



IN THE MATTER OF FACT FINDING
BETWEEN
THE CITY OF MANSFIELD, OHIO
AND
AFSCME, OHIO COUNCIL 8 AND LOCAL 3088

Robert G. Stein, Fact-finder

LEAD ADVOCATES FOR THE UNION:

Bill DeVore, Staff Representative
Mark Abrams, President, Local 3088
AFSCME OHIO COUNCIL 8
The Jack Gallon Building
6800 North High Street
Worthington OH 43085
bdevore@afscme.org

LEAD ADVOCATES FOR THE EMPLOYER:

Michael D. Esposito, Esq.
Shareholder/Employer Advocate
CLEMANS, NELSON & ASSOCIATES, INC.
2351 South Arlington Road, Suite A
Akron OH 44319
mesposito@clemansnelson.com

Dave Remy, HR Director
Laurie Cope, Safety/Service Director
City of Mansfield, Ohio



INTRODUCTION

The parties to this matter are the AFSCME Ohio Council 8, Local 3088 (hereinafter "Union") and the City of Mansfield, Ohio (hereinafter "Employer" or "City"). The Employer is located in northern Ohio. The bargaining unit is comprised of approximately one hundred and twenty-five (125) employees who hold numerous positions in the City as identified in Article 4 of the Agreement. The current collective bargaining agreement was effective on May 1, 2009 through the date of April 30, 2011. Approximately seven (7) negotiations sessions were held between the parties prior to the involvement of the fact finder, which resulted in agreement on a significant number of issues. The parties, with the assistance of the fact finder, opted to attempt to mediate a resolution of numerous unresolved issues instead of going directly to fact finding. The fact finder held two intense mediation sessions with the parties on February 22 and March 8, 2013 that resulted in a significant narrowing of the differences between the parties, but in the end the parties, not having reached tentative agreement, asked the fact finder to submit a fact finding report. The commitment and creativity of the lead advocates, Mr. DeVore and Mr. Esposito was duly noted, as was the tireless efforts, expertise, and leadership of David Remy, Law Director and Mark Abrams, President, Local 3088. The mediator/fact finder would like to thank these experienced gentlemen and their knowledgeable teams for the stalwart representation of their constituents in these mediations sessions. These gentlemen, realizing the challenges facing the City, undertook the arduous task of making decisions that were in the best interest of citizens of the City of Mansfield. Firm resolve tempered by pragmatism and reason in looking for common ground often results in responsible decision making, and that is what occurred here.

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 economies. Adding to the uncertainty in the United States are conditions of "Sequester," which replaced the "fiscal cliff" that dominated the airwaves in December and early January. The Sequester has begun with no immediate hope of resolving what will become an increasing budgetary crisis in the not too distant future. The economy in Ohio continues to show signs of steady 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 and now Cyprus will adequately address their economic problems and whether other countries such as Italy and Spain, will become the next major crisis to plague the financial markets. It is remarkable and difficult to understand how the economic collapse of one very small European country can significantly undo months of economic recovery in the United States, but as we have carefully progressed from winter to spring, with a stock market at record levels, uncertainty remains pervasive, as does gridlock in Washington D.C. The housing market continues showing signs of recovery, the auto industry had record sales for March, yet twelve (12) million people remain unemployed. And of course, the recovery, as expected, is uneven. The City of Mansfield faces greater challenges than others such as Columbus, but is not alone as other cities in northern Ohio look for ways to do more with significantly less.

According to Moody's, "Mansfield's recovery is trailing that of Ohio and is stuck in a holding pattern, as no growth driver has emerged to propel the economy. The important manufacturing industry is still bouncing along bottom." On January 15, 2013 Moody's investor service assigned a bond rating of Baa to the City. In its rational that it resulted in this rating it stated:

"The city's financial operations, while improved, are expected to remain pressured for near to medium term given the ongoing deficit balance in city's Safety Services Fund and dependence on significant expenditure reductions and/or revenue enhancements for balanced operations going forward...The city's modestly-sized \$1.6 billion tax base has seen assessed value declines for five consecutive years. Most of the decline can be attributed to the state of Ohio's phasing out of tangible personal property tax...Over the same period; real property has declined, falling from a 2006 assessed valuation of \$612.4 million to a 2012 assessed value of \$555.2 million."

In assessing what would help the City in raising its bond rating (greater fiscal health) Moody's in its report stated two things:

"-Successful economic development efforts resulting in stabilization of employment base and improvement of other economic indicators

-Improved financial operations leading to satisfactory liquidity levels and positive operating fund balances across all funds."

On August 19, 2010, the state of Ohio placed the City of Mansfield in fiscal emergency. And, as



a condition of being in fiscal emergency the City is required to work with the Fiscal Emergency Supervision Commission to put together and follow a comprehensive recovery plan. Said plan has been implemented and it involved staff reductions, fire fighter collective bargaining concessions, revisions to health care benefits, reduction in street lighting usage, the implementation of license plate fees and other cost reductions. This is the reality faced by both parties in this matter. It is not pleasant, yet it is not disastrous. Its reality and a cautionary tale of why the parties, and all other bargaining units, must to work together like never before, to make difficult decisions that require sacrifice in order to “right the ship.” It is the basis for the recommendations contained in this report that conform to the statutory criteria that all fact finders must follow.



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.

The recommendations contained in this report are listed in accordance with Articles that were open and the subject of mediation. For the sake of brevity the specific rationale proffered by the parties in support of their positions on each open issue can be found in Appendices A and B. However, in summary the parties' positions on the issues of wages and health care are as follows:

**Summary of Union's Position on Wages and Health Care:**

The Union understands the City's financial condition and for several years its members have gone without a pay raise. However, after this long period, the Union's position on Wages and Insurance is to increase wages by 3% and maintain the same insurance plan. It argues that it has not had a wage increase since 2008 and that a change in health care, to what all other city workers have, would create an additional financial burden. In addition, the Union points out that approximately 80 of its members have been laid off since 2007. Furthermore, the Union argues that more than 80% of its members are paid out of funds that are solvent. The Union's position on the remaining issues can be found in its Position Statement (Appendix A).

Summary of City's Position on Wages and Health Care:

The City simply states the City has serious financial challenges that require it to take immediate and sustained action to reduce its financial obligations. In its words, it must *"scale back expenditures and attempt to live within its dedicated funding streams...obtain much needed/required balance between City revenues and expenditures."* Given that perspective, the City is proposing no wage increases or payments for the length of the Agreement. As part of seeking long term solvency, the City is proposing that the bargaining unit accept its proposed health insurance coverage to be effective January 1, 2013. The City's position on the remaining issues can be found in its Position Statement (Appendix B).

Fact-finder's overall Findings:

There is no question that the City must take clear and decisive steps to "get its financial house in order." Since 2008 the Union has made concessions and the bargaining unit has experienced significant layoffs. Yet from the evidence, there is more "housekeeping" to be



done and some of it will require the bargaining unit, as well as all other bargaining and non-bargaining unit employees, to once again step up and make the hard decisions. With the exception of health care, which requires a large number of employees in order to leverage the best rates from insurance companies, the recommendations in this report in the main address the preservation of benefits for current bargaining unit employees and provide prospective cost savings based upon employees who have yet to be employed with the City. While having bifurcated benefits in a collective bargaining agreement is at times difficult, it is the only reasonable way to reduced costs while recognizing and preserving the prior gains fought for by the current bargaining unit members. The continued solvency of the City and protecting the employment of workers are what matter most at this point in time, and the evidence indicates both can now be achieved with a measured response.

Based upon these positions, the evidence in the record, and applying the statutory criteria, the following recommendations are made in hopes that the parties will ratify a new agreement. Listed below are the articles where there are recommended changes. They are provided within the context of the current collective bargaining language as well as originally proposed language. Crossed out language was rejected or withdrawn or was rejected by the fact-finder and is NOT recommended, but **bolded *italicize*** language is recommended language.



