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IN THE MATTER OF FACT FINDING

BETWEEN

AFSCME, OHIO COUNCIL 8, LOCAL 1256

AND

THE CITY OF HUBBARD, OHIO

SERB CASE # 11-MED-10-1393

Robert G. Stein, Fact-finder

ADVOCATE FOR THE UNION:

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INTRODUCTION

The parties to this matter are AFSCME OHIO COUNCIL 8, LOCAL 1256 (hereinafter “Union” or “Local”) and the City of Hubbard (hereinafter “Employer”, “District”). The Employer is located in northeast Ohio. The bargaining unit is comprised of approximately thirty (30) employees who work in a variety of positions for the City. The parties opted to attempt to mediate a resolution to their differences instead of going directly to fact finding. Through mediation the fact finder assisted the parties in resolving several issues and in moving closer on the remaining unresolved issues in dispute; several sessions were held and some progress was made on reducing the number of unresolved issues. However, many issues could not be resolved through mediation and as a result fact finding was invoked on the last day of mediation.

General/State/Local Economic Overview: Continued concern and general widespread uneasiness appears to be an apt characterization of the state of the current international, national and the local economy that by virtue of world interdependence can be impacted by the economic misfortunes of a small European country(s) located several thousand miles away. The economy in Ohio continues to show signs of improvement from a very long and severe national recession that remains subject to the financial health of the United States and other countries, particularly those who are currently facing considerable debt in Europe, not to mention growing debt obligations of the United States. With the focus on other issues and countries, it remains to be seen if Greece will adequately address its economic problems and whether others such as Spain, with a national unemployment rate approaching 25%, will become the next major crisis to plague the financial markets. It is remarkable and difficult to understand how the economic collapse of one European country can significantly undo months of economic recovery in the United States, but

during this soon to be concluded summer the continued fluctuations in the stock market is one indicator of this reality.

But that is just one set of concerns; others that are closer to home include high unemployment in many parts of the United States, a housing market that is just showing signs of slow recovery, the uncertain future of national health care, thought to be clarified by a U.S. Supreme Court decision, but further complicated by a presidential election. What Americans have experienced from 2008 until the present has left a lasting impression about the uncertainty and fragility of the future and it has changed public attitudes. Additionally, it has left a lasting impression on employers and unions that the future must be viewed with the sobering reality of constant uncertainty not previously considered to be a reality by the current generation of Americans prior to 2008. Recent elections in California where voters passed legislation to reduce pension benefits and the startling prospect of bankrupt cities and other public entities threaten the stability of delivering fundamental services to the public and are a real concern of the dedicated men and women who work in the public sector. Another example of the extent to which the current economy is resulting in hereto unforeseen measures is the case of Scranton Pennsylvania, whose administration reduced all public employee wages to the minimum wage due to financial exigency. Many Ohio public employers are facing significant financial shortfalls, and unfortunately the City of Hubbard is not exempt from these concerns. The reported national unemployment rate is currently 8.3%, but in Ohio the rate is approximately a percentage point lower. All the news is not completely underscored with tentativeness; there are states that have a much lower unemployment rate, such as Virginia (5.6%) and Nebraska (4.0%), and there are some employers who are doing very well and continue to do well in the aftermath of the recession. Detroit automakers are experiencing a sustained comeback, extra shifts are being added, and that is particularly good news for neighboring Ohio and in particular Youngstown and its surrounds. But, it is now a very different auto and manufacturing industry with employers and their unions having agreed to substantial changes in wages and benefits to once again maintain profitability in a globally competitive world. The recent settlement between Caterpillar Tractor and its machinist union, with resulted in lump sum payments, virtually no raises for the next six years for experienced workers, the continuation of a two tiered wage system, and reduced health care and

pension benefits exemplifies new realities in continued uncertain times. The facts indicate that Ohio is in a very slow recovery that is still plagued by a lack of jobs that pay a living wage. Many months ago what has been called the great recession was declared to be officially ended. Yet, for people in Ohio who are unemployed, underemployed, have experienced dramatic declines in their home values, face foreclosure, have given back benefits and paid days, have foregone wage increases for years, and have been laid off, such declarations ring hollow.

The City has avoided a need to cut wages, and benefits, and has not required employees to accept unpaid furloughs and initiate layoffs. Yet, the bargaining unit has been reduced through attrition, with vital city services being shouldered by fewer and fewer employees. The last several years saw many Ohio public employers and unions agreeing to one or two year agreements that included no increases in wages, major benefit concessions, and temporary reductions in compensation through the implementation of unpaid furlough days. (e.g., the state of Ohio and its unionized have agreed to consecutive three (3) year contracts that included a single wage increase through 2014 and several furlough days). The instant negotiations appear to be critical point in time in which the parties have to mutually demonstrate they recognize that financial prudence must be seriously pursued and some sacrifices have to be endured. The recommendations in this report are made with an attempt to head off situations similar to those currently found in Scranton PA., Stockton CA, and San Bernardino CA where public officials and public employees have had to resort to more drastic financial measures in order to maintain vital public services.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made.

By mutual request of the parties, the general rational and the statutory criteria stated above shall serve as the basis for the following comprehensive set of recommendations on all unresolved articles that were carefully examined and thoroughly vetted during the mediation process. The modified, added, or deleted language was left in this recommendation to aid the parties in identifying what is being recommended as a change from current language of the Agreement.

The findings of the fact finder are as follows in package language form:

RECOMMENDED PACKAGE AWARD LANGUAGE

ISSUE 1- Article 9, Probationary Period

ARTICLE 9. PROBATIONARY PERIOD

Section 9-01. New Hires. The probationary period for all newly hired employees shall ~~not exceed one hundred twenty (120) calendar days~~ ***be for a period of one hundred and eighty (180) calendar days.*** Newly hired employees shall have no seniority during the probationary period; however, upon completion of the probationary period, seniority shall start from the date of hire.

Section 9-02. The Employer shall have the sole discretion to discharge or layoff newly hired probationary employees and any such action shall not be appealable through any Grievance or Arbitration Procedure herein contained, or any Civil Service Procedure.

Section 9-03. Promotions. The probationary period for all newly promoted employees shall be ~~sixty (60)~~ ***ninety (90)*** calendar days. The Employer shall have the sole discretion to reduce promotional probationary employees; in such case the employee shall be returned to his former position and any such action shall only be appealable through the grievance procedure as set forth in this Agreement ***with the Union having the burden of proving the decision of the Employer was arbitrary and capricious. However, no appeal may be had of the Employer's decision where it involves a promotional probationary removal for a "Trainee" or "In-Training" position.***

Section 4. Training/In-Training Positions. *Notwithstanding the normal promotional*

probationary period set forth above, for "Trainee" and "In-Training" positions the Employer, upon recommendation of the immediate supervisor, shall have the sole discretion to remove newly promoted employees and return them to their former position during the first one hundred eighty (180) calendar days of service in the "Trainee" or "In-Training" positions.

ISSUE 2- Article 11 Training & New Article, Licensure Maintenance/Reporting Requirements

ARTICLE 11. TRAINING

Section 11.01. Requests. Any employee who desires to attend job-related training courses or schools may so notify the Employer not less than four (4) weeks prior to the commencement of the course or school.

Section 11.02. Employer Discretion. Attendance at such course or school shall be at the sole discretion of the Employer.

Section 11.03. Reimbursement. The Employer agrees to reimburse employees for approved expenses incurred pursuant to Paragraph 11.01 above, only if the employee meets or exceeds the following criteria:

- a. The Employer shall reimburse the employee for the course cost when the employee successfully completes the course or school attended by obtaining a passing grade, and obtains the license or certificate for which the school or course was given.
- b. The Employer shall reimburse all legitimate expenses incurred by an employee as a result of attending the course or school regardless of whether or not the employee attains a passing grade. Legitimate expenses include, but are not limited to lodging, meals, parking, tolls and mileage (gratuities, alcoholic beverages, etc. are not reimbursable). Should the course or school require an overnight stay, the Employer shall make every effort to have the cost of such stay (i.e., room costs) directly billed to the City.
- c. The Employer shall reimburse expenses to a maximum of two (2) attempts for a "non-passing" attempt. However, the City shall reimburse expenses in accordance with Section (b) above for any passing grade.

Section 11.04. Required Certifications/Training. The Employer shall pay for all costs related to the training of bargaining unit employees who, as a condition of employment, must obtain any special certifications or licenses as mandated by any agency of the federal, state or local government (e.g., Water or Waste Water certification/licenses etc.).

It is herein understood that the Employer shall be responsible for the costs of any testing

under this article on a one-time-only basis. Should an employee fail to pass an examination under the provisions of this section, the employee shall be responsible for all costs related to any additional testing.

Section 11-05. Commercial Driver's License. The Employer agrees to provide training and the ability for testing, on an annual basis, for all bargaining unit employees who desire to obtain, or whose occupation requires, a Commercial Driver's License (CDL). Any employee who does not desire this training shall provide, to the City and the Union, a written statement declining the opportunity for such training. Employees who avail themselves of the opportunity outlined above shall be reimbursed the difference between a regular Ohio Motor Vehicle Operator's License and the initial CDL.

Bargaining unit members who do not possess a valid CDL at the time of a promotional opportunity shall not be denied promotion on that basis alone. The employee must, however, obtain a valid CDL during ~~the first half of~~ the promotional probationary period. ***Employees who fail to obtain a valid CDL during the promotional probationary period shall be transferred back to their former position.*** The Employer shall not be obligated for any cost of training or licensing if the employee previously refused such training opportunities. The Employer shall however provide any vehicle necessary for testing for such licensing.

No bargaining unit member shall be disciplined for refusing to operate any equipment which requires a certification the employee does not hold. ***For those employees hired before June 11, 2012,*** to as /great an extent as possible, alternative work assignments and/or employment within the same pay range shall be provided to those employees who are unable to pass or who for any reason lose a CDL certification.

Section 11-06. Initial CDL License and Renewal Expenses. Effective January 1, 2000, the Employer shall reimburse employees for the difference between cost of the Commercial Driver's License ***initial acquisition and*** renewal fees and the cost of the ***initial acquisition and*** renewal fees for an Ohio State Driver's license.

