (\$1,500.00). The Mayor, in his discretion, may approve an additional payment beyond this limit based upon the facts surrounding the incident in question. Each incident shall be analyzed individually and shall not be precedent setting.

**ARTICLE 17**  
**LEGAL DEFENSE OF EMPLOYEES**

Section 17.1. The Employer agrees to provide the legal defense of any lawsuit against any Employee alleged to have arisen out of any act or failure to act within the scope of the regular official duties of such Employee, provided that such act or failure was not malicious, motivated for private gain or did not constitute willful misfeasance, malfeasance, or nonfeasance.

## **ARTICLE 18**

### **DRUG TESTING**

Section 18.1. Employee Education Regarding Drug Testing. There will be a ninety (90) day education and information period prior to the implementation of testing for new Employees. All new Employees will be informed of the Department's drug testing procedures. New Employees will be provided with information concerning the impact of the use of drugs on job performance. In addition, the Employer will inform new Employees of the manner in which these tests are conducted, the reliability of the tests performed, under what circumstances Employees will be subject to testing, what the tests can determine, and the consequences of testing positive. All new Employees will be provided with this information when initially hired. A record will be maintained of the Employees' receipt of this information.

Section 18.2. Drug Testing. Drug testing shall be conducted where there is reasonable suspicion (described below); upon an Employee's return to duty after completion of a rehabilitation program, or upon return to duty after being off duty for six (6) months or more.

Reasonable suspicion that an employee is using or abusing drugs must be based upon objective facts or specific circumstances found to exist which present a reasonable basis to believe that an employee is using or abusing drugs. Examples of where reasonable suspicion shall be deemed to exist include, without limitation, the following:

1. Where there has been a serious on-duty injury to an employee or another person, the cause of which is otherwise unexplained;
2. Where an employee, while operating a City vehicle, becomes involved in a traffic accident which results in physical harm to persons or property, and where the circumstances raise a question as to the existence of substance abuse by the employee involved;
3. Where there is observable phenomena, such as direct observation of drug use, possession or distribution, or the physical symptoms of being under the influence of drugs (e.g., slurred, rambling or incoherent speech, dilated pupils or bloodshot eyes, odor of marijuana, unexplained lack of coordination, impaired reaction time, sweaty or flushed skin, staggering or unsteady walk, changes in affect, dynamic mood swings, etc.);
4. Where there is a pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance which appears to be related to substance abuse and does not appear to be attributable to other factors; and
5. Where an employee is identified as the focus of a criminal investigation into unauthorized drug possession, use or trafficking; or a report of drug use provided by a reliable and credible source.

Drug testing hereunder shall be conducted solely for administrative purposes and the results obtained shall not be used in criminal proceedings. Under no circumstances may the results of this drug testing be released to a third party for the use in a criminal prosecution against the affected employee. The following procedure shall not preclude the Employer from other administrative action.

Section 18.3. Authorized Laboratories. All drug tests shall be conducted by laboratories certified by the Federal Department of Health and Human Services (DHHS). The procedure utilized by testing lab shall include a chain of custody procedure in compliance with DHHS recommendations and Gas Chromatography/Mass Spectrometry (GC/MS) confirmation of any positive initial drug screening.

Section 18.4. Procedure. Drug tests shall be administered by urinalysis for the following drugs: amphetamines, barbiturates, benzodiazepines (valium, librium, etc.), cannabinoids (THP), cocaine (including crack), methadone, methaqualones, opiates, phencyclidine (PCP) and propoxyphene (darvon). An employee who initially tests positive shall be immediately removed from duty and placed on unpaid leave. If the initial screening is positive, within 72 hours of notification from the medical review officer, the employee may request a confirmation test of a split specimen, at a different DHHS approved laboratory. If the confirmation test is negative, the employee shall be immediately returned to duty and reimbursed for all lost wages. Any employee who refuses to submit to the above identified tests shall be prohibited from performing or continuing to perform his/her duties.

An employee may voluntarily enroll in a qualified rehabilitation program specified by a substance abuse professional, however the City shall not be responsible for any expense related thereto. An employee who participates in a rehabilitation program shall be granted up to twelve (12) months leave of absence. Upon evaluation and certification by a substance abuse professional or medical review officer that the employee has successfully completed the recommended rehabilitation program and a return to duty test that demonstrates that the employee is no longer using/abusing drugs, the employee shall be returned to the position that he or she held prior to entering the program. Such employee shall be subject to follow up testing for a period of one (1) year from the date of his or her return to work.

For the purpose of this Article, follow up testing shall involve a minimum of four (4) unannounced tests during the year following his/her return except that drug tests may be performed at any time upon reasonable suspicion. Costs of all drug screening and confirmation tests which are required by the City shall be borne by the City.