Table of Recommended Language (18 Issues):

Issue 1, Article 8, Discipline.....p.9

Issue 2, Article 9, Grievance Procedure.....p.11

Issue 3, Article 10, Hours of Work, Overtime, and Paydays.....p.15

Issue 4, Article 12, Probationary Periods.....p.19

Issue 5, Article 13, Vacancies and Transfers (Formerly Work Force Changes).....p.20

Issue 6, Article 15, General Work Rules.....p.22

Issue 7, Article 16, Job Descriptions/Job Classifications.....p.22

Issue 8, Article 17, Drug/Alcohol Testing.....p.24

Issue 9, Article 19, Insurance.....p.27

Issue 10, Article 20, Layoff/Recall.....p.30

Issue 11, Article NEW ARTICLE, Shift Bidding.....p.32

Issue 12, Article __ Sick Leave (formerly Paid Leaves of Absence).....p.32

Issue 13, Article NEW ARTICLE, Wage Continuation.....p.39

Issue 14, Article 24, Wages (Side Letter)p.41

Issue 15, Article 26 PERS Contributions.....p.42

Issue 16, Article 30, Vacations.....p.43

Issue 17, Article 36, Duration of Agreement.....p.45

Issue 18, NEW ARTICLE, Severance of Prior Agreement..... p.45



RECOMMENDATIONS:

ISSUE 1, ARTICLE 8 DISCIPLINE

Section 8.1. The tenure of every employee subject to this Agreement shall be during good behavior and efficient service. No non-probationary employee shall be reprimanded, reduced in pay or position, suspended, or removed or discharged except for just cause. Forms of disciplinary action, but not necessarily the order of discipline, are:

- A. informal conference;
- B. written reprimand;
- C. suspension without pay;
- D. reduction in pay and/or position;
- E. termination;
- F. *suspension of record (i.e., working suspension).*

An employee who is given a working suspension (i.e., suspension of record) shall be required to report to work to serve the suspension and shall be compensated at the regular rate of pay for hours worked. The working suspension shall be recorded in the employee's personnel file in the same manner as other disciplinary actions having the same effect as a suspension without pay for the purpose of recording disciplinary action.

Section 8.2. Grounds for Discipline. Incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, absence without leave, failure of good behavior, conduct unbecoming an employee, *violation of any City work rule or policy*, or other acts of misfeasance, malfeasance or nonfeasance shall be cause for disciplinary action. The City's disciplinary rules shall be created by the Human Resources Department. Employees will be notified of such rules pursuant to Article 15 herein.

Section 8.3. Progressive Discipline. Except in instances where the employee is charged with serious misconduct, discipline will be applied in a progressive and uniform manner. Progressive discipline shall take into account the nature of the violation, the employee's record of discipline and the employee's record of performance and conduct. Disciplinary penalties shall be appropriate to the severity of the offense and as such the forms of discipline listed in Section 8.1 do not necessarily represent a systematic order to be followed in all instances.

Section 8.4. Investigatory Interviews. In any investigatory interview between a bargaining unit employee and a representative of the City where it is reasonably expected that discipline of the employee being



interviewed may result, the affected employee may request a union representative be present. If the employee wishes to waive this right, the waiver shall be in writing. Anytime a supervisor has reason to discipline an employee, it shall be done in a professional and businesslike manner. ~~that will not embarrass the employee before other employees or the public.~~

Section 8.5. ~~Employee discipline must be initiated by~~ The City ~~will attempt to initiate discipline~~ within ten (10) work days after the City has knowledge of or should reasonably have known of the event necessitating disciplinary action; *provided, however, if the event necessitating disciplinary action involves conduct that the Employer determines must be investigated (e.g., potential criminal conduct, alleged discriminatory harassment, theft, etc.), the employee discipline shall be initiated within ten (10) work days of completing the investigation into the alleged conduct.* "Initiated" for this purpose means either providing the employee with an informal conference, a notice of a pre-disciplinary conference, or administratively suspending an employee with pay pending the outcome of an investigation.

Section 8.6. *Predisciplinary Conference.* Whenever a Division Head or designee determines that an employee may be ~~disciplined~~ *reduced in pay or position, suspended (including suspensions of record, or terminated for just cause (including all suspensions, reductions and terminations),* a pre-disciplinary conference will be scheduled to give the employee an opportunity to offer an explanation of the alleged conduct. Whenever an employee receives a written reprimand, the employee may request a meeting with the employee's Division Head to discuss the discipline prior to such discipline becoming effective. This request is made by the employee checking the appropriate box on the discipline form, delivering the form to the Division Head or designee within twenty-four (24) hours of receipt, and arranging a conference with the Division Head or designee within forty-eight (48) hours.

Section 8.7. *Predisciplinary Conference Notice/Waiver.* Prior to the conference, the employee and Union shall be provided with a written notice of the charges which may be the basis for disciplinary action and the employee's right to union representation. The employee must choose to: (1) appear at the conference to present an oral or written statement in his defense; (2) appear at the conference and have his representative present an oral or written statement in defense of the employee; or (3) elect in writing to waive the opportunity to have a pre-disciplinary conference. Written confirmation of the employee's choice of whether to appear at the pre-disciplinary conference or waive such conference shall be given to the Union.

Section 8.8. *Disciplinary Recommendation.* After the conclusion of the conference, the Division Head or his designee will issue findings and a recommendation of discipline to the Service-Safety Director or Public Works Director. Thereafter, the Director will review the facts of the matter and uphold or amend the Division Head's recommendation. The Director's determination shall be provided to the employee and Union, and any resulting discipline shall be implemented within thirty (30) calendar days of such decision.

Section 8.9. *Notice of Discipline.* Discipline shall only be carried out by non-bargaining unit supervisory personnel. All discipline shall be issued (on forms provided by the City) to employees in writing which shall include:

- A. Date, time and place of alleged occurrence;
- B. type of violation and specific rule or policy violated;
- C. nature of offense;



- D. necessary corrective action;
- E. supervisory, non-bargaining unit employee issuing discipline signed and dated.

Section 8.10. Disciplinary Appeals. Disciplinary actions involving a written reprimand, suspension, reduction in pay and/or position or termination may be appealed directly at Step Three of the grievance procedure in accordance with the expedited arbitration process set forth in Section 9.3(D)(2). Informal conferences and written reprimands are not arbitrable.

Section 8.11. Disciplinary Records. Records of suspension and reduction in pay and/or position shall cease to have force and effect in future disciplinary matters twenty-four (24) months after their effective date, provided there are no intervening disciplinary actions taken during that time period. Records of informal conferences and written reprimands shall cease to have force and effect in future disciplinary matters twelve (12) months after their effective date, providing there are no intervening disciplinary actions taken during that time period. *Notwithstanding this, all disciplinary action taken in connection with violations of the City of Mansfield Drug and Alcohol Testing Policy or Drug and Alcohol related offenses shall not be eligible for expiration and shall be considered in all future matters for a period of five (5) years. During which time the employee will be subject to individualized random screening. (i.e., Not as part of a CDL pod). Paid for by the Employer.*

~~**Section 8.12.** Informal conferences and written reprimands are not arbitrable.~~

ISSUE 2, ARTICLE 9 **GRIEVANCE PROCEDURE**

Section 9.1. Grievance Defined.

- A. A grievance is a complaint that the City has violated this Agreement or a dispute as to the meaning and application of a provision of this Agreement.
- B. There shall be an earnest and honest effort to settle grievances promptly. The procedures of this Article shall serve as a means of settlement of all grievances. In the event that an employee believes any reprimand, suspension, demotion, discharge, or layoff, is without just cause, such action may be made the subject of the grievance procedure.

Section 9.2. Time Limits.

- A. The term "days" as used herein shall mean work days unless otherwise specified. The number of days indicated at each level shall be considered a maximum. The time limits, however, may be extended or the steps herein waived by the written mutual agreement of the parties.
- B. All grievances must be initially filed within seven (7) days after ~~the employee or Union knew or with reasonable diligence should have known of~~ the event or condition upon which it is based. Grievances filed after such time shall not be considered and may not be processed hereunder.
- C. All grievances must be processed at the proper step in the grievance progression to be considered at the next step. Any grievance answered in writing by the City and not timely appealed to the next step of the procedure will be deemed to have been settled on the basis of the City's answer at the last completed step. Any grievance not answered in writing by the City within the stipulated time limits shall be considered to have been answered in the negative and ~~shall~~



~~automatically progress~~ may be appealed to the next step of the procedure *in accordance with the applicable time limitations.* ~~An arbitrator is without authority to render any decision involving a grievance that does not conform to the parties' negotiated timelines.~~

Section 9.3. Procedure.