Section 11-07. CPR Training. The Employer shall provide, on an annual basis, certified training in Cardio Pulmonary Resuscitation (CPR) to all employees of the City. Such training shall be as approved and certified by the American Red Cross.

NEW ARTICLE, LICENSURE MAINTENANCE/REPORTING REQUIREMENTS

Section 1. *The parties agree that certain classifications within the bargaining unit require, as a basic condition for employment, the employee to obtain and maintain a valid motor vehicle operator's license, Commercial Driver's License with appropriate endorsements, or other job-related license (i.e., Waste Water Operators License, etc.). Driving privileges issued by a court will only cover the employee to drive to and from the work place in his private vehicle and do not represent compliance with this article.*

Section 2. *The parties agree that the following provisions shall govern instances where*

an employee fails to maintain a required licensure.

- A. **Failure to Maintain Licensure with Notice to the Employer.** *The parties agree that if an employee fails to maintain the necessary licensure and/or endorsements, but notifies the Employer prior to the beginning of the work day following the date that the employee knew, or should have known, of his failure/suspension/revocation, then the employee may, at the discretion of the Employer, be permitted to perform non-licensure work within his existing classification, be transferred to a classification where the job duties do not require the licensure, if the Employer determines vacancy is available, and receive the rate of pay for that classification or be placed on an unpaid leave. Within fourteen (14) calendar days of the failure/suspension/revocation being remedied or lifted, the employee shall take the necessary actions to reinstate his license, present to the Employer the valid necessary license, and return to duty in his former classification. If no action is taken, the employee shall be considered to have voluntarily resigned from his position. The parties agree that if an employee fails to maintain the necessary licensure and/or endorsements for a second time during the term of his employment, where his classification requires the maintenance of a valid license, then the employee shall be subject to termination, for failure to remain qualified to perform the duties of his position.*
- B. **Failure to Maintain Licensure without Notice to the Employer.** *The parties agree that if an employee fails to maintain the necessary licensure and/or endorsements, and fails to notify the Employer of such failure/suspension/revocation prior to the beginning of the work day following the date that the employee knew, or should have known, of his failure/suspension/revocation,, then the employee shall be subject to termination for failure to remain qualified to perform the duties of his position.*

ISSUE 3- Article 12, Layoff and Recall

ARTICLE 12. LAYOFF AND RECALL

Section 1. *It is the intent of the parties, through this article, to establish an objective procedure by which a reduction in force may be accomplished, should the need arise, and supersede the provisions of ORC 124.321 to 124.328, OAC 123: 1-41-01 to 123: 1-41-22, and all local rules and regulations of the City of Hubbard Municipal Civil Service Commission governing work force reductions.*

Section ~~12-01~~ 2. Notice/Determination. *Where, because of economy or consolidation or abolishment of functions, the Employer determines it necessary to reduce the size of its workforce, such reduction shall be made in accordance with the provisions set forth. Employees scheduled for layoff shall be given a minimum of fourteen (14) **calendar** days*

advance notice of layoff. ***An employee who is subject to reduction must notify the Employer within five (5) days following the receipt of the notice of reduction.***

Section ~~12.02~~ 3. Procedure. Employees within the affected job classifications /or departments shall be laid off according to their City-wide seniority with the least senior being laid off first, providing that all students, temporary, part-time, seasonal and probationary employees within the affected job classifications, or departments, are laid off first in the above respective order. ***For the duration of this agreement, City-wide seniority shall be defined as seniority in a job classification within the AFSCME bargaining unit.***

Section ~~12.03~~ 4. Displacement. Employee(s) who are laid off from one job classification may displace (bump) another employee(s) with lesser seniority in an equal or lower rated job classification.

Section ~~12.04~~ 5. Bumping. Employee(s) who are displaced (bumped) by a more senior employee shall be able to displace (bump) another employee with lesser seniority in an equal or lower rated job classification pursuant to the provisions of Section ~~12.03~~ 4 above.

Section ~~12.05~~ 6. Qualifications. In all cases where one employee is exercising his seniority to displace (bump) another employee, his right to displace (bump) is subject to the conditions that he is qualified for the position and able to perform the functions and duties of the position into which he is attempting to displace (bump) at the time of the displacement (bump).

Section ~~12.06~~ 7. At the end of the displacement (bumping) process, the employee who is displaced (bumped) and unable or chooses not to displace another employee pursuant to the above provisions shall be laid off.

Section ~~12.07~~ 8. Recall. Recalls shall be in the inverse order of layoff (most senior recalled first) and a laid off employee shall retain his right to recall for twenty-four (24) months from the date of his layoff. Notice of recall shall be sent to the employee's address listed on the Employer's records and shall be sent by certified mail, return receipt. An employee who refuses recall or does not report to work within five (5) calendar days from the date the employee receives the recall notice shall be considered to have resigned his position and forfeits all right to employment with the Employer.

~~**Section 12.08** Employees scheduled for layoff shall be given a minimum of fourteen (14) days advance notice of layoff. **(MOVED UP TO SECTION 2)**~~

Section 9. Effects Bargaining. ***In any case of an anticipated reduction in force of bargaining unit employees by the Employer, the Employer shall notify the Union of the impending reduction in force as far in advance as possible prior to service of notice of employees. If requested, the Employer and the Union shall meet to discuss possible alternatives and the impact of the reduction in force on bargaining unit employees.***

ISSUE 4 - Article 13, Vacancies and Job Posting & Article 25, Temporary Transfers

(Note: This language needs to be adjusted to be consistent with the changes to probationary periods and transfers)

ARTICLE 13, VACANCIES AND JOB POSTING

Section 13.01. Posting. When a job vacancy or vacancies occur within the bargaining unit and the Employer intends to fill the vacancy, the Employer will post an announcement of such vacancy or vacancies on all Union bulletin boards. Said postings shall remain posted for a period of five (5) working days. The announcement shall contain the job title of the vacancy, a brief job description and the rate of pay, and the date of the posting and bid deadline date.

Section 13.02. Application. Any employee wishing to apply for the posted vacancy must submit his application in writing to the appointing authority by the end of the posting period in order to be considered for the position.

Section 13.03. Selection. If more than one (1) qualified employee applies for a vacancy, the vacancy, if filled, shall be awarded to the employee who has the most qualifications, skill, experience and ability to perform the work in question, as determined at the discretion of the Employer. If the qualifications, skill, experience and ability of the two (2) or more qualified applicants are substantially equal, departmental seniority shall govern or most qualified senior applicant outside of department.

Section 13.04. The effective date of the promotion shall be as soon as possible, but no later than thirty (30) days after the close of the posting. The Employer will notify all applicants and the Union President, or his designee, of the selection.

Section 13.05. Temporary Fill. Nothing in this article shall be construed to limit or prevent the Employer from temporarily filling a vacant position ~~from the bargaining unit for a period of thirty (30) calendar days~~ **subject to the limitation contained in Article 25 __, Temporary Transfers**, pending the Employer's determination to fill the vacancy on a permanent basis.

Section 13.06. Probationary Period. An employee who is awarded a new job title shall be required to satisfactorily complete a ~~sixty (60) day~~ probationary period **in accordance with Article 9 __, Probationary Period.** He will be considered to have qualified on the new job when he satisfactorily performs the required duties with no more supervision than is required of other employees on the same or similar jobs and when his record as to quality and quantity of work meets the standards applicable to the job. If at any time during the probationary period it is determined, at the Employer's discretion, that the employee cannot satisfactorily perform the new job, he may be **removed and returned to his prior position as described in Article 9 __, Probationary Period.** ~~returned to his~~

~~previously held position at his prior rate of pay. Such reversion to the employee's prior position shall only be appealable through the grievance/arbitration procedure as set forth in this Agreement.~~ Employees awarded a job under these provisions will be given reasonable help and supervision.

Section 13.07. Procedure. If no applications are received or if the Employer determines that none of the applicants are qualified for the job, the Employer may fill the job by hiring a qualified new employee from outside the bargaining unit.

Section 13.08. Prior Probationary Period. No employee shall be eligible for promotion under these provisions who has not satisfactorily completed the required probationary period for his existing position.

Section 13.09. Definition. A "vacancy" is defined as a job opening where the City has increased the number of jobs available in a particular job classification or where an opening occurs in an existing job that the City deems necessary to fill, as a result of a promotion, job bidding, leave of absence, quit, discharge, transfer, or other termination of employment.

ARTICLE 25. TEMPORARY TRANSFERS

Section 25.01. Temporary Transfers. The City may temporarily transfer any employee from one job classification to another job classification either within the same department or to another department so long as such transfer does not exceed thirty (30) calendar days. ***Nothing shall prevent the Employer from making successive temporary transfers of the same employee or another employee provided there is at least one (1) work day in between the starting and ending date of each transfer period. The parties agree to limit the usage of successive temporary transfers to not more than four (4) consecutive transfers involving a specific vacancy, except that transfers may be indefinite where the vacancy is due to the prior incumbent being on Family and Medical Leave, Disability Separation, Military Leave, Sick Leave, or any other leave that carries with it reinstatement rights.*** Any employee so transferred shall accept the transfer and perform the work to the best of his ability. Notwithstanding the provisions of this section, employees who are in a training position which requires a limited amount of available time to qualify for certification or licensing (e.g., operators-in-training) shall not be subject to temporary transfers until such time as they have attained such certifications or have tested for them. Under no circumstance may the time spent away from an employee's regular classification due to a temporary transfer adversely affect an employee's ability to promote or advanced within his classification or department.

Section 2. Procedure. ***The Employer, with input from the Department Head, will first determine the department from which the transfer is to be made.*** Temporary transfers shall first be offered in descending order of seniority ***within the department from which the transfer is to be made.*** ~~and if there are no volunteers for the transfer, it shall be assigned inverse order of seniority (i.e., least senior first).~~ ***In the event that no employee volunteers to fill the temporary vacancy or the Employer determines that no employee is***

qualified, the Employer will fill the temporary vacancy through involuntary transfer, as set forth in Section 3.