An employee will be subject to disciplinary action under this Article, up to and including removal from office, for any of the following reasons: when the employee reports for duty or performs work and tests positive for using a prohibited drug as listed in this Section 18.4 above after having once completed a drug rehabilitation program; refuses to submit to a drug test; fails to complete rehabilitation program the employee has entered pursuant to this Article; alters or attempts to alter drug test results; or if the employee tests positive at any time within the year following his return to work.

Section 18.5. Medical Releases. For purposes of implementing the provision of this Article, each employee shall execute medical releases in order for the City to obtain the results of the physical examinations and drug testing provided for in this Article. Except as otherwise provided by state or federal law with regard to communicable diseases or with the permission of the employee, the releases referred to in this Section shall authorize only the release of examination results and progress reports pertaining to the drug test results. No other medical finding may be released without the express written permission of the employee, except that without a release from the employee, the Employer may disclose information pertaining to an employee's drug testing to a decision-maker in a grievance or other proceeding initiated by or on behalf of an employee and arising from the results of a drug test.

**ARTICLE 19**  
**HOURS OF WORK**

Section 19.1. For purposes of this Article, “rolling” means that the time-period in question is specific to each individual employee, and commences from the date of the most recent incident.

Section 19.2. Work day, work week and schedules shall be determined by the Chief or his designee and modified accordingly to the operational needs of the Department. The establishment of a work day, work week, or work schedules in no way grants or provides a guarantee of any minimum number of hours or days of work that may be required.

Section 19.3. Each bargaining unit member shall provide the Chief or his designee with a “calendar of days” indicating the shift and days of his full-time employment at least sixty (60) days prior to the first day of each month. Planned absences from the employee’s full-time position such as vacation or training requirements shall also be listed on the calendar of days. Subject to approval by the Chief or his designee, additional days in which personal special events are planned may be shown as unavailable. Such approval shall not be unreasonably withheld; however, approval shall not be precedent setting for future requests.

Section 19.4. The Chief or his designee will post the employees’ work schedule thirty (30) days prior to the effective date of the schedule.

Section 19.5. Regular unavailability may be cause for removal. Except as pre-approved by the Employer, employees who fail to provide a calendar of days for two (2) continuous months or three (3) occurrences in any rolling twelve month period may be cause for removal.

Section 19.6. The Employer will notify the employee of the dates and times they will be scheduled to work, if not posted as provided for in Section 19.4. Disciplinary action may be taken when an employee fails to perform scheduled shifts on days considered as available in their calendar of days.

**ARTICLE 20**  
**OVERTIME**

Section 20.1. Any Employee who works over forty (40) hours in any calendar week or over eight (8) hours in any one shift shall be compensated at the time of one and one-half hour rate.

Examples

If an Employee works a prescheduled shift that is more than eight (8) hours, the Employee will be paid overtime for hours worked in excess of eight (8).

If an Employee is scheduled to work a shift that is less than eight (8) hours but is held over resulting in the Employee working more than eight (8) hours, the Employee will be paid overtime for hours worked in excess of eight (8).

If an Employee works shifts that are less than twenty-four (24) hours apart, the Employee will not be paid overtime (unless the Employee qualifies for overtime payment under another provision of this Agreement).

Section 20.2. S.T.E.P. and extra jobs are not included in the calculation of overtime hours (refer to Section 23.2 for S.T.E.P. and extra job rates of pay).

Section 20.3. Dual Employment with the City. In the case of a bargaining unit member who also is employed by the City in a different job, the City is authorized to execute an individual overtime agreement with that Employee. The individual agreement may provide for a different method of computing overtime than used for those members of the bargaining unit who work for the City in only one job.

**ARTICLE 21**  
**SHOW UP PAY**

Section 21.1. Show Up Pay. A minimum of four (4) hours pay shall be paid when an officer is requested to be present at training, court time or any other requested event: If an Employee has already worked a scheduled eight (8) hours, that Employee shall be compensated at a rate of one and one-half hour rate for a minimum of four (4) hours.

**ARTICLE 22**  
**HOLIDAYS**

Section 22.1. Holidays. The following shall be considered holidays:

- New Year's Day
- Martin Luther King Day
- President's Day
- Easter Sunday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

Section 22.2. Compensation for Working on a Holiday. Bargaining unit members who work on one of the above listed holidays will receive two (2) times their regular rate of pay for work on that day.

**ARTICLE 23**  
**WAGES**

Section 23.1. Beginning January 1, 2016 and effective through December 31, 2016,, the hourly rates for bargaining unit members shall be increased 2.0% as follows:

0-4:	\$21.59 (2015)	\$22.02
4+	\$22.21 (2015)	\$22.65

The above rates shall apply at all times on all shifts, approved training and court time.

The wage scale(s) for years 2017 and 2018 shall be subject to negotiations pursuant to the wage reopener explained in Article 28.

Section 23.2. S. T. E. P. and extra job rates are to be equal with full-time officer rate.