A. Step One - Immediate Supervisor

1. An employee having a grievance shall present the grievance in writing to his immediate supervisor within the time limits stated in Section 9.2. The grievance shall contain the following information:
 - a. Aggrieved employee's name, classification, and immediate supervisor;
 - b. Date, time and place of incident(s) giving rise to grievance;
 - c. A description of the incident, or statement of perceived facts;
 - d. Section(s) of Agreement alleged to have been violated; and
 - e. Remedy requested.
2. The immediate supervisor shall hold a meeting within seven (7) days of receipt of the grievance. The employee may be accompanied at this meeting by his zone steward.
3. The immediate supervisor will respond to the grievant in writing within seven (7) days following the day of the meeting.

B. Step Two - Division Head

1. If the Union or grievant is not satisfied with the City's written answer at Step One, the Union or grievant may present the grievance in writing to the employee's Division Head. The grievance must be presented within seven (7) days of receipt of the answer. If no written answer was received from the immediate supervisor within the Step One time limits, the grievance shall automatically progress to this Step Two as of the day following the last day to answer.
2. The Union shall have the right to initiate a grievance at this Step Two if the incident or perceived facts affect two (2) or more bargaining unit employees. Such grievance must be presented within the time limits stated in Section 9.2, and contain the information listed in Section 9.3(A)(1).
3. The Division Head or designee shall hold a meeting within seven (7) days of receipt of the grievance. The employee may be accompanied at this meeting by his zone steward.
4. The Division Head or designee will respond to the grievant and Union in writing within seven (7) days following the day of the meeting.

C. Step Three - Service Safety Director or Public Works Director

1. If the Union or grievant is not satisfied with the City's written answer at Step Two, the



Union or grievant may present the grievance in writing to the appropriate Director. The grievance must be presented within seven (7) days of receipt of the answer. If no written answer was received from the Division Head or designee within the Step Two time limits, the grievance shall automatically progress to this Step Three as of the day following the last day to answer.

2. The appropriate Director or designee shall hold a meeting within ten (10) days of receipt of the grievance. The employee may be accompanied at this meeting by his zone steward, the chief steward and any other employees required for a full and complete hearing.
3. The Director or designee will respond to the grievant and Union in writing within ten (10) days following the day of the meeting.

D. Step Four - Arbitration

1. The Union may appeal a disposition at Step Three of the grievance procedure to this Step Four by providing the Service-Safety Director or Public Works Director with a written and signed notice of intent to arbitrate within thirty (30) days of the decision at Step Three. After presentation of the notice of intent to arbitrate, the parties shall attempt to agree upon an arbitrator. In the event of a failure to mutually agree upon an arbitrator, ~~the City and the Union will~~ **make a joint request for a list of seven (7) fifteen (15) names of Ohio Resident/Business Address, National Academy Certified** arbitrators from of the Federal Mediation and Conciliation Service ("FMCS"). ~~The City and the Union will then alternately, beginning with the Union, strike names from the list until the name of one (1) arbitrator remains. The City and the Union will notify FMCS of the arbitrator whose name is not struck and who will serve as arbitrator for the grievance.~~ **Once the panel of arbitrators is submitted to the parties, each party shall have fourteen (14) calendar days from the mailing date in which to strike any name to which it objects, number the remaining names to indicate the order of preference, and return the list to the FMCS.** Each party shall have the right to reject one (1) list submitted by the FMCS. As soon as the arbitrator has been selected, he shall proceed to schedule a hearing on the matter in dispute. The Union and the City shall be afforded a reasonable opportunity to present evidence to be heard in support of their respective positions. Each party shall bear the expense for the cost of calling its witnesses (including any lost wages) to testify in its case. Each party shall bear one-half (1/2) of the expenses incident to the cost of the services of the arbitrator. Either party may demand that a written transcript of testimony be taken, which shall be paid by the party requesting the written transcript.
2. The arbitrator shall make a decision within twenty (20) calendar days after submission of the case to him after such hearing. If such decision is within the authority herein conferred upon him by this Agreement, it shall be final and binding upon the City and the Union and upon the employee or employees involved, **subject to appeal as provided in the Ohio Revised Code.** It is agreed that the authority of the arbitrator shall be as follows:
 - a. The arbitrator shall have the authority to interpret this Agreement and apply it to the particular case under consideration, but shall be limited to the interpretation



- and application of this Agreement.
- b. The arbitrator shall have no authority to add to, strike from, or modify any of the terms of this Agreement, or to pass upon any issue excluded from arbitration by the terms hereof.
 - c. The arbitrator shall have the authority to decide only the issue or issues which the parties have agreed to submit to the arbitrator as above provided.
 - d. All decisions of arbitrators consistent with their jurisdiction, power and authority as set forth herein, and all pre-arbitration grievance or disciplinary settlements reached by the City and the Union shall be final, conclusive and binding upon the City, the Union and the Employees, *subject to appeal as provided in the Ohio Revised Code.*
 - e. *The arbitrator shall not make any award requiring the commission of any act prohibited by law or make any award that itself is contrary to law or violates any of the terms or conditions of this Agreement.*
 - f. *The arbitrator shall not recommend any new or different wage rates be established which were not negotiated as part of this agreement. In the event of a monetary award, the arbitrator shall not recommend retroactive settlement prior to the pay period before the grievance was filed at Step 1 of the grievance procedure.*
- e.g. The question of arbitrability of a grievance may be raised by either party before the arbitration hearing of the grievance, on the grounds that the matter is non-arbitrable or beyond the arbitrator's jurisdiction. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same arbitrator.
3. **Expedited Disciplinary Arbitration.** In the event the Union or the grievant appeal to Step Four, a decision of the Service-Safety Director or Public Works Director resulting in the discharge of an employee, the arbitration process will be expedited to a conclusion, one hundred eighty (180) days of the initiation of the appeal at Step Four. The parties shall otherwise follow the arbitration procedures specified in 9.3 D.1 and 9.3 D.2 above.

Section 9.4. Representation. During the term of this Agreement, no employee covered hereunder may be represented by any organization other than the Union on any grievance initiated pursuant to the provisions of this Agreement.

Section 9.5. Miscellaneous.

- A. Copies of all answers to grievances shall be written, and copies sent to the grievant involved, the local Union President, and the Union staff representative.
- B. Nothing in this Agreement shall require the Union to pursue any grievance at any level or prohibit the Union from exercising discretion in determining whether or not to pursue an alleged grievance. However, the Union shall indemnify and hold the City harmless as to any claim by a



grievant based on the Union's action in not pursuing an alleged grievance.

- C. For purposes of processing grievances, the "appropriate" Director as referenced in the grievance procedure shall be the "appointing authority" as defined in O.R.C. 124.01(D).

Section 9.6. The parties may, by mutual agreement, attempt to mediate a settlement of any grievance that may have been appealed to arbitration.

ISSUE 3, ARTICLE 10
HOURS OF WORK, OVERTIME, AND PAYDAYS

Section 10.1. Schedule of Hours.

- A. The normal schedule of hours shall consist of eight (8) consecutive hours per day, Monday through Friday, except where there is a continuous seven (7) day a week operation made necessary because of the nature of the work. The work week shall begin at 11:01 p.m. Friday and continue for seven (7) consecutive calendar days (one hundred sixty-eight (168) consecutive hours) ending at 11:00 p.m. the following Friday. The work day shall begin at 11:01 p.m. each day and end at 11:00 p.m. each day. Employees working in continuous operations shall be scheduled for two (2) consecutive days off which may be other than Saturday and Sunday.

- B. Work schedules shall be posted seven (7) calendar days in advance of implementation. In the event of unforeseen absences or emergency situations, no notice of change shall be required, and a change may be made immediately. Shift schedules will not be implemented which, by design result in employees working mandatory overtime.

- C. Shifts shall be defined as follows:

DaysFirst Shift
 AfternoonsSecond Shift
 Nights Third Shift

- D. The City, exercising its management rights, may, with two weeks advance notice, assign employees, within its various service departments, to a four (4) day - ten (10) hours per day shift schedule. Such ten (10) hour days shall start before the normal eight (8) hour day shift start time and end one hour after the normal eight (8) hour day shift ending time (example: 6:30 a.m. to 4:30 p.m.). If the City chooses to establish such a schedule, all employees, within the affected department, shall be subject to such schedule, provided by mutual agreement of the parties certain employees in such department may be excluded from such a schedule. In a given department, an implemented four (4) day - ten (10) hour shift schedule shall, at the discretion of management, run from either Monday through Thursday or Tuesday through Friday. Any variation from this scheduling pattern within a given department (i.e., Monday -Thursday or Tuesday -Friday) may only occur with the approval of a majority of the employees in the affected department. Employees who are on a four (4) day - ten (10) hours per day shift schedule shall be eligible for overtime once they work over ten hours in a given day. An employee who is working a four (4)day - ten (10) hour shift schedule shall, during a given pay period, receive ten (10) hours of holiday pay for any holiday(s) that occur during that same pay period.