Section 3. Involuntary Transfer. *Should no bargaining unit members apply for the transfer opportunity and the Employer determine that an involuntary transfer must be ordered, the Employer shall involuntarily transfer the member with the least amount of seniority and having the necessary knowledge, skills, qualifications and licensure, if applicable, in the department from which the transfer is to be made to the temporary vacancy.*

Section 25.02 4. Rate of Pay. An employee who is temporarily assigned for any reason to a job classification with the rate of pay lower than the rate of pay he is regularly paid shall receive his regular rate for all time worked in such position. Any employee who ~~performs work at~~ *is assigned by the Employer/designee to* a higher classification shall be paid the rate of the higher classification for all full hours worked in the higher classification.

ISSUE 5 - Article 14, Sick Leave

ARTICLE 14, SICK LEAVE

Section 14.01. ~~Sick leave shall be defined as an absence with pay necessitated by:~~ *Employees shall use sick leave, subject to the approval of the Employer, for the following reasons:*

- 1) illness or injury to the employee;
- 2) exposure of the employee to a contagious disease communicable to other employees;
~~and/or~~
- 3) illness, injury or death in the employee's immediate family.

Section 14.02. Accrual. All employees shall earn sick leave at the rate of four and six-tenths (4.6) hours for every eighty (80) hours worked and may accumulate such sick leave to an unlimited amount.

Section 14.03. Notification. An employee who is to be absent on sick leave shall notify the Employer of such absence and the reason therefore at least one (1) hour before the start of his work shift each day he is to be absent.

Section 14.04. Minimum Increments. Sick leave may not be used in segments of less than one (1) hour.

Section 14.05. Documentation. Before an absence may be charged against accumulated sick leave, the Department Head may require such proof of illness, injury or death as may be satisfactory to or may require the employee to be examined by a physician designated

by the Department Head and paid by the Employer. In any event, an employee ***for whom medical attention is required or is*** absent for more than three (3) consecutive eight (8) hour days must supply a physician's report to be eligible for paid sick leave. ***The report must indicate that the employee or member of the employee's immediate family was examined and the date and time of such exam.***

Section 14.06. Failure to Submit Documentation. If an employee fails to submit adequate proof of illness, injury or death upon request, or in the event that upon such proof as is submitted or upon the report of medical examination, the Department Head, at his discretion, finds there is not satisfactory evidence of illness, injury or death sufficient to justify the employee's absence, such leave may, at the Department Head's discretion, be considered an unauthorized leave and shall be without pay.

Section 14.07. Abuse. Any abuse, or excessive or patterned use of sick leave shall be just and sufficient cause for disciplinary action. Such discipline shall be of a corrective and progressive nature and shall be enforced as follows:

- Step 1 Oral Counseling - In the presence of a Union representative, a notation of such counseling shall be placed in the employee's personnel file for six (6) months and shall cease to have force and effect at the end of such six (6) month period provided there is no intervening discipline.
- Step 2 Written Reprimand.
- Step 3 One (1) day suspension without pay.
- Step 4 Three (3) day suspension without pay.
- Step 5 Ten (10) day suspension up to termination.

Except as noted above, all disciplinary actions contained in this article shall hold force and effect in accordance with Article 40, Section ~~40.03~~.

For the purposes of this article, excessive use of sick leave shall be defined as six (6) unrelated single day absences in a six (6) month period. Related occurrences of single day absences (e.g., continuing therapy, long term dental procedures, etc.) shall not constitute a basis for discipline.

Section 14.08. Employer Required Examination. The Department Head may require an employee who has been absent due to personal illness or injury, prior to and as a condition of his return to duty, to be examined by a physician designated and paid by the Employer, to establish that he is not disabled from the performance of his duties and that his return to duty will not jeopardize the health and safety of other employees. ***Upon receipt of the medical professional's opinion, the Employer, the Union, and the employee will meet to discuss possible alternatives and/or accommodations in the event that the employee is found unfit. If no alternative or accommodation is mutually agreeable, then the***

employee will be placed on sick leave, FMLA, disability leave or disability separation.

Section ~~14.09~~. Definition of Immediate Family. When the use of sick leave is due to illness or injury in the immediate family, “immediate family” shall be defined to only include the employee’s spouse, children or anyone living with the employee. When the use of sick leave is due to death in the immediate family, “immediate family” shall be defined to only include the employee’s parents, spouse, child, stepchildren, brother and sister, father-in-law, mother-in-law and grandparents and such time off shall include attendance at the funeral.

Section ~~14.10~~. Conversion at Retirement. An employee who has not less than ten (10) years of continuous employment with the City of Hubbard, and who has qualified for retirement benefits from a State of Ohio Public Employee Retirement System shall, upon retirement, be entitled to receive a cash payment equal to the employee’s hourly rate of pay at the time of retirement multiplied by the percentage as listed in Section ~~14.11~~ of the total number of accumulated but unused sick hours earned by the employee and certified by the City Auditor. The resulting number of hours to be paid shall not exceed those listed in the table contained in Section ~~14.11~~ below.

Section ~~14.11~~. Conversion Calculation. Sick leave conversion as outlined in ~~14~~ Section 10 above shall be calculated and paid as follows:

<u>Years of Service</u>	<u>Percentage</u>	<u>Not to Exceed</u>
not less than 10	50%	720 hours
not less than 15	75%	840 hours
not less than 20	90%	960 hours
not less than 25	100%	960 hours

Section ~~14.12~~. Upon the death of an employee who would otherwise be entitled to receive retirement benefits pursuant to Paragraphs ~~14.10~~ and ~~14.11~~, above, said benefits shall be paid to the employee’s beneficiaries *if designated*, or estate *if no beneficiaries are designated*.

Section ~~14.13~~. Conversion at Separation. Upon the voluntary termination of employment of an employee who has not less than ten (10) years of continuous employment with the Employer, such employee shall be entitled to receive a cash payment equal to his hourly rate of pay at the time of retirement multiplied by one-fourth (1/4) the total number of accumulated but unused sick hours earned by the employee, as certified by the Finance Director, providing that such resulting number of hours to be paid shall not exceed one hundred twenty (120) hours.

Section 14. Sick Leave Transfer. *Sick leave earned with another governmental agency, entity, political subdivision, etc. shall not be transferable by newly hired bargaining unit members to the City of Hubbard.*

Section ~~14.14~~ xx. Funeral Leave. In the event of a death in an employee’s immediate

family, the employee may be granted a leave of absence with pay for three (3) working days, one of which must be the date of the funeral, with approval of the Department Head and the Director. If the funeral site is more than one thousand (1,000) miles from the employee's residence, five (5) working days may be granted, one of which must be the day of the funeral, with approval of the Department Head and the Director. If such a leave is granted, it shall be separate and apart from any use of sick leave. However, should the additional two (2) days be granted, a deduction of up to two (2) days will be made from the employee's accumulated sick leave. **(STRUCTURE AS NEW ARTICLE, FUNERAL LEAVE)**

Section 14.15 xx. Union Leave. ~~At the request of the Union,~~ a leave of absence without pay for one (1) year at a time ~~shall~~ **may** be granted to any employee selected for a Union office, employed by the Union, required to attend a Union convention or perform any other function on behalf of the Union necessitating a suspension of active employment. Such leave may only be granted with approval of the Department Head and the Director. Such leave will be renewable from year to year with approval of Department Head/Director. **(STRUCTURE AS NEW ARTICLE, UNION LEAVE)**

Section 14.16 xx. Pregnancy Leave. ~~In compliance with Title XXIX, Chapter XIV, part 1604.1~~ Illness or disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth and recovery therefrom are, for all job-related purposes, temporary illnesses and disabilities and should be treated as such under any health or temporary disability sick leave plan available in connection with employment. Therefore, for all intents and purposes of this article, pregnancy, miscarriage, abortion, childbirth and recovery therefrom shall be classified as an illness and therefore eligible for ***the usage of sick leave benefits*** ~~the sick leave plan~~. **(STRUCTURE AS NEW ARTICLE, PREGNANCY LEAVE)**

Section 14.17 xx. Documentation for Pregnancy Leave. Sick leave benefits, as it relates to pregnancy leave, shall be subject to a physician's statement indicating the need to begin a maternity leave. Also, an additional physician's statement shall be required indicating the employee's ability to return to her former position. **(STRUCTURE AS NEW ARTICLE, PREGNANCY LEAVE)**

Section 14.18 xx. Military Leave. Each employee may be entitled to a leave of absence for military service in the National Guard or in the Reserve components of the Armed Forces of the United States of America for field training or active duty not to exceed thirty-one (31) days in any calendar year period and shall be paid during such absence for the difference between his

regular salary and his military pay (excluding travel or sustenance allowances) for such period, with approval of the Department Head and the Director. **(STRUCTURE AS NEW ARTICLE, MILITARY LEAVE)**

ISSUE 6 - Article 15, Vacations

ARTICLE 15, VACATIONS

Section 15.01. Entitlement. Bargaining unit members shall be entitled to vacations according to the following schedule:

<u>Years of Active Service</u>	<u>Vacation Accrual Per Pay Period</u>
After having completed service of 1 year	3.0769 hours
After having completed service of 4 years	4.6154 hours
After having completed service of 9 years	6.1538 hours
After having completed service of 14 years	7.6923 hours
After having completed service of 19 years	9.2308 hours

Section 15.02. Bargaining unit members may take vacation leave to which they are entitled beginning with the first full pay period following the date they complete the required years of service; such leave may be taken anytime during the calendar year.

Section 15.03. Requests for Same Dates. Request by members for vacation weeks that coincide will be granted on the basis of City-wide seniority.

Section 15.04. Vacation Rate of Pay. Vacation pay will be computed at the appropriate rate earned by the member at the time the vacation is actually taken.

Section 15.05. Carry-over Limitations. Vacation requests will not be granted to more than fifty per cent (50%) of the workforce in each department at one time. Notwithstanding the provisions of Section 15.06 below, employees who are denied vacation due to operational necessity shall be entitled to *carry-over* an additional eighty (80) hours of vacation time for a maximum of one hundred sixty (160) hours of accrued vacation. In this instance, the employee shall not be subject to forfeiture of the excess carry over.