**ARTICLE 24**  
**UNIFORM ALLOWANCE**

Section 24.1. The Employer shall mandate the dress to be worn by the Employees and shall provide such clothing to the Employees in accordance with the rules and regulations of the Employer and/or the Chief. Within the discretion of the Chief, Employees may purchase additional dress items. The City agrees to maintain the clothing replacement program to meet current safety standards. Bullet proof vests are included in the dress code and replaced by the Employer at current safety standards.

**ARTICLE 25**  
**TRAINING TIME**

Section 25.1. It shall be the responsibility of each Employee to maintain certain certifications essential to comply with the job responsibilities assigned to that Employee. The Employer shall attempt to provide the opportunity for Employees to meet re-certification requirements at the Police Station when possible.

Section 25.2. If the opportunity for necessary training is not provided, or if the opportunity is provided and the Employee is unable to attend due to circumstances caused by the Employer, the Employer shall pay the tuition and provide required materials for training which an Employee shall complete elsewhere.

Section 25.3. Employees shall be compensated as per the approved training rate for any trainings approved by the Employer over and above those required to maintain certification. Certification training includes but is not limited to firearms training.

Section 25.4. Any training to maintain required or approved certifications will be compensated at the shift rate.

**ARTICLE 26**  
**AGREEMENT REVIEW**

Section 26.1. In an effort to encourage and foster the spirit of cooperation exemplified by this Agreement, the parties agree to select two (2) representatives from each side to meet every six (6) months or as needed by mutual Agreement from the effective date hereto review the implementation of this Agreement.

**ARTICLE 27**  
**SUSPENSION IN CASE OF EMERGENCY**

Section 27.1. Waiver. In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Executive of the County of Summit, or the Mayor of the City of Fairlawn, or their designees, resulting from acts of God, civil disorder, or otherwise, the terms and conditions of this Agreement may, in the discretion of the Mayor, be automatically be suspended.

Section 27.2. Termination of Emergency. Upon the termination of the emergency, valid grievances existing prior to the emergency shall be processed in accordance with the provisions outlined in the grievance procedure and shall proceed from the point in the grievance procedure to which the grievance(s) had properly progressed.

**ARTICLE 28**  
**MISCELLANEOUS**

Section 28.1. Duration of Agreement This Agreement shall be effective as of January 1, 2016 and shall remain in full force and effect through midnight, December 31, 2018. Irrespective of any other provision of this Article, the parties shall reopen negotiations on the subject Wages, Article 23, to be effective for years 2017 and 2018. This Agreement shall not be reopened for any other matter. A notice to negotiate for such reopener shall be filed by the OPBA with the State Employment Relations Board no earlier than August 1, 2016 and no later than October 31, 2016. Negotiations shall be conducted pursuant to Chapter 4117 of the Ohio Revised Code.

Section 28.2. Notice to Negotiate. 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 prior to nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be certified mail, return receipt requested. The parties shall commence negotiations within two (2) calendar weeks upon receiving such notice.

Section 28.3. Waiver. The parties hereto agree 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, that they have discussed fully and totally all issues between the parties, that the entire understanding and agreement arrived at by the parties after the exercise of these rights are set forth in this Agreement, and they hereby agree to waive any and all bargaining and rights of bargaining on any other issues, topics or subjects not included within this Agreement, and further, the parties waive any and all rights of bargaining on all other subjects not included in this Agreement.

Section 28.4. Conformity to Law. This Agreement supersedes and replaces all applicable laws which it has the authority to supersede and replace.

Section 28.5. Validity. If the enactment of federal or state legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portion of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included herein. In such event, at the written request of either party, the parties shall meet within thirty (30) days to discuss the impact and to consider modification of the invalidated provision or provisions.

**ARTICLE 29**  
**FULL AGREEMENT**

Section 29.1. Full Agreement. This written Agreement constitutes the entire agreement between the parties. Any modification to this Agreement must be in writing, signed by all parties, and appended hereto.

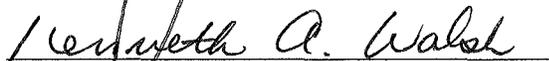
IN WITNESS WHEREOF, the parties have heretofore approved as to form and contents and therefore set their hands this 21 day of April, 2016.

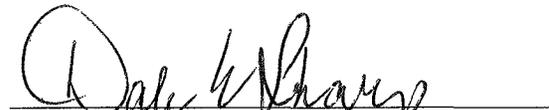
CITY OF FAIRLAWN:

OHIO PATROLMEN'S BENEVOLENT  
ASSOCIATION:

  
WILLIAM J. ROTH, JR., MAYOR

  
MARK J. VOLCHECK, OPBA  
ATTORNEY

  
KENNETH A. WALSH, POLICE CHIEF

  
OFFICER DALE SHARP