Section 10.2. Pay for and Overtime Compensation. The City will pay overtime at the rate of time and one-half of their regular rate of pay for hours worked in excess of eight (8) hours in any day ~~or for all hours~~ **provided that the employee has actually** worked in excess of forty (40) **hours** in any one scheduled work week. There shall be no pyramiding of premium pay for the same hours worked. For purposes of computing overtime pay, the hours an employee spends in an active pay status, ~~except for sick leave~~, during his normal schedule of hours shall be deemed as hours worked. However, for any employee with any active informal conference for sick leave use under Art.---, sick leave, section (7), sick leave shall not be considered as being in active pay status while the conference is active.

Section 10.3. Compensatory Time.

- A. In lieu of overtime pay, an employee may request compensatory time at the rate of one and one half (1-1/2) hours of compensatory time off for each hour of overtime actually worked; provided that no employee may accrue compensatory time in excess of two hundred eighty (280) hours. Any overtime worked which would increase the employee's accumulated compensatory time above this amount shall be paid.
- B. Compensatory time off, in minimum increments of two (2) hours, must be requested by employees in writing on a form provided by the City as far in advance as possible and no later than the end of the regular shift on the work day before the day desired off, except in emergency situations as approved in advance by the appropriate Director or designee on a case by case basis. The minimum increment of two (2) hours of compensatory time may only be taken at the beginning or end of an employee's work shift. In the event that more than one employee request the same time off and due to operational demands only one should be allowed off, the more senior employee shall be granted such leave. ***The parties acknowledge that the Employer retains all its rights to manage the use of and administration of compensatory time under federal law.***
- C. Any compensatory time to an employee's credit may be paid to the employee at their ~~current straight time hourly~~ **applicable rate of pay**, upon written request to their Division Head. An employee, ***at his or her request***, may cash in compensatory time only once during any calendar year period.
- D. Upon separation of employment, employees shall be paid for their accrued but unused compensatory time at their ~~current straight time hourly~~ **applicable rate of pay**.

Section 10.4. Call-In Pay. Call-in pay is defined as payment for work assigned by the appropriate Division Head or by his designee and performed by an employee at a time which is disconnected from the employee's normal and/or pre-scheduled starting time. Call in pay is not applicable in the case of an employee required to return to work within one (1) hour of his regular or pre-scheduled shift end time or required to begin work within one (1) hour of his regular or pre-scheduled shift beginning time. Compensation on a call-in situation shall be a minimum of four (4) hours of pay at ~~one and one half times~~ the **applicable** ~~employee's regular hourly rate~~ even if fewer than four hours are actually worked. The four (4) hour minimum shall apply only once in any four (4) hour period, regardless of the number of call-ins which may occur within the four (4) hour period. In the event the call-in situation exceeds four (4) hours, an employee will be paid at ~~one and one half times his regular~~ **applicable** hourly rate for the total of the actual hours ***worked in accordance with 10.2.***



~~Section 10.5. Standby Pay. Standby pay is payment for an assignment which requires an employee to be available on a continuous basis during his normal off-duty hours. Standby assignments shall be determined exclusively and designated in writing by the Service Safety Director, Public Works Director or, in their absence, by their designee. Standby time shall not be considered as hours worked for purposes of overtime~~

~~A. An employee on standby shall be paid standby pay as follows:~~

~~1. Two (2) hours pay while on standby for at least one (1) hour and up to sixteen (16) hours.~~

~~2. Four (4) hours pay while on standby for over sixteen (16) hours up to twenty-four (24) hours on a consecutive basis~~

~~3. Eight (8) hours pay while on standby for a forty-eight (48) hour consecutive period.~~

~~A. The employee called in to work from standby must report to work within forty-five (45) minutes or he shall forfeit his standby pay.~~

~~B. An off-duty employee who has been on standby and who has been called to work in accordance with the call-in provisions of Section 10.4 of this Article shall receive call-in pay in accordance with Section 10.4 in lieu of any standby pay. Such call-in pay, however, shall be not less than the applicable standby pay set forth in this Section.~~

Section 10.6.5. Lunch Period and Rest Breaks.

A. Except as may otherwise be provided under current practices, employees covered hereunder shall be permitted to take an unpaid lunch break of not less than thirty (30) minutes and not more than sixty (60) minutes each work day. Where consistent with operational planning and service needs, a lunch break will be permitted at or near the mid-point of the employee's work day. If an employee is required to work through the lunch period, compensation for that time worked will be at the overtime rate ~~specified in Section 10.2~~ provided that the employee otherwise qualifies for overtime pay in accordance with Section 10.2.

B. An employee covered by this Agreement will be permitted to take a fifteen (15) minute rest break with pay at or near the mid-point of each four (4) hour period of the employee's normal work schedule. Breaks shall be taken at or near the specific work site.

Section 10.7.6. Payday. Employees covered hereunder shall be paid every two (2) weeks on a Friday, except where the scheduled payday falls on a holiday. In that case, paychecks shall be made available on the scheduled work day immediately preceding the holiday. Employees scheduled to work second and third shifts shall be given their pay checks during their shifts immediately prior to first shift on pay day.

Section 10.8.7. Distribution of Overtime.



- A. Each calendar year new overtime rosters shall be posted in all departments illustrating the total number of eligible overtime hours worked by each employee or offered to each employee.
- B. Employees within the same classification and with the same work assignment shall have an equal opportunity to earn overtime pay for prescheduled and call-in overtime opportunities. The opportunity for overtime work shall be computed by totaling overtime earned plus overtime offered but declined.
- C. On each occasion, the opportunity to work prescheduled or call-in overtime shall be offered to the employee within the job classification in each division who has the least number of overtime hours to his credit at that time. If this employee does not accept the assignment, or cannot be contacted, the employee with the next fewest number of overtime hours to his credit shall be offered the assignment. This procedure shall be followed until the required employees have been selected for the overtime work. If an employee turns down overtime the number of hours offered to him shall be credited to his overtime hours. If any employee, who should have been offered overtime as per this section, is skipped for whatever reason he shall not be charged with any hours and shall be offered the next available opportunity for overtime. In the event an employee is not offered overtime for a second time (or more), when he should have been within a rolling twelve (12) month period, beginning with the day after the first skip, then the employee shall be compensated at the appropriate rate of overtime pay for the missed opportunity. When the employee receives such compensation he shall be credited as if overtime was worked. When the rolling twelve (12) period concludes for a given employee, the procedure shall once again be applied as if the employee had never been skipped.
- D. In cases where practical, overtime shall be administered on a voluntary basis. However, in instances where the Service-Safety Director, or Public Works Director, or their respective designee deem overtime a necessity, and sufficient employees do not accept the overtime voluntarily the following procedure will be followed:

The overtime shall be assigned to the junior employee(s) first within the job classification. The employee(s) assigned shall be required to work the overtime. If no one is available within the current job classification the City shall be permitted to utilize another job classification for the assignment.

Section 10.9 8. Court Time. All employees subpoenaed to appear in court on matters that are on behalf of the City, shall collect the fees and submit the fees and subpoenas to the Finance Director. Whenever it is necessary for an off-duty employee to appear either in Municipal Court, any other official court, on behalf of the City, or to meet with the City/County Prosecutor for a pretrial conference, the off-duty employee shall receive pay at the rate of time and one-half for a minimum of two (2) hours or up to the time of the beginning of the employee's scheduled time of duty, whichever is less; and provided that no minimum applies to any appearance required within thirty (30) minutes of the end of an employee's scheduled hours and any overtime for such appearances related to his work duties. Off-duty time scheduled by an employee after receipt of notice requiring the employee's appearance shall not be construed to qualify an employee to receive the court time premium specified in this paragraph. An off-duty employee who is required to appear in court on matters arising from City business and extend his time beyond his normal shift shall be paid at the rate of time and one-half for time beyond his regularly scheduled shift. As used in this section, "City business" refers to matters within the responsibility of a division or department of the City or the performance of duties by employees of the City.