Section 15.06 5. Use. All bargaining unit employees shall be entitled to carry over a maximum of eighty (80) hours of accrued vacation time from employment anniversary year to anniversary year, in addition to those hours which are earned by virtue of their seniority. The failure to take such time off in the following anniversary year shall result in the forfeiture of only the time in excess of the eighty (80) hour carryover.

Section 15.07. Notice on Vacation Requests. Requests for vacation leave require forty-eight (48) hours advance notice.

ISSUE 7 - Article 17, Unpaid Leaves of Absence

ARTICLE 17, UNPAID LEAVES OF ABSENCE

Section 17.01. Length. An employee who has completed one (1) year of continuous service with the Employer may be granted a leave of absence without pay because of injury, illness, education purposes, employment by the Union, or other personal reasons, including maternity leave. The decision to grant the leave or the length of the leave period will be at the sole discretion of the Employer with due consideration given to the reasons and evidence presented by the employee to the Employer.

Section 17.02. Procedure. All leaves of absence (and any extensions thereof) must be applied for and granted in writing on forms provided by the Employer (with a copy to the employee). Except in cases of emergency, the leave request shall be filed with the employee's Department Head not later than two (2) weeks prior to the date on which the leave is to start. Along with the request for the leave, the employee shall supply any and all available documentation in support of said leave. This documentation shall consist of medical proof of disability in cases where the leave is for medical purposes and the specific reason for the leave when the leave is for other purposes. An employee will be notified in writing within two (2) weeks from the date the application was made of the approval or disapproval of the leave. With the exception of seniority, an employee who is granted such a leave shall not accrue any benefits during his absence.

Section 17.03. Leave to Seek Employment Prohibited. Leaves of absence will not be granted for the employee to seek employment with another employer, nor shall any employee work for another employer during the time period he is on leave. Any employee who works for another employer while on leave shall have his leave canceled immediately and be subject to disciplinary action. This provision shall not apply to employees on leaves of absence for Union business who are employed by the Union or to employees on educational leaves who are employed by the school they are attending as part of their education.

Section 17.04. Return to Work. When an employee returns to work after a leave of absence, he will be assigned the position which he formerly occupied or to a similar position if his former position no longer exists at the applicable rate of pay, provided the employee is able to perform the work, as determined solely by the Employer.

Section 17.05. Return Prior to Expiration of Leave. An employee may, upon request, return to work prior to the expiration of any leave of absence, provided that such early return is agreed to by the Employer.

Section 17.06. Family and Medical Leave (FMLA). Employees who have worked for a minimum of twelve (12) months and twelve hundred fifty (1,250) hours over the previous twelve (12) month period shall be entitled to Family and Medical Leave in accordance with the following provisions:

- A. Employees shall be entitled to a leave of absence not to exceed twelve (12) weeks.
 - 1. In order for the employee to care for a newborn or recently adopted child;
 - 2. In order for the employee to care for a foster child placed with the employee;
 - 3. The inability of the employee to work due to a severe health condition;
 - 4. In order for the employee to care for the employee's spouse, parent, child or the employee's spouse's parent(s) with a serious health condition requiring the presence or care of the employee.
- B. Employees shall be entitled to such leave as outlined in items A1 and A2 above only during the twelve (12) month period immediately following the birth, placement or adoption of a child. Employees requesting leaves pursuant to items A3 and A4 of this article may do so once each year subject to the conditions outlined in Paragraph 1 above.
- C. For the duration of all such leaves as outlined in this Section 17.06 employees may utilize any or all of the following combinations of leave:
 - 1. Accrued, but unused sick leave;
 - 2. Accrued, but unused vacation;
 - 3. Leave without pay.

Nothing in this article shall mandate the employee to exhaust paid leave prior to being granted an unpaid leave as outlined in this section. In no case shall the employee be entitled to more than twelve (12) weeks of Family and Medical Leave as defined in the Family and Medical Leave Act of 1993.

- D. During the term of any such leave outlined in subsection A of this Section 17.06, employees shall be treated as if they are in regular payroll status and shall suffer no loss of any benefit which shall exist as a term or condition of employment, except that an employee shall not be compensated at his/her hourly rate of pay for that period which is requested as unpaid nor shall an employee accrue sick or vacation hours for the unpaid portions of such leave.
- E. Employees shall provide to the Employer as much advance notice as is possible when requesting such leave and shall provide a minimum of fourteen (14) days advance notice prior to returning from such leave.
- F. The Employer may require an employee's request for medical leave be supported by a certificate issued by the health care provider of the employee or of the child,

spouse, parent or parent-in-law of the employee. The certificate should include the date on which the serious health condition commenced, the estimated duration of the condition, and the appropriate medical facts, within the knowledge of the health care provider, regarding the condition.

In the case of an employee requesting leave under subsection A3, the Employer may have the employee examined by a physician of the Employer's choice. Should there be a difference of medical opinions, a third opinion shall be obtained by a physician mutually selected by the Employer and the employee. The cost for any such examination shall be borne by the Employer.

- G. Upon return from any such leave outlined above, employees shall be placed in the classification and department from which they left or the same or similar position if the prior position no longer exists, and shall suffer no loss of any benefit which shall arise as a part of their employment or as a term or condition of this Agreement.
- H. The leave must be taken in consecutive eight (8) hour days except where it has been determined that it is "medically necessary" as related to a serious health condition to take a leave intermittently or by working a reduced work week.

Intermittent or reduced work week family and medical leaves will only be considered in cases of serious health condition of the employee or an immediately family member.

Intermittent or reduced work week family and member leaves will not be granted for birth or adoption of a child, or the placement of a foster child.

During intermittent or reduced work hour leaves, only the time actually taken will be charged against the employee's twelve (12) week entitlement.

- I. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:
 - 1. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay in a hospital, hospice, or residential medical care facility);
 - 2. any period of incapacity requiring absence of more than three (3) calendar days from work, school or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or,
 - 3. continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would result in a period of incapacity or more than three (3) calendar days and for prenatal care.

J. Health Care Providers include:

1. doctors of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices; or,
2. podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the state and performing within the scope of their practice under state law; or,
3. nurse practitioners and nurse mid-wives authorized to practice under state law and performing within the scope of their practice as defined under state law; or,
4. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

K. Health insurance coverage will be maintained during family and medical leave but shall stop if and when an employee informs the City of an intent not to return to work at the end of the leave period or if the employee fails to return to work when the family and medical leave entitlement is used up.

Employees seeking to use family and medical leave must provide:

1. thirty (30) day advance notice of the need to take family and medical leave when the need is foreseeable;
2. medical certification supporting the need for the leave due to a serious health condition affecting the employee or an immediate family member on the form provided by the City and attached as an Appendix to this Agreement;
3. second and third medical opinions and periodic recertification when the City requires such at the City's expense;
4. periodic reports during family and medical leave on the employee's status and intent to return to work.
5. a "fitness-for-duty" certification upon return to work.

ISSUE 8 - Article 21, Hours of Work

ARTICLE 21, HOURS OF WORK

Section 21.01. This article is intended to define the normal hours of work to provide the basis for calculation and payment of overtime.

Section 21.02. Work Day. The normal work day shall consist of eight (8) consecutive hours of work inclusive of lunch periods in any twenty-four (24) hour period, beginning with the employee's starting time.

Section 21.03. Work Period. The normal seven (7) day work period shall consist of five (5) consecutive eight (8) hour days, inclusive of the half hour lunch period. The work week for employees covered by this Agreement shall normally be from 12:01 a.m. Sunday through 12:00 p.m. Saturday. This shall not operate as guarantee of hours of work per day or per week.

Section 4. Schedule Changes. Except in the event of an emergency, any change in posted work schedules shall require a one (1) working day notice.

Section 21.04 5. Start and Quit Time. Employees shall be at their place of work ready to start work at the beginning of their shift and shall not leave their assigned place of work before the authorized quitting time.

~~**Section 21.05.**~~ All hours paid in excess of eight (8) hours in any work day commencing with the employee's starting time, or forty (40) hours in any work week shall be paid at one and one half (1 1/2) times the regular rate of pay. **(MOVED TO SECTION 1 ARTICLE 22 OVERTIME)**

~~**Section 21.06.**~~ *Except as adjusted through Section 4, all starting and quitting times presently in effect are hereby agreed to and shall remain in effect for the duration of this Agreement unless changes are mutually agreed to. In the event that the operational needs of the Employer require that an adjustment be made, the Employer agrees to meet with the union in advance of such action. (ADD TO END OF SECTION 5) In the event that the parties cannot mutually agree and a change is made, the union shall have the right to grieve the reasonableness of the Employer's action.*

Section 21.07. City Hall Hours. For the purpose of this Agreement, the *normal* hours of coverage in the Billing Office, Income Tax Division, and Auditor's Office shall be 8:00 a.m. - 4:00 p.m., Monday through Friday inclusive. *In the event that it becomes necessary to make an adjustment from normal hours, the Employer will meet and discuss the matter prior to doing so.* ~~Employees in each department shall determine the method of such coverage and submit such to the respective department heads for approval.~~

Section 21.08. Breaks. Each employee shall have two (2) on-the-job-site breaks: one in

the morning and one in the afternoon of fifteen (15) minutes each. Such breaks are to be taken at times designated by the Employer.

Section 21.09. Paychecks. Employees shall receive their paychecks on a biweekly basis. Such payment shall be made at the beginning of the day shift on the Friday following the close of each pay period, except that if that Friday is a holiday, then paychecks shall be issued no later than the end of the day shift on the last work day prior to the holiday.

ISSUE 9 - Article 22, Overtime

ARTICLE 22, OVERTIME

Section 21.05 1. Overtime. All hours paid in excess of eight (8) hours in any work day commencing with the employee's starting time, or forty (40) hours in any work week, shall be paid at one and one-half (1-1/2) times the regular rate of pay. **(FROM 21.05)**

Section 22.01 2. Determination/Eligibility for Overtime. The City shall be the sole judge of the necessity for overtime. The City shall attempt to distribute overtime work in a fair and equitable manner, providing that such attempts do not impair the orderly and efficient operation of the affected departments. ***Once the department and classification is selected, all overtime will be offered to those employees who are eligible on a rotating basis in accordance with their departmental seniority. An employee that is off on sick leave shall be the last one called for overtime.*** Overtime may initially be refused. In the event that an insufficient number of employees accept the overtime work, the Employer may assign the overtime work to those individuals that it determines are necessary to adequately and efficiently perform the work.