ISSUE 4, ARTICLE 12
PROBATIONARY PERIODS

~~Section 12.1.~~

Section 12.1. Initial Hire. ~~A~~ Every newly hired bargaining unit employee shall be required to successfully complete a probationary period. The probationary period for new employees shall begin on the first day for which the employee receives compensation from the City. The length of the probationary period shall be in accordance with the following schedule:

<u>Pay Grades</u>	<u>Length of Probationary Period</u>
1-11	6 months
12-18	1 year

Section 12.2. Probationary Removal. ~~B~~ A newly hired probationary employee may be terminated any time during his probationary period and shall have no right of appeal. Upon successful completion of probation, the employee's seniority shall be computed from the most recent date of hire.

Section xx. Job Bid Withdrawal. ~~C~~ A bargaining unit employee who is appointed to a new position through the bid process shall have fifteen (15) working days after the effective date of appointment to rescind his bid and return to his former position. An employee who rescinds a bid and returns to his former position is ineligible to bid on a vacancy for twelve (12) months from the date of return. **(Propose to Incorporate in Article 13 Vacancies and Transfers)**

Section 12.3. Promotional Probationary Period/Removal. ~~D~~ A bargaining unit employee who is appointed to a new position through the bid process and who does not rescind his bid will be required to successfully complete a probationary period in his new position. The probationary period shall begin on the effective date of appointment and continue for sixty-six (66) regularly scheduled shifts worked. An employee who fails to successfully complete the probationary period shall be returned to his former position *with no right of appeal*.

Section xx. Bidding Restrictions during Probation. ~~E~~ Probationary employees shall not be eligible to bid for any vacant position until they have completed their new hire or new position probationary period. **(Propose to Incorporate in Article 13 Vacancies and Transfers)**

Section xx. Lateral Transfer Restrictions. ~~F~~ A "lateral transfer" is a transfer through the bid process from one position in a classification to another position in a different division in the same classification. Employees may return by lateral transfer to a division from which they have previously laterally transferred no more than once every two (2) years. **(Propose to Incorporate in Article 13 Vacancies and Transfers)**



ISSUE 5, ARTICLE 13
WORK FORCE CHANGES VACANCIES AND TRANSFERS

Section 13.1. Bidding Restrictions.

- A. **Bidding after Job Bid Withdrawal.** € A bargaining unit employee who is appointed to a new position through the bid process shall have fifteen (15) working days after the effective date of appointment to rescind his bid and return to his former position. An employee who rescinds a bid and returns to his former position is ineligible to bid on a vacancy for twelve (12) months from the date of return. **(From Article 12, Probationary Period)**
- B. **Bidding Restrictions during Probation.** € Probationary employees shall not be eligible to bid for any vacant position until they have completed their new hire or new position probationary period. **(From Article 12, Probationary Period)**
- C. **Lateral Transfer Bid Restrictions.** € A "lateral transfer" is a transfer through the bid process from one position in a classification to another position in a different division in the same classification. Employees may return by lateral transfer to a division from which they have previously laterally transferred no more than once every two (2) years. **(From Article 12, Probationary Period)**

Section ~~13.1~~ 13.2. Vacancies.

- A. **Determination/Posting/Application Period.** Whenever a position in the ~~non-entry level~~ bargaining unit becomes vacant and the City has determined to fill such vacancy ~~internally~~, such opening shall be posted on appropriate bulletin boards City-wide for a period of seven (7) calendar days. During such period, eligible bargaining-unit employees may make application for such position with the Human Resources Director utilizing a standard bid sheet provided by the City. The bids shall be signed by the employee and the employee's supervisor before being submitted to the Human Resources Director. Bids must be submitted by 4:00 p.m. on the last day of the posting period to the Human Resources Director by the employee submitting the bid. The Human Resources Director or his designee shall sign and date all bids as proof of receipt with a copy provided to the bidder.
- B. **Evaluation of Internal Applicants.** ~~The Employer shall evaluate those applications that are timely filed and meet the minimum qualifications of the position and award the position, if filled internally, to the applicant that it determines has the highest degree of qualifications, skill, experience and ability to perform the work in question. If the Employer determines that the position is to be filled internally and the qualifications, skill, experience and ability of the two or more qualified internal applicants are equal, seniority shall govern.~~ The opening shall be offered to the employee based upon seniority and skills required to perform the job



~~C. ***Evaluation of External Applicants.*** *If the Employer determines that it wishes to fill the vacancy through original appointment, 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.*~~

C. An appointment hereunder shall be made within *ninety (90)* calendar days following the completion of the regular seven (7) calendar day posting period. Job bids will not be accepted from; (1) employees in their new hire or new position probationary period, or (2) employees in the first twelve (12) months since rescinding a bid and returning to a former position.

D. ***Notification of Vacancy Award.*** Within seven (7) calendar days after filling a posted vacancy, the Union shall be notified of the bidders and the individual selected. If a junior bidder is selected, reasons for such selection shall be included in the notification.

Section 13.3. Temporary Assignments/Temporary Transfers.

A. In connection with the efficient operation of the City, employees may be temporarily ~~assigned or temporarily~~ transferred to other positions to fill in for breaks, leaves of absence, in emergencies or otherwise to maintain efficient operations, at the discretion of management. Any temporary ~~assignment or~~ transfer, except in cases of emergency as determined by the employer, exceeding one (1) workday shall be offered first to the most senior qualified employee. In the event the most senior employee refuses such transfer, the next senior employee and all other qualified employees in descending order shall be offered such transfer until the least senior qualified employee is the only employee remaining to be assigned.

B. ***Transfer Limitations.*** ~~A temporary transfer, as used herein, shall mean the assignment of a bargaining unit employee to the work location and duties of another position instead of the duties of their regular position for at least one (1) full work day.~~ Temporary transfers shall not exceed ninety (90) consecutive calendar days, ***except when made in connection with an absence due to FMLA, military leave, long term sick or disability leave, or other extended absence from which an employee is expected to return,*** unless mutually agreed to between the Union and the City. The City shall notify the union in writing of temporary transfers which exceed five (5) days.

C. ***Transfer Rate of Pay.*** An employee temporarily transferred to a position in a classification in a higher pay grade than their own position shall be paid at the employee's step in the higher pay grade for the entire period of the temporary transfer, ***except when such transfer is for less than two (2) hours.*** An employee temporarily transferred to a position in a classification in a lower pay grade shall continue to be paid at the employee's regular rate of pay.

~~D. A temporary assignment, as used herein, shall mean the assignment of a bargaining unit employee to the work location and duties of another position instead of the duties of their regular position for less than two (2) consecutive hours. Temporary assignments shall not result in any change in pay;~~



ISSUE 6, ARTICLE 15
GENERAL WORK RULES

Section 15.1. Establishment. *The Union recognizes that the Employer, under this agreement, has the right to promulgate and implement new and revised work rules, regulations, and policies and procedures that regulate the conduct of employees and the conduct of the Employer's services and programs.* The City's General Work Rules, new rules or revisions in existing rules, shall be issued by the Human Resources Department. ~~New rules or existing rules shall not conflict with the provisions as set forth in Ohio Revised Code § 4117.08.~~ *No work rules shall be established or maintained that are in violation of any ~~express~~ written provision of the Agreement.*

Section 15.2. Posting Period. When existing work rules are changed or new rules are established such rules shall be posted prominently on all appropriate bulletin boards for a period of seven (7) calendar days before such rules become effective. However, if it is necessary for a changed or new work rule to become effective prior to a seven (7) calendar day posting period, it shall be effective at the time contained in the posting if accompanied by a statement of the appropriate Director that the effectiveness cannot await the seven (7) calendar day posting period.

Section 15.3. Informing Notice to Employees. The City will furnish each employee covered hereunder with a copy of all applicable work rules within thirty (30) days after they become effective. New hires shall be furnished with a copy of such rules at the time of hire.

Section 15.4. Enforcement. Employees covered hereunder shall comply with all work rules. The application of such rules may be the subject of Labor-Management Meetings called for under this Agreement. Work rules shall be applied and enforced consistently.

ISSUE 7, ARTICLE 16 (AND 4.3-4.4)
JOB DESCRIPTIONS/JOB CLASSIFICATIONS

Section 16.1. The Human Resources Department shall maintain and administer a plan of classification specifications known as a classification plan. Positions in the bargaining unit are classified in accordance with the classification plan. All positions whose duties, responsibilities and necessary qualifications are sufficiently alike shall be allocated to the same class with a salary range as provided in this Agreement which will compensate each employee assigned to the class on a like basis. Classification specifications shall be created or amended based upon an analysis of the duties, responsibilities, essential functions and qualifications of the positions affected.