Section 22.02 3. Equalization. An employee who is offered overtime work and for any reason refuses or fails to work the overtime, shall, for the purposes of overtime equalization, be credited with the overtime hours as if he had worked the hours. In the event that the Employer is unable to contact an employee to work overtime, the employee shall be credited with the overtime hours as if he had worked the hours.

Section 22.03 4. Equalization List. An up-to-date roster shall be kept by the Employer and shall be prominently displayed in each department. The roster shall include the number of overtime hours worked by or charged for equalization purposes to each employee in the respective department.

Section 22.04 5. Compensatory Time.

- A. Employees may, at their option, elect to receive compensatory time, in lieu of monetary compensation, for overtime hours worked. Such compensatory time may accumulate to a maximum of two hundred forty (240) hours and shall not be converted to a cash payment ~~under any circumstances~~ ***unless the Employer in its sole and exclusive discretion determines such will be made available***, except

that if the federal government determines to abolish compensatory time as a form of remuneration, such accrued time shall be paid in cash. ***If a cash out option other than that listed in B is offered by the Employer, such will be offered to all bargaining unit members on an equal basis.***

- B. Use of Compensatory Time. Employees wishing to use any compensatory time earned shall apply, in writing, at least seventy-two (72) hours in advance of taking such time. Such request shall state the date and time such use will commence and the duration of the usage. The employee's immediate supervisor shall grant or deny such leave based upon the staffing needs of the department; however, ~~no request for use of compensatory leave shall be unreasonably denied.~~ ***all requests are subject to the operational needs of the Employer. The parties agree that where an employee has been denied the usage of compensatory time, he may, at the discretion of the Employer, be offered an alternative day for A-T usage within the next thirty (30) days for usage, cash payment for the amount of hours denied, or the employee may withdraw his request for usage. The parties specifically agree that thirty (30) days constitutes a reasonable time period for satisfying a request for compensatory usage under the Act. The parties acknowledge that the Employer retains all its rights to manage the use and administration of accumulated time under federal law.***

Section 22.05 6. On-Call. The Superintendents shall normally be responsible for carrying pagers and being in "on-call" status. In the absence of the Superintendent(s), the assignments shall be rotated among the qualified personnel in each department. Employees of the bargaining unit shall be subject to the following regulations and shall be compensated for such assignment as follows:

- A. Employees who are assigned as "on call" shall be qualified to perform the necessary tasks required and/or be qualified to assess the nature of an emergency situation and call the necessary additional employees to the scene.
- B. Employees shall serve in the "on call" status commencing at the close of the day shift on Friday of any week and ending at the start of the day shift on the following Monday of the next subsequent week or the next regularly scheduled workday of that week.
- C. Employees who are "on call" shall make themselves available to respond to any call within thirty (30) minutes of receiving the call. Availability shall be maintained by leaving a viable telephone number with the authority responsible for dispatching the on call employee and remaining available at that number until such time as notification is given to the authority.
- D. Employees who are assigned as "on call" shall be compensated at the rate of fifty dollars (\$50.00) of additional pay for each day of the assignment.

- E. Failure to respond to a call, without good reason, when assigned as an on call employee may result in the forfeiture of the on call pay and may be the basis for progressive discipline.
- F. No employee shall be mandated to be on call so long as there are a sufficient number of employees willing to accept the on call assignment(s). Should an insufficient number of employees be available, the assignment of the on call duty shall be made in inverse order of seniority.

ISSUE 10 - Article 23, Reporting and Call Out Pay

ISSUE 10- ARTICLE 23 REPORTING AND CALL OUT PAY

Section 23.01. Reporting Pay. An employee who is regularly scheduled and who reports for work, and an employee who is notified to report and who does report for work, shall be paid, in the event no work for which he was scheduled is available, for four (4) hours work at his regular hourly rate of pay. At the discretion of the City, an employee scheduled or notified to report for work may be assigned to other work for which he may be qualified instead of released for the day. When an employee who starts to work is released from duty before he works a minimum of four (4) hours, he shall receive four (4) hours pay. If an employee refuses such

assignment, he shall not receive four (4) hours pay but shall receive pay only for the time actually worked, if any.

Section 23.02. Reporting Pay Not Required in Certain Circumstances. Section ~~23.01~~ of this article shall not apply: (a) in the event of floods, fires, work stoppages in connection with labor disputes, acts of God; or (b) in any case in which an employee shall not be put to work, or kept at work, or shall be released from work after having been put to work by reason of discipline or suspension; or (c) in any case where the City gives notice by appropriate procedures of a change in the scheduled reporting time or that an employee need not report; in all instances the City shall endeavor to notify the employee as far in advance of the regular starting time as possible, dependent upon the condition or event which causes work to be unavailable for the employee; or (d) in the event the lack of work is due to inclement weather (outside work only) determined by the City to be sufficient to prevent work, Section ~~23.01~~ shall apply.

Section 23.03. Call Out Pay. When an employee is called out for an emergency, he/she shall be allowed four (4) hours of work or a minimum payment of four (4) hours times the hourly rate of the job for which he reported. Any hours actually worked shall be paid double time, if any, and in addition the employee shall be paid straight time for hours not worked up to four (4) hours.

ISSUE 11 - Article 25, Temporary Transfers

(Addressed in the Award on Issue #4)

**ISSUE 12 - Article 26, Pay Range Classifications
MOU- Early Retirement Incentive Program
MOU- Lump Sum Payments**

ARTICLE 26, PAY RANGE CLASSIFICATIONS

~~**Section 26.01.** Effective January 1, 2009, the wage rates of the bargaining unit shall not be increased but remain at 2008 levels. Effective January 1, 2010, the wage rates of the bargaining unit shall be increased by adding two percent (2%) to each step of each classification. Effective January 1, 2011, the wage rates of the bargaining unit shall be increased by adding two and one half percent (2.5%) to each step of each classification.~~
Wage rates shall remain unchanged for the duration of the agreement.

The pay schedule listed above applies to the employee classifications as defined in Article 26.02 of this Agreement. Refer to the "Memorandum of Agreement" (Appendix "A") for clarification of pay rates. All general wage increases shall be effective on January 1 of each contract year and payable in the first full pay period following the effective date.

Section 26.02. Employee Class Defined.

<u>Department</u>	<u>Job Description</u>	<u>Class</u>
Auditor	Assistant to the Auditor	2
Auditor	Income Tax Clerk	1
Engineering	Engineer's Assistant	10
Electrical	Electric Utility Foreman	20
Electrical	Relief Foreman	18
Electrical	Electrician	16
Electrical	Lineman A	16
Electrical	Lineman B	13
Electrical	Lineman C	10
Electrical	Trainee 4	8
Electrical	Trainee 3	6
Electrical	Trainee 2	4
Electrical	Trainee 1	3
Utilities	Meter Reader	4
Utilities	Custodian	0
Utilities	Foreman, Water-Sewer	16
Utilities	Relief Foreman	14
Utilities	Utilityman A	12
Utilities	Utilityman B	9

Utilities	Utilityman C	6	
Utilities	Trainee 2	4	
Utilities	Trainee 1	3	
Utilities	Operator, Sewer Cleaner	11	
Utilities	Operator, Backhoe	10	
Utilities	Operator, Sludge Truck	9	
Utilities	Common Laborer	2	
*Utilities	Chief Clerk	2	
Utilities	Clerk-Utilities	1	
Utilities	Miscellaneous Clerk	0	
Water	Operator, Chief	17	
Water	Operator, Class 3	15	
Water	Operator, Class 2	13	
Water	Operator, Class 1	11	
Water	Pumpman A	8	
Water	Pumpman B	5	
Disposal	Class 3	15	
Disposal	Class 2	13	
Disposal	Class 1	11	
Disposal	Operator-In-Training		10
Disposal	Belt Press Operator	8	
Street	Relief Foreman	12	
Street	Equipment Operator 3	10	
Street	Equipment Operator 2	9	
Street	Equipment Operator 1	7	
Street	Mechanic	9	
Street	Laborer, Common	2	
Street	Laborer, Casual	0	

Section ~~26.03~~ 3. Longevity Service Credit. Each bargaining unit member shall receive, in addition to other pay required under this Agreement, an annual service credit payment after their first (1st) year of service in the amount of three dollars (\$3.00) per month for each one (1) year period of service of employment up to and including thirty (30) years maximum. Years of service shall not include any time lost due to suspensions or leave without pay. The payment of longevity shall be calculated by multiplying the years of service by three (3); multiplying the result by twelve (12); and dividing that result by two thousand eighty (2080). The resulting amount shall be paid hourly on all hours in pay status and the hourly amount shall be subject to all appropriate overtime rates (e.g., the computation for an employee with five [5] years of service would be as follows: $5 \times 3 \times 12 / 2080 = \0.09 per hour; the overtime [time and one half] rate would then be $.09 \times 1.5 = \$0.135$ per hour; this amount will be paid for all overtime hours actually worked).

Section ~~26.04~~ 4. EPA Licensing Pay. Effective January 1, 2000, employees of the Water Department shall be compensated for attaining Water Distribution Licenses according to the following schedule:

Class 1	\$0.20 per hour
Class 2	\$0.45 per hour
Water Collection	\$0.45 per hour

Such payments shall be made on all hours in pay status and the licensing amount(s) shall be subject to the appropriate overtime rates as in Section ~~26.03~~ **3** above. The above rates shall be paid at the highest level of license attained and shall not be cumulative except that the Water Collection License shall be considered a separate license and the amount shall be additive to any other license attained.

The Employer shall also pay the cost for the renewal of all state and federal licenses.

APPENDIX "A" _____
MEMORANDUM OF AGREEMENT
EARLY RETIREMENT INCENTIVE/PROGRESSIVE WAGE SCHEDULE

- A. For the duration of this Agreement, the City of Hubbard shall offer to its employees a ***not to exceed*** three (3) year ***maximum*** Early Retirement Incentive Plan. ~~as provided for by the State of Ohio Public Employees Retirement System. This incentive shall be in accordance with Am. Sub. H.S. 706 (effective December 16, 1986).~~ The purpose of the plan is to assist an employee toward reaching thirty (30) years of service ***with the City of Hubbard AFSCME bargaining unit. Service time with the City of Hubbard only includes actual service with the City of Hubbard AFSCME bargaining unit and shall not include any time purchased or of a prior nature with another Employer.*** The incentive, therefore, is limited to the lesser of three (3) years or the number of years necessary to reach thirty (30) years of service ***with the City of Hubbard AFSCME bargaining unit***; no employee will receive service credit that gives the employee more than thirty (30) years of service for retirement ***with the City of Hubbard. No employee shall be eligible for participation in the plan who would not, as a result of the ERIP, reach thirty (30) years service with the City of Hubbard AFSCME bargaining unit.***
- B. The incentive shall be offered to all employees who meet the eligibility requirement during each year of this bargaining agreement. If the minimum number of five percent (5%) is not reached, then the plan shall be offered to all eligible employees until such time as the five percent (5%) minimum is reached. Employees wishing to avail themselves of this Early Retirement Incentive shall notify the Employer of their intent at least six (6) months prior to the anticipated date of retirement.
- C. For the time of the effective dates of the Early Retirement Incentive Plan, and for so long as such plan is legitimately offered, a progressive wage scale for employees hired subsequent to January 1, 1991, shall be in effect. Such progressive wage system shall not apply to any bargaining unit member hired prior to January 1, 1991. This progressive wage schedule shall reflect the following rates of pay for each bargaining unit classification: ~~First year rate 78% of the negotiated rate of pay; Second year (anniversary of employee) 86% of the negotiated rate; Third year~~

~~(employee's anniversary) 92.5% of the negotiated rate; Fourth year (employee's anniversary) 100% of the negotiated rate.~~

Step 1 1st Year Rate	75% of the negotiated rate (employee's anniversary)
Step 2 2nd Year Rate	77.5% of the negotiated rate (employee's anniversary)
Step 3 3rd Year Rate	80 % of the negotiated rate (employee's anniversary)
Step 4 4th Year Rate	82.5% of the negotiated rate (employee's anniversary)
Step 5 5th Year Rate	85% of the negotiated rate (employee's anniversary)
Step 6 6th Year Rate	87.5% of the negotiated rate (employee's anniversary)
Step 7 7th Year Rate	90.0% of the negotiated rate (employee's anniversary)
Step 8 8th Year Rate	92.5% of the negotiated rate (employee's anniversary)
Step 9 9th Year Rate	95.0% of the negotiated rate (employee's anniversary)
Step 10 10th Year Rate	100% of the negotiated rate (employee's anniversary)

Any bargaining unit member hired prior to 6/11/2012 shall not be affected by the above scale and shall continue to progress through the wage schedule as it existed in the prior to the effective date for this new schedule. Any bargaining unit member hired after 6/11/2012 shall be subject to the above schedule. At the sole and exclusive discretion of the Employer, an employee may be hired in and, with input from the department head, placed at a step greater than the entry level step based on the Employer's assessment of the employees prior certifiable experience, licensure, and qualifications. No new employee hired after 6/11/2012 shall be hired into a classification at a wage rate that is higher than an employee hired prior to 6/11/2012 in the same classification.

- D. This progressive scale shall apply to the wages only of any bargaining unit employee hired subsequent to January 1, 1991, and shall in no way change, modify or affect any other right, benefit, term or condition of employment due the employee under the terms of this Agreement.
- E. The Progressive Wage Schedule contained herein shall apply only to employees hired subsequent to January 1, 1991, and shall have no effect on any employee hired prior to January 1, 1991. This schedule shall remain in effect only so long as the Early Retirement Incentive outlined above is available to the employees of the City of Hubbard.

MEMORANDUM OF UNDERSTANDING
LUMP SUM PAYMENTS

In lieu of any general increase, bargaining unit members who are employed on the below dates shall receive a lump sum payments as follows:

For the year 2013	1/1/2013	\$500.00
For the year 2014	1/1/2014	\$500.00

Payment shall be made within thirty (30) days of each respective date specified above.

ISSUE 13 - Article 28, Insurance
Article 37, Benefits
Appendix ___ - Insurance Benefits Summary
MOU- Insurance Maintenance/Transition

ARTICLE 28, INSURANCE

Section 28.01. Coverage/Contribution Rates. ~~The Employer will provide major medical insurance benefits to eligible employees at the same levels which were in effect on January 1, 2008, as follows: A Employees hired on or before December 1, 2008, will contribute two percent (2%) of the monthly premium costs of the major medical insurance benefits by payroll deduction effective after ratification, three (3%) percent of the monthly premium costs of the major medical insurance benefits effective January 1, 2010, and three and one-half percent (3.5%) of the monthly premium costs of the major medical insurance benefits by payroll deduction effective January 1, 2011. B Eligible employees hired after December 1, 2008, choosing to take major medical insurance benefits offered by the Employer shall pay ten percent (10%) of the monthly premium costs of the major medical insurance benefits.~~ *The Employer shall provide to all full-time bargaining unit members represented by the Union comprehensive major medical/hospitalization health care insurance and ancillary coverage pursuant to the plan contained in Appendix __, another comparable plan (i.e., measured by both design and cost) selected by the Employer, or a plan recommended by the insurance committee under this article and approved by the Employer. The applicable plan offering(s) shall be reduced to writing and appended to the agreement as Appendix __. The eligible employee may select coverage (i.e., single, two-party, family, etc.) subject to the plan offerings.*

For those full-time employees hired prior to December 1, 2008, the Employer shall contribute 96.5% of the cost of monthly coverage and employees shall contribute 3.5% of the cost of monthly major medical major medical coverage under the applicable insurance plan. For those full-time employees hired after December 1, 2008, the Employer shall contribute 90.0% of the cost of monthly major medical coverage and employees shall contribute 10.0% of the cost of monthly major medical coverage under the applicable insurance plan.

Section 2. Insurance Committee/Insurance Changes. *The Union agrees that the City may create and maintain an insurance committee for the purpose of studying and recommending cost containment programs for medical and prescription coverage, reviewing usage, and recommending benefit levels. Once created, the Union agrees to participate in the committee. The committee shall consist of one (1) representative from each of the bargaining units, one (1) non-bargaining unit employee, and one (1) or two (2) representatives of the City, whichever is necessary to achieve an odd number. The insurance committee shall have the authority to recommend program coverage changes, recommend alterations to benefit levels, and/or recommend adjustments to coverage levels through majority vote.*

Section 3. Committee Recommendations. *Employer actions to carry out recommendations of the insurance committee in whole or in part shall not be subject to the grievance procedure or any other avenue of appeal. If the committee is going to recommend that the City go out for bid for the following year, the committee must provide the City with the necessary information by ninety (90) days preceding the plan year for which bids are taken.*

Section 4. AFSCME Care Plan Contributions. € The Employer shall continue to contribute the sum of eight dollars and zero cents (\$8.00) per month to the Ohio AFSCME Care Plan for the following benefits:

Life Insurance	\$7.50
Hearing Aide	<u>\$0.50</u>
TOTAL PER MONTH	\$8.00

~~D. Coverage for dental and vision care shall revert to those benefits as outlined in the City's "Master Plan for Insurance Document" and shall be on a par with the benefits provided to all other employees and bargaining units of the City of Hubbard.~~

Section 28.02. ~~The prescription card benefit shall be modified to the following:~~

Name Brand Mail Order Option	=\$10.00 Generic Co-pay
	=\$20.00 Name Brand Co-pay
Pharmacy Option	=\$10.00 For generic drugs
	=\$20.00 Co-pay Name Brand

~~**Addition of Disease Management Program** The City will offer a disease management program for chronically ill individuals. In exchange for participation in the program and compliance with program requirements, the City will require only ten dollars (\$10.00) of the mail order co-pays for the participating individual as long as Disease Management Program participation continues.~~

~~**Limitation on physical therapy visits** Physical therapy visits shall be limited to ten (10) per injury with an annual maximum of thirty (30) payable at one hundred percent (100%).~~

~~All visits in excess of the maximums defined shall be paid at the co-insurance rate (eighty percent [80%] paid by plan and twenty percent [20%] paid by employee).~~

Section 5. Spousal Coverage. *Spousal coverage will be available beginning in the first month following the date of execution, only upon proof that the spouse does not have other major medical insurance coverage available to him/her through the spouse's employer.*

If such coverage is available, the employee's spouse must enroll in at least single coverage from his/her employer for the City employee to be eligible for family coverage from the Employer, the City of Hubbard. Falsification of spousal coverage information shall be grounds for discipline, up to and including discharge.

Section ~~28.03~~ 6. Retirement. Upon retirement each employee with at least ten (10) years of active employment shall receive a paid up policy as fifteen hundred dollars (\$1,500.00). If in the event that employee has fifteen (15) years of employment, he shall receive a seventeen hundred dollar (\$1,700.00) paid up policy, and in the event he has twenty (20) or more years of active employment with the City, a two thousand dollar (\$2,000.00) policy; such coverages for employees who are retired or on permanent disability.

Section ~~28.04~~ 7. Wavier of Coverage. Upon proof of alternate coverage (except if such coverage is through a spouse working for the City of Hubbard), eligible employees may elect to waive all of the health insurance coverage except for care received through the Ohio AFSCME Care Plan specified above ~~in Section 28.01~~ provided by the Employer. ~~Eligible employees who elect to opt out of the coverage(s) for the 2009 calendar year shall be paid a flat fee amount in accordance with the following schedule:~~

~~Family _____ \$7,000.00~~

~~Single _____ \$4,000.00~~

~~For calendar year 2010, employees who elect to opt out of all coverages shall be paid a flat fee amount of:~~

~~Family _____ \$5,000.00~~

~~Single _____ \$2,500.00~~

~~For calendar year 2011, Employees who elect to opt out of all coverages shall be paid a flat fee amount of:~~

~~Family _____ \$4,000.00~~

~~Single _____ \$2,000.00~~

The above amounts shall be payable by separate check in one-half of the above amount(s) due in the second pay period of January of each year, and the balance due and payable in the second pay period of July of each year.