Section 16.2. ~~Section 4.3.~~ Job Descriptions/Classifications. *The Union recognizes and acknowledges the Employer's right to establish new and adjust existing job descriptions and classifications. Any newly established nonsupervisory job classification comparable in duties and job functions that the parties agree upon shall be included in the unit as provided for in Section 4.* ~~Any newly established non-supervisory job classification not otherwise excluded by this Article Agreement or not comparable in job functions and duties to positions otherwise excluded by this Article Agreement, shall may become part of the bargaining unit pursuant to the terms of this procedure and shall be covered by the terms of this Agreement. The City shall notify the Union within ten (10) days of the establishment of any such classification. (From Section 4.3) Section 4.4.~~ The City agrees that employees in classifications excluded from the bargaining unit shall not be reclassified or re-titled into any bargaining unit classification covered by this Agreement. **(From Section 4.4)**



Section x.3. *Whenever the Employer creates a new job classification or substantially restructures/redefines an existing one within the unit, it shall notify the Union of such action. Such notification shall state the job classification title, whether or not the classification is to be included/excluded from the bargaining unit or whether or not the classification continues to be appropriate for the unit, a description of the duties for such classification, and, if applicable, the initial wage rate/schedule for such classification. The City shall notify the Union within ten (10) days of the establishment or adjustment of any such classification.*

Section x.4. Joint Petition. *Should the parties agree that the new or restructured job classification is to be included or remain in the bargaining unit, both the Employer and the Union shall file a joint petition to amend the bargaining unit with the State Employment Relations Board (SERB). If applicable, the Union shall have the right, within thirty (30) calendar days from receipt of notice from the Employer, to file a notice to negotiate concerning the initial wage rate/schedule established by the Employer.*

Section x.5. Unit Clarification. *Should the parties disagree on the inclusion/exclusion of the new or restructured classification in the bargaining unit, the Union or Employer may petition to clarify the bargaining unit with the State Employment Relations Board (SERB). If SERB determines that the new or existing classification is to be included in the bargaining unit, the Union may file a notice to negotiate concerning the initial wage rate or schedule established by the Employer within thirty (30) calendar days of that determination.*

Section x.6. *If negotiations are initiated and the parties are unable to reach agreement, the issue may be submitted to SERB for resolution in accordance with R.C. 4117.*

Section 16.2. Reclassification Requests.

- A. Any non-probationary bargaining unit employee may request a review of the classification of his position for the purpose of determining whether his position is properly classified. Such request shall be made in writing to the Labor/Management Committee
- B. In response to such request, the Committee shall request that the Human Resources Department perform a job audit and determine the typical tasks performed by the requesting party. Upon receipt of the analysis, the Committee shall determine the requestor's proper classification.
- C. If an employee requesting reclassification is dissatisfied with the determination of the Labor/Management Committee; the Union may grieve the decision directly to the appropriate Director beginning at Step Three of the Grievance Procedure.

~~**Section 16.3.** Each employee shall be issued a written copy of his/her current classification specification, if requested.~~



ISSUE 8, ARTICLE 17
DRUG/ALCOHOL TESTING

Section 17.1. The City and Union recognize that drug use by employees is a threat to the public welfare and the safety of employees. It is the purpose of this policy to discourage illegal drug use through education, rehabilitation and discipline. The possession, use or being under the influence of alcoholic beverages or illegal or unauthorized drugs shall not be permitted at the City's worksites and/or while an employee is on duty.

Section 17.2. Prior to any testing, employees shall be fully informed of this policy. Employees will be provided with information concerning the impact of the use of alcohol and drugs on job performance. In addition, the City shall inform employees about how all testing hereunder is conducted, what the test determines and the consequences of a positive test. All newly hired employees will be provided with this information at date of hire.

Section 17.3. The City encourages those employees who may have an alcohol and or drug problem to seek professional treatment on their own initiative. No employee with a drinking or drug problem will have their job security or promotional opportunities jeopardized by such a request for treatment. However, a request for treatment will not exonerate an employee from discipline where the City has initiated disciplinary action against the employee for violating City policies prior to a request for treatment.

Section 17.4. Drug/alcohol testing may be conducted on employees upon reasonable suspicion. Reasonable suspicion that an employee used or is using a controlled substance or alcohol in an unlawful or abusive manner may be based upon, but not limited to:

- A. Observable phenomena, such as direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol;
- B. A pattern of abnormal conduct or erratic behavior, including abnormal leave patterns;
- C. Arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug or alcohol possession, use, or trafficking;
- D. Information provided either by reliable and credible sources or independently corroborated;
- E. Evidence that an employee had tampered with a previous drug test;
- F. Facts or circumstances developed in the course of an authorized investigation of an accident or unsafe working practice.

Section 17.5. Post-Accident Testing. All employees who have caused or contributed to an on-the-job accident shall be required by a supervisor to submit to a drug/alcohol test. This test will be administered as soon as possible after medical attention is received, or within eight (8) hours for alcohol and within thirty-two (32) hours for drugs. "Accident" for this purpose is defined as an unplanned, unexpected, or



unintended event which occurs during the conduct of City business, or during working hours, or which involves City-supplied motor vehicles used in conducting City business, or within the scope of employment, and which results in any of the following:

- A. A fatality of anyone involved in the accident;
- B. Bodily injury requiring off-site medical attention;
- C. ~~Vehicular damage in apparent excess of Four Hundred Dollars (\$400)~~ *Disabling damage to any motor vehicle requiring towing*; or
- D. ~~Non-vehicular damage in apparent excess of Four Hundred Dollars (\$400)~~ *Any accident that results in a traffic citation.*

~~Section 17.6. Any employee required to submit to a post-accident drug or alcohol test pursuant to Section 17.5 herein may appeal the supervisor's decision to require the test. This appeal is made to a three-person panel made up of the City's Safety Coordinator, the appointing authority, and the Union President or his designee. The appeal must be made on the form provided by the City, which must be submitted to the employee's immediate supervisor within twenty-four (24) hours of the administration of the test. The City will notify the testing agency of the appeal and the results of the test will be held in abeyance by the testing agency. If the panel upholds the supervisor's decision, the testing process will resume. If the panel decides the supervisor's decision was improper, the test will be voided. The City will notify the testing agency of the panel's decision, which shall be by majority vote.~~

Section 17.6. Drug/alcohol testing shall be conducted solely for administrative purposes, and shall not be used by the City administration to initiate criminal proceedings. To the extent allowable bylaw, the results of drug/alcohol screening or testing shall not be released to a third party. ~~The following procedure shall not preclude the City from other administrative action but such actions~~ **Disciplinary action** shall not be based solely upon the initial testing results alone.

Section 17.7. All drug screening tests shall be conducted by laboratories certified by the Department of Health and Human Services (DHHS) or certified by a DHHS-recognized certification program. No test shall be considered positive until it has been confirmed by a gas chromatography/mass spectrometry full scan test or equivalent. The procedures utilized by the City and testing laboratory shall include an evidentiary chain of custody control. All samples collected shall be contained in two (2) separate containers for use in the prescribed testing procedures. All procedures shall be outlined in writing and this outline shall be followed in all situations arising under this article. An employee has the right to request his zone steward be present at the submission of the test sample. The representative shall be present for observation only and may not affect the process. No test will be delayed to allow the representative to be present.

Section 17.8. Alcohol testing shall be done to detect employees reporting for duty or on duty while under the influence of a blood alcohol concentration of .04% or above. A positive result shall entitle the City to proceed with sanctions as set forth in this article.



Section 17.10 17.9. The results of the testing shall be delivered to the City and the employee tested. An employee whose confirmatory test result is positive shall have the right to request a certified copy of the testing results in which the vendor shall affirm that the test results were obtained using the approved protocol methods. The employee shall provide a signed release for disclosure of the testing results. A representative for the bargaining unit shall have a right of access to the results upon request of the City, with the employee's consent. Refusal to submit to the testing provided for under this Agreement shall be grounds for discipline.

Section 17.10. The City may ~~suspend the employee without loss of pay before the time the confirmatory test results are complete~~ **at any time place an employee on paid administrative leave pending results of the drug test.** If the screening test and confirmatory test are positive, the City may discipline the employee including withholding payment for any days the employee has already been suspended.