Employees shall notify the Employer of the wavier option on the appropriate form attached as an Appendix to this Agreement. The form shall apprise the employee of his/her rights and the employee will verify that he/she has alternative coverage. ***If husband and wife are covered under the City plan, the opt out would not apply.***

Employees shall have the right to opt back into any health benefit provided by the Employer by applying for reinstatement in the open enrollment periods of December and June. Reinstatement occurs the first day of the month following request of reinstatement (example: January 1, July 1). Employees who lose alternative coverage in instances such as divorce, death, termination of spouse's insurance or employment, etc. may apply for reinstatement in the Employer's health plan at the time of the loss of alternative coverage. Reinstatement shall be no later than the day of the month following the request for reinstatement. The employee shall be required to remit to the Employer a prorated amount of the "opt out" compensation. Such payback may be made through payroll deduction.

ARTICLE , TOOLS, EQUIPMENT AND UNIFORMS

Throughout the term of this Agreement the City, with input from the Department Heads, shall determine what tools, equipment, and uniforms are needed for all employees of the bargaining unit.

ARTICLE 37, BENEFITS

~~**Section 37.01.** Throughout the term of this Agreement the City shall continue to provide all tools, equipment, and uniforms to all members of the bargaining unit, which were provided as of July 1988. In addition, the City shall maintain whatever types and levels of hospitalization and medical insurance it provided to members of the bargaining unit as of July 1, 1988.~~

APPENDIX , INSURANCE BENEFITS SUMMARY

Plan Benefits	Current	2013 Plan Summary	2014 Plan Summary
IP Hospital Co-Pay	100% = \$0	80% In/60% Out	80% In/60% Out
OP Hospital Surgery Co-Pay	100% = \$0	80% In/60% Out	80% In/60% Out
ER Room Co Pay	100% = \$0	\$75 co-pay	\$75 co-pay
Lifetime Max	unlimited	unlimited	unlimited
Any Benefit covered at 100%	yes	No- 80/20 In; 60/40 Out	No- 80/20 In; 60/40 Out
Routine Services Annual Max	unlimited	unlimited	unlimited
Routine Services Co-Pay	\$0	\$5.00	\$10.00
Urgent Care	\$0	\$5.00	\$10.00
Office Visit Co-Pay	\$0	\$5.00	\$10.00
Specialist Co-Pay	\$0	\$5.00	\$10.00
Deductibles			
Single	\$100	\$200	\$300
Family	\$100	\$400	\$600
Single (Out of Network)	\$100	\$600	\$800

Family (Out of Network)	\$100	\$1200	\$1600
Out of Pocket Max (Includes Deductible)			
Single	\$500	\$600	\$600
Family	\$900	\$1000	\$1200
Single (Out of Network)	\$500	\$1500	\$2400
Family (Out of Network)	\$900	\$2700	\$4800
Prescriptions Co-Pays			
Generic	\$10	\$10	\$10
Brand	\$20	\$20	\$20

* The above schedule of benefits is a summary of cost and services generally. Actual services provided under the plan are covered by the master plan document maintained by the Auditor's Office and updated in accordance with the parties' Agreement. Changes to future costs and coverage, if any, shall be made in accordance with the Article __, Insurance of the parties' Agreement.

**MEMORANDUM OF UNDERSTANDING
INSURANCE MAINTENANCE/TRANSITION**

Section 1. Insurance Maintenance. *Notwithstanding the language in Article __, Insurance and the attached Insurance Benefit Appendix, the parties agree that for the remainder of 2012 insurance plan benefit levels shall remain unchanged.*

Section 2. Insurance Transition. *During the remainder of 2012 the parties will convene the insurance committee for the purposes of evaluating and recommending to the Employer plan options for consideration for the 2013 plan year. In the event that the insurance committee fails to deliver a recommendation or that the insurance committee's recommendation is not approved for implementation, the Insurance Plan Benefit Appendix or another comparable plan selected pursuant to Article __, Insurance, Section 1 shall become effective January 1, 2013.*

ISSUE 14 - Article 29, Wage Inequities

ARTICLE 29, WAGE INEQUITIES NEW AND REVISED JOB CLASSIFICATIONS

Section ~~29.1~~ 29.1. If substantial changes in the method of operation or equipment of a job occur, or if a new job is established, which has not previously been classified, the City shall meet with the Union for the purpose of negotiating a rate of pay and classification or placing the job in an existing classification.

Section 2. In the event the City and the Union are unable to reach an agreement on the issue, the City shall establish a temporary rate and classification and will promptly notify the Union in writing. Thereafter, the Union may file a grievance at Step 3 of the Grievance

Procedure. The arbitrator shall have the authority to establish a new rate and classification or place the job in an existing classification. Any award of the arbitrator shall be retroactive to the date the job was placed into effect. Any rate and classification mutually agreed to between the City and the Union, or decided by the arbitrator, shall become part of the wage agreement attached hereto, subject to the approval of City Council.

ISSUE 15 - Article 39, Duration

ARTICLE 39 , DURATION

Section 39.01. This Agreement shall become effective January 1, ~~2006~~ **2012** and shall continue in full force and effect along with any amendments made in connection hereto until midnight December 31, ~~2008~~ **2014**.

ISSUE 16 - Article 40 __, Predisciplinary Conference

ARTICLE 40 , PREDISCIPLINARY CONFERENCE

Section 40.01. Whenever the Employer determines that an employee may be suspended, reduced or terminated for just cause, a predisciplinary conference shall be scheduled prior to any disciplinary action.

Section 40.02. Predisciplinary conferences shall be scheduled during regular business hours of the Employer and no employee shall suffer loss of regular pay or benefits while attending such conferences.

Section 40.03. Predisciplinary conferences will be conducted by a neutral Hearing Officer who will be selected by the Employer. The Hearing Officer shall not be directly in the line of authority of the employee.

Section 40.04. Not less than forty-eight (48) hours prior to the scheduled starting time of the conference, the Employer will provide to the employee a written outline of the charges which may be the basis for disciplinary action. The employee must choose to: 1) appear at the conference to present an oral or written statement in his or her defense; 2) appear at the conference and have a chosen representative present an oral or written statement; or 3) waive writing, the opportunity to have a pre-disciplinary conference.

Section 40.05. At the predisciplinary conference, the neutral will ask the employee or his/her representative to respond to the allegation(s) of misconduct which were outlined to the employee. Failure to respond or respond truthfully may result in further disciplinary action, except when employee is subject to self incrimination and elects to invoke a right to remain silent.

Section 40.06. At the conference both parties may present any testimony, witnesses, or documents which explain whether or not the alleged conduct occurred. The employee may be represented by any person he or she chooses, whether such individual is an employee or not. The Union may have a representative present at all bargaining unit predisciplinary conferences. The parties shall provide lists of witnesses to the neutral as far in advance as possible, but not later than one (1) hour prior to the predisciplinary conference, Copies of these lists will also be exchanged by the parties at that time. It is the employee's responsibility to notify witnesses that their attendance is desired.

Section 40.07. The parties or their representative(s) will be permitted to confront and cross-examine witnesses. Within ten (10) days following such hearing, a written report will be prepared by the neutral concluding as to whether or not the alleged conduct occurred. Copies of the report shall immediately be provided to the Service Director, the employee, and the Union. The Appointing Authority will then decide what discipline, if any, is appropriate.

ISSUE 17 - Article 41 __, Discipline

ARTICLE 41 __, DISCIPLINE

Section 41.01. It is mutually understood and agreed that no employee shall be reduced in pay, reprimanded, suspended or discharged except for just cause and that all discipline shall normally be applied in a corrective, progressive and uniform manner.

Should the severity of an employee's conduct so warrant (e.g., fighting, physically assaulting a supervisor or co-worker; theft of the Employer's property, etc.), an employee may be subject to suspension or discharge for a first offense.

Section 41.02. *Progressive Discipline.* Progressive discipline for related offenses shall take into account the nature of the violation, the employee's record of discipline, and the employee's record of conduct. The order of progression shall be: oral reprimand, issued in the presence of a union representative; written reprimands, with copies of such sent to the Union; suspension, with notice outlining the charge sent to the Union; and discharge, with copies of such sent to the Union outlining the charges against the party and reasons for termination.

Section 41.03. *Notice of Discipline.* Prior to any disciplinary action, the affected employee shall receive a "Notice of Discipline." All disciplinary notices must clearly state and establish the reasons for discipline and the provisions of the Collective Bargaining Agreement and/or work rules violated by the employee.

Section 41.04. *Disciplinary Appeals.* Notices of discipline may be appealed to Step 4 of the Grievance Procedure within five (5) working days of receipt of such notice. For the purpose of this procedure "working days" shall be defined as excluding Saturdays, Sundays,

and holidays as provided for in this Agreement. **(Moved from Section 9)**

Section 41-05. Resignation. An employee may voluntarily resign upon receipt of a Notice of Discipline. Any such resignation shall be processed in accordance with the Employer's rules governing voluntary resignation and shall not be treated as a disciplinary termination.

Section 41-06. Implementation of Discipline. No discipline shall be implemented until:

1. The matter is resolved by mutual agreement;
2. The employee fails to file a grievance in accordance with Section 41.04 above;
3. The discipline is upheld at Step 4 of the Grievance Procedure.

Section 41-07. Suspension Without Pay. An employee may be suspended without pay at any time during the process outlined in Articles 40 and 41 of this Agreement if the Employer determines the employee's continued presence represents a potential danger to persons or property or would interfere with the operations of the Employer.