~~The improper use of prescription drugs and/or alcohol may result in a lesser discipline, depending upon the relevant circumstances. Such discipline must be uniform in its application.~~

Section 17.11. The Medical Review Officer (MRO) shall notify each employee who has a confirmed positive test that the employee has seventy-two (72) hours in which to request a test of the split specimen. If the employee requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a verified positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another DHHS-certified laboratory for analysis.

If the employee does not request a test of the split specimen within the authorized time limit or if the analysis of the split specimen confirms the positive results of the original test, the City may proceed with the sanctions as set forth in this article.

If the analysis of the split specimen fails to reconfirm the positive results of the original test or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and reasons for it to the City and the employee.

The laboratory shall report as negative all specimens that are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug.

Section 17.12. If the testing required above has produced a positive result the City may require the employee to participate in any rehabilitation or detoxification program covered by his insurance, or of his choice. An employee who participates in a rehabilitation or detoxification program shall be placed on medical leave of absence for the period of the rehabilitation or detoxification program. Prior to being placed on leave without pay, the employee may use any accrued sick or vacation leave. Upon satisfactory completion of such program, as verified in writing by the treatment facility and upon receiving results from a retest demonstrating that the employee is no longer abusing a controlled substance, the employee shall be returned to his former position. Such employee may be subject to random periodic retesting upon his return to his position for a period of **five (5)** years from the date of his return to work. Any employee in a rehabilitation or detoxification program in accordance with this article will not lose any seniority or benefits, should it be necessary for the employee to be placed on medical leave of absence without pay, for a period not to exceed ninety (90) days. ~~Any positive test hereunder shall cease to have~~



~~force and effect for progressive disciplinary purposes after two (2) years, if no intervening discipline during that period occurs.~~

Section 17.13. If the employee refuses to undergo rehabilitation or detoxification or if he tests positive during a retesting after his return to work from such a program, the employee shall be subject to disciplinary action, including removal from his position and termination of his employment.

Section 17.14. Costs of all drug screening tests and confirmatory tests shall be borne by the City except that any test initiated at the request of the employee (other than post-accident testing) and all periodic retesting upon return to work after rehabilitation shall be at the employee's expense.

Section 17.15. The provisions of this article shall not require the City to offer a rehabilitation/detoxification program to any employee more than once.

ISSUE 9, ARTICLE 19 INSURANCE

Section 19.1. ~~The City shall continue medical, dental, vision and prescription drug insurance coverage at the same level of benefits which were in force and effect as of September 1, 1993.~~ *The terms and conditions of insurance shall remain intact until December 31, 2013. Effective January 1, 2014 all provisions of this Article shall be implemented, except that the committee will be able to meet and evaluate insurance with any decisions not effective until January 1, 2014. For all employees covered by this Agreement, the City shall provide comprehensive major medical/hospitalization health care insurance and ancillary coverage. The plan offering will be reduced to writing and set forth in Appendix A and will be updated to reflex changes made pursuant to this article.*

Section 19.2. Employees, *beginning January 1, 2013, shall contribute to the cost to the City of both the single and family plan as follows by means of a monthly payroll deduction.* ~~pay premium contributions for each year of this Agreement by payroll deduction in the amounts provided below. A Section 125 premium conversion plan will permit employee contributions to be made on a pre-tax basis.~~

~~Single Plan Family Plan 4.5% of total cost 4.5% of total cost The maximum monthly contribution chargeable to employees for the term of this agreement shall be: Single Plan Family Plan \$45.00 \$75.00~~

Monthly Medical, Prescription, Dental & Vision Cost

<i>PPO Plan Coverage</i>	<i>Employer</i>	<i>Employee</i>	<i>Total Base Contribution</i>
<i>Single Plan</i>	<i>\$560.12</i>	<i>\$45.00</i>	<i>\$605.12</i>
<i>Family Plan</i>	<i>\$1,436.22</i>	<i>\$75.00</i>	<i>\$1,511.22</i>

Should the plan costs exceed the total base contribution amounts set forth above, the participating employee shall be required to contribute fifty percent (50%) of the amount in excess of the total base contribution in order to continue participation. ~~In addition, employees can reduce their premiums by passing health screenings offered through the City's Wellness Program. For each screening passed (including spouses in the family plan) \$1.00 per month of premium can be saved.~~

Section 19.3. Carrier Changes for City Coverage. ~~The parties agree that the joint~~



~~labor/management Health Insurance Committee is authorized to review and determine all changes and additions to the health insurance plan, and that all consensus agreements reached by the committee shall be binding on each bargaining unit for the agreed-to term. If, during the life of this agreement, it becomes necessary for the City to change carriers, the City agrees to provide notice to the Union through the Insurance Committee in advance of such action.~~

Section 19.4. Insurance Committee/Insurance Changes for City Coverage. ~~The City retains the right to select carriers/third party administrators for the insurance program or to self-insure; however, the City will give serious consideration to Union proposals regarding the lowering of health care costs to the City while providing the same, equivalent or greater level of benefits to employees. The Union agrees that the City shall 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. The Union agrees to participate in the committee. The committee shall consist of one (1) representative from each of the City bargaining units having members receiving insurance benefits through the City insurance plan, and up to three (3) representatives of the City/designee, whichever is needed for an odd number. The insurance committee shall have the authority to approve program coverage changes, recommend alterations to benefit levels, and/or recommend adjustments to coverage levels through majority vote.~~

The Committee may recommend any of the following options provided that such recommendations comply with and do not trigger penalties under the Affordable Care Act (ACA).:

- A. To keep the same plan and pass on any cost increase above the levels set forth in Section 2 of this article to the parties; or*
- B. To change the plan and alter the benefit levels so that there is no increase in the cost of the plan; or*
- C. To change the plan and alter the benefit levels and, if there is an increase in the cost of the plan above the levels set forth in Section 2 of this article, pass that increase along to the parties.*

Section 19.5. Committee Recommendations for City Coverage. ~~The City shall notify the Union at least thirty (30) days prior to changing carriers/third party administrators, self-insuring, and/or any changes in the costs of premiums. Recommendations of the committee cannot be unilaterally changed by the City except as needed to meet the minimum requirements to avoid penalty under the ACA. Recommendations of the committee, and Employer actions to carry out those recommendations, are final and binding on all parties involved and shall not be subject to the grievance procedure or any other avenue of appeal. If, however, the committee makes no recommendation by June 1 or thirty (30) days prior to renewal for the following plan year, the City may unilaterally adjust the benefit levels if required to stay within the costs set forth in Section 3. 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 April 1 preceding the plan year for which bids are taken. It is expected that the committee shall make~~



responsible decisions in plan design in order to minimize premium cost increases.

Section xx.6. Opt Out. *An employee who provides satisfactory proof of medical coverage under another group employer sponsored insurance plan may waive medical coverage. An employee who waives coverage will receive \$1,500 annually. Payments will be made in December of the calendar year coverage is waived. Payments for new hires, terminations, etc., will be pro-rated. City employees married to one another are not eligible for the waiver stipend if both employees remain on the City sponsored health plan.*

Section xx.7. Employee Costs. *Employees shall contribute pre-tax dollars towards the cost of their hospitalization, vision and dental group insurance.*

Section 19.8. Wellness. *As part of the City's Wellness Program, employees who participate in annual screenings and complete annual health assessments made available by the City's health insurance provider will, for simply participating in such screening and completing the assessment, receive a gift certificate with a value of at least \$50.00. A spouse of an employee, who is enrolled in the City's family medical coverage plan, may participate in this same wellness initiative and thereby receive a gift certificate of like value.*

Section 19.6 9. Subrogation. *If a covered employee and his dependent(s) incur covered hospital expenses in connection with the treatment of an illness or injury caused by the negligence or wrongful act of a third party, the insurance carrier shall be subrogated to all covered employee's and/or his dependent's rights of recovery against said third party, the insurance carrier with respect to such illness or injury, and the covered employee and/or his dependent(s) or the appropriate agent shall execute all papers and take all action necessary and proper to secure to the insurance carrier such rights of subrogation.*

~~**Section 19.7.** *In addition to the plan of medical/hospital/surgical insurance and dental insurance, there shall be made available to full-time employees in the bargaining unit, upon the terms and conditions set forth below,*~~