Section 41-08. Disciplinary Records. Disciplinary actions taken against an employee shall cease to have force and effect in accordance with the following schedule and provided there is no intervening discipline:

Verbal Reprimand - six (6) months

Written Reprimands - one (1) year

Suspension of three (3) days or less - eighteen (18) months

Suspension of more than three (3) days - twenty-four (24) months

~~**Section 41-09.** For the purpose of this procedure "working days" shall be defined as excluding Saturdays, Sundays, and holidays as provided for in this Agreement.~~

ISSUE 18 - Article 42 __, Grievance Procedure

ARTICLE 42 __ **GRIEVANCE PROCEDURE**

Section 42-01. Every employee shall have the right to present his grievance in accordance with the procedures provided herein, free from any interference, coercion, restraint, discrimination or reprisal and except for Step 1, shall have the right to be represented by the Union at all stages of the grievance procedure. It is the intent and purpose of the parties to this Agreement that all grievances shall be settled, if possible, at the lowest step of this procedure.

Section 42-02. Definitions. For the purposes of this procedure, the below listed terms are defined as follows:

- a. Grievance - A “grievance” shall be defined as a dispute or controversy arising out of or from the application or interpretation of the provisions of this Agreement.
- b. Aggrieved Party - The “aggrieved party” shall be defined as any employee or group of employees within the bargaining unit actually filing a grievance.
- c. Party of Interest - A “party of interest” shall be defined as any employee of the Employer named in the grievance who is not the aggrieved party.
- d. Days - A “day” as used in this procedure shall mean calendar days, excluding Saturdays, Sundays or holidays as provided for in this Agreement.

Section 42.03. Procedures. The following procedures shall apply to the administration of all grievances filed under this procedure.

- a. Except at Step 1, all grievances shall be in writing and shall include the name and position of the aggrieved party; the identity of the provisions of this Agreement involved in the grievance; the time and place where the alleged events or conditions constituting the grievance took place; the identity of the party responsible for causing the said grievance, if known to the aggrieved party; and a general statement of the nature of the grievance and the redress sought by the aggrieved party.
- b. Except at Step 1, all decisions shall be rendered in writing at each step of the grievance procedure. Each decision shall be transmitted to the Union, the aggrieved party and his representation, if any.
- c. If a grievance affects a substantial number of employees, it may be submitted at Step 3. Such grievances shall be known as policy grievances and may be filed by the Union on behalf of employees without specifically listing all affected employees.
- d. Nothing contained herein shall be construed as limiting the right of an employee having a grievance to discuss the matter informally with any appropriate member of the administration and having said matter informally adjusted without the intervention of the Union, provided that the adjustment is not inconsistent with the terms of this Agreement.
- e. In the event that any grievance is adjusted without formal determination, pursuant to this procedure, while such adjustment shall be final and binding upon the aggrieved party in all respects, said adjustment shall not create a precedent or ruling binding upon the parties in future proceedings.
- f. This shall be the sole and exclusive procedure for disputes concerning any type of discipline or discharge actions.
- g. The time limits provided herein will be strictly adhered to and any grievance not filed initially or appealed within the specified time limits will be deemed waived and

void. If the Employer fails to reply within the specified time limit, the grievance shall ~~automatically move~~ **be deemed denied and the Union shall have the opportunity to advance the grievance** to the next step **in accordance with the parties' established time limits**. The time limits specified for either party may be extended only by written mutual agreement.

- h. This procedure shall not be used for the purpose of adding to, subtracting from, or altering in any way, any of the provisions of this Agreement.

Section 42-04. Steps. All grievances shall be administered in accordance with the following steps of the Grievance Procedure.

Step 1: An employee who believes he may have a grievance shall notify his Department Head of the possible grievance within five (5) days of the occurrence of the facts giving rise to the grievance. The Department Head will schedule an informal meeting with the employee and his steward within five (5) days of the date of the notice by the employee. The Department Head and the employee, along with the employee's steward, will discuss the issues in dispute with the objective of resolving the matter informally. The Department Head will respond to the grievance as soon as possible, but not later than three (3) days after the meeting.

Step 2: If the dispute is not resolved informally at Step 1, it shall be reduced to writing and presented as a grievance to the employee's Department Head within five (5) days notification of the Department Head's decision at Step 1. The Department Head shall give his answer within five (5) days of the meeting.

Step 3: If the aggrieved party initiating the grievance is not satisfied with the written decision at the conclusion of Step 2, a written appeal of the decision may be filed with the Service Director within five (5) days from the date of the rendering of the decision in Step 2. Copies of the written decision shall be submitted with the appeal. The Service Director shall convene a meeting within ten (10) days of the receipt of the appeal. The meeting will be held with the aggrieved party and the Union representation. The Service Director shall issue a written decision to the employee's Union representative and a copy to the employee within fifteen (15) days from the date of the meeting.

Step 4: If the aggrieved party is not satisfied with the written decision at the conclusion of Step 3, a written appeal of the decision may be filed with the Mayor within five (5) days from the date of the rendering of the decision in Step 3. Copies of the written decisions shall be submitted with the appeal. The Mayor or his designee shall convene a meeting within ten (10) days of the receipt of the appeal. The meeting will be held with the aggrieved party and his Union representative and the Union Grievance Committee and any other party necessary to provide the information needed for the rendering of a proper decision. The Mayor or his designee shall issue a written decision to the employee, with a copy to the employee's Union representative within fifteen (15) days from the date of the meeting. If the Union is not satisfied with the decision at Step 4, it may proceed to arbitration pursuant to the arbitration procedure herein contained.

~~**Section 42.05. *Withdrawal of Grievance.***~~ All decisions of arbitrators and all pre-arbitration settlements reached by the City and the Union shall be final, conclusive, and binding on the City, the Union, and the employees. **(MOVED TO ARTICLE 43, ARBITRATION PROCEDURE)** ~~However,~~ A grievance may be withdrawn by the Union at any time and the withdrawal of any grievance shall not be prejudicial to the decisions of the parties as they relate to that grievance any future grievances.

Section 6. Mediation. At any time after a grievance has been timely appealed from Step 4, the parties may agree to mediate an outstanding grievance the Federal Mediation and Conciliation Service (FMCS).

ISSUE 19 - Article 43 __, Arbitration Procedure

ARTICLE 43 __, ARBITRATION PROCEDURE

Section 43.01. Procedure. In the event a grievance is unresolved after being processed through all of the steps of the grievance procedure, unless mutually waived or having passed through the various steps by timely default of the Employer, then within thirty (30) days after the rendering of the decision at Step 4 ~~or a timely default by the Employer at Step 4,~~ the Union may submit the grievance to arbitration. Within this thirty (30) day period, the parties will meet to attempt to mutually agree upon an arbitrator selected from the permanent panel created by this procedure. If such agreement is not reached, then the panel member's names will be stricken alternately until one name remains who shall be designated as the arbitrator to hear the grievance in question.

Section 43.02. Authority of Arbitrator. The arbitrator shall have no power or authority to add to, subtract from, or in a manner alter the specific terms of this Agreement or to make any award requiring the commission of any act prohibited by law or to make any award that itself is contrary to law or violates any of the terms and conditions of this Agreement.

Section 43.03. Number of Grievances. The arbitrator shall not decide more than one grievance on the same hearing day or series of hearing days except by the mutual written agreement of the parties.

Section 43.04. Rules. The hearing or hearings shall be conducted pursuant to the American Arbitration Association's Rules of Voluntary Arbitration.

Section 43.05. Expenses. The fees and expenses of the arbitrator and the cost of the hearing room, if any, shall be borne equally by the parties. Neither party shall be responsible for any of the expense incurred by the other party.

Section 43.06. Award/Settlement. The arbitrator's decision and award shall be in writing and delivered within (30) days from the date the record is closed. ~~The decision of~~

~~the arbitrator shall be final and binding.~~ All decisions of arbitrators and all pre-arbitration settlements reached by the City and the Union shall be final, conclusive, and binding on the City, the Union, and the employees. **(MOVED FROM ARTICLE 42, GRIEVANCE PROCEDURE)**

Section 43-07. Panel/Selection. There is hereby created a permanent panel of five (5) arbitrators to be used for the selection of arbitrators pursuant to this Arbitration Procedure. Those individuals placed on this panel shall be the following: 1) James Rimmel; 2) William Miller; 3) Rob Stein; 4) Nels Nelson; and 5) David Pincus.

Upon receipt of a request for arbitration, the Employer or designee and the representative of the Union shall meet within ten (10) days following the request for arbitration to select an arbitrator from the permanent panel. The parties shall agree on a submission agreement outlining the specific issues to be determined by the Arbitrator prior to selection. ***The parties shall select, by alternate strike method, an arbitrator from the panel listed above.*** ~~In the first instance of arbitration, the aforementioned arbitrators shall be assigned numbers and the first arbitrator to be used shall be selected by the drawing of lots based upon these numbers. Thereafter the arbitrators shall be selected on a "round robin" basis commencing with the next sequential number following the first selection. All procedures relative to the hearing shall be in accordance with the rules and regulations of the American Arbitration Association.~~

Section 8. Withdrawal of Grievance from Arbitration. If a grievance is withdrawn from arbitration, the moving party shall notify the other party of that fact within fifteen (15) days of the withdrawal.

Section 9. Decision. The arbitrator shall hold the arbitration promptly and issue his decision within forty-five (45) days following the close of the hearing. The arbitrator shall limit his decision strictly to the interpretation, application, or enforcement of those specific articles and/or sections of the Agreement in question. The arbitrator's decision shall be consistent with applicable law.

Section 43-08 10. Indemnification. The Union agrees to indemnify and hold the Employer harmless against any and all claims, demands, suits or other forms of liability that may arise out of any determination that the Union failed to fairly represent a member of the bargaining unit during the exercise of his rights as provided by the grievance and arbitration procedures herein contained.

Not included in the above recommendations is a Union proposed \$2.00 increase in pay for Lineman completing an apprentice program. Although the City and the citizens of Hubbard benefit greatly from the work of these employees, and the Union's proposal addresses a legitimate concern, given the current financial circumstances of the City no increase can be recommended at this time.

TENTATIVE AGREEMENT

During negotiations and the following impasse proceedings, the parties reached tentative agreements on several issues. The Memorandum of Agreement identified above, any and all tentative agreements, and any unchanged current language are part of the recommendations for a successor Collective Bargaining Agreement contained in this report. Additionally, any current language is not changed addressed above should be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of August 2012 in Portage County, Ohio.

Robert G. Stein, Fact finder