~~**Section 19.8.** *Life, accidental death and dismemberment insurance in the amount of \$25,000 per employee covered by this Agreement paid by the City.*~~

Section 19.10. Life Insurance. *The City shall provide and maintain in force, by payment of the necessary premiums, life, accidental death and dismemberment insurance in the amount of twenty-five thousand dollars (\$25,000.00) for all employees covered by this Agreement.*

Section 19.11. Retiree Life Insurance. *Retired employees are eligible for inclusion in the City's group life insurance coverage if such inclusion is allowed by law and if the actual additional cost to the City, as the result of the retired employee's inclusion in the group, is calculated by the life insurer or other actuary and the retired employee reimburses the City for this actual additional cost. The "actual additional cost to the City" is not the per employee rate charged to the City by the life insurer.*

Section 19.8 12. *The City intends to comply with C.O.B.R.A. to the extent as set forth in such law.*

ISSUE 10, ARTICLE 20



LAYOFF AND RECALL

Section 20.1. *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, 124.37, OAC 123: 1-41-01 to 123: 1-41-22, and all local rules and regulations of the City of Mansfield Municipal Civil Service Commission governing work force reductions.*

Section ~~20.1~~ 20.2. ~~Reasons for layoff shall be for lack of work or lack of funds.~~ *Whenever the Employer determines that there exists a lack of funds, lack of work, or that a reorganization is necessary, a reduction in force (i.e., layoff or job abolishment) shall occur.*

A. ***Layoff Procedure.*** In the event that a ~~reduction in workforce~~ layoff in a classification in a ~~division~~ becomes necessary, the following steps shall be taken:

1. All emergency, temporary, intermittent, part-time, seasonal and probationary employees in the classification to be affected ***in the division to be affected*** shall be laid-off first;
2. Employees who are covered by this Agreement shall be the last employees to be considered for layoff in the classification in the division to be affected; and
3. In the event it becomes necessary to layoff full-time employees covered by this Agreement, the least senior employee in the classification in the division to be affected shall be laid-off first.

B. ***Abolishment Procedure.*** *In the event that it becomes necessary to abolish a position, the abolishment shall be conducted within the affected classification within the affected division ~~department~~ on the basis of seniority. However, prior to abolishing a full-time position, the Employer is not required to eliminate other appointment types as set forth in A(1). Any member subject to abolishment shall be permitted to exercise displacement rights to avoid layoff.*

Section 20.3. Displacement Rights. ~~3.~~ To avoid layoff, ***as result of layoff or abolishment*** an employee may displace (bump) an employee with less seniority within the classification from which the employee is scheduled for layoff. In addition, the employee may choose to bump the least senior employee in a lateral or lower classification provided the employee has the skills required to perform the job. Moreover, an employee, subject to lay off, who has successfully held other positions within the bargaining unit work force may bump the least senior person holding that position, provided he/she has more work force seniority and has the skills required to perform the job. The local President and Vice President shall avoid layoff by virtue of their offices. ***An employee who elects to bump another employee shall be subject to a thirty (30) work day probationary period and if they fail to demonstrate a reasonable level of competency by the end of this period, as determined by the City, they may be laid off.***

Section 20.4. Notice of Reduction. ~~B.~~ The City will provide ~~fourteen (14)~~ ***twenty one (21)*** days advance notice of a layoff to those employees ***originally*** affected by ~~the layoff or abolishment or furlough.~~ Notice shall be by certified mail to the employee at their last known address and provided simultaneously to the



Union. Notice shall contain effective date *and reason for reduction.* ~~of layoff and reason for layoff.~~ *This notice only applies to the original notice of reduction and does not apply to any subsequent bumping and displacement that may ensue.*

Section 20.5. Notice of Intent to Exercise Bumping Rights. € Employees shall have five (5) working days from receipt of notice of layoff to inform the City, in writing, of their intention to exercise their displacement (bumping) rights. City employees, who are not in the AFSCME bargaining unit, shall not be permitted to bump into the AFSCME bargaining unit.

Section 20.6. Confirmation of Bumping Rights/Limitations. Ⓓ The City shall confirm or deny the employee's option to displace (bump) another employee within five (5) working days.

1. A denial by the City does not waive an employee's right to file a grievance if the employee is not in agreement.
- ~~2. Employees who are displaced (bumped) shall be given fourteen (14) days advanced notice of layoff.~~
- ⊕ 2. Unless an employee has previously and successfully held such a position, employees may not bump into the following classifications:
 - a. Evidence Technician
 - b. Housing Inspector
 - c. Laboratory Technician
 - d. Senior Traffic Technician
 - e. Shift Operator
 - f. Telecommunicator
 - g. Traffic Technician

Section 20.7. Bidding While on Layoff. Ⓔ Employees on layoff shall be notified of openings in classifications other than the classification from which the employee was laid off, and shall have the right to submit a bid pursuant to ~~Article 13~~ *this Agreement*. No new employee shall be hired into such classification provided that the laid-off employee has the skill to perform the position in question.

Section 20.8. Payment of Accrued Leave. Ⓕ If at the time of layoff it is expected by the City that the layoff will last more than sixty (60) calendar days or once a layoff of an employee has lasted sixty (60) calendar days, the laid-off employee will be entitled to accrued vacation pay and to convert sick leave time if the employee is qualified for such conversion under Article 22, Section 1 of this Agreement. *Payments may be issued in the form of bi-weekly or weekly checks until the total balance is exhausted.*

Section 20.9. Higher/Promotions in Classifications with Active Layoff Lists. Ⓖ No new employees in the Bargaining Unit job classifications shall be hired ~~into~~, nor shall any promotions be made ~~into~~ until all employees on layoff status from the ~~any~~ job classification have been recalled to that job classification. ~~from which members are on layoff.~~

Section 20.2 20.10. Recall. Recalls from layoff shall be done in the reverse order of layoff, with the most



senior employee within a classification within a ~~division~~ **department** (for which the recall is being made) being recalled first. Notification shall be by certified mail. An employee shall have recall rights (in the event of a layoff) for ~~three (3)~~ **four (4)** years. If the minimum qualifications for the job have changed sufficiently for the position to which the employee is being recalled, the employee shall be given sixty (60) days to qualify for said position. In the event an employee fails to qualify during the sixty (60) day period, they shall be ineligible for future recall ~~except to their original position for the remaining term of layoff.~~

ISSUE 11, NEW ARTICLE ~~21.3~~ ____ SHIFT BIDDING

Section 21.3 x.1. Shift Assignments. Within the smallest organizational unit to which an employee is assigned (i.e., division, section, unit, etc.), those employees who have completed their new hire probationary period and who occupy positions in the unit which are identical except that they are assigned to different shifts, may bid on the shift they prefer, at least once every twelve (12) months.

Section x.2. Bidding Procedures. The frequency, date, and procedure for such bids shall be determined by the Division Head.

Section x.3. Bidding Award/Adjustments. Shift preference shall *generally* be granted based on seniority as defined herein. Nothing herein shall be construed to limit any of the City's management rights concerning the scheduling and assignment of employees, ~~other than the specific issue of shift preference as discussed herein.~~ *however, and the Employer specifically reserves the right to adjust the results of a bid or otherwise alter a bid based on its operational needs dealing with potential employment liability issues (e.g., hostile work environment, sexual harassment, racial discrimination, and/or other forms of discrimination) and the safety/ethics concerns that could arise from related individuals working with one another.*

ISSUE 12, ARTICLE ~~22~~ ____ PAID LEAVES OF ABSENCE SICK LEAVE

Section 22.1. Sick Leave

~~A.~~ **Section xx.1. Accrual.** Full-time bargaining unit employees earn .05769 hours of sick leave for each non-overtime hour in active pay status. For purposes of this Agreement, active pay status is a period when an employee is eligible to receive pay from the City and includes hours worked, vacation leave, sick leave, wage continuation, holidays, compensatory time off, paid military leave, bereavement leave, personal days, and paid union leave. Employees may accrue and carry over all sick leave earned with no limits.

~~B.~~ **Section xx.2. Usage.** Employees may take *approved* sick leave ~~upon approval of the Employer,~~ provided a credit balance is available, only for absences due to:

- ~~1A.~~ Illness or injury or pregnancy or child birth related conditions of the employee;
- ~~2B.~~ Physical, dental, optical or psychological treatment of the employee by an appropriate practitioner;



- 3C. Illness or injury of a member of the employee's immediate family which requires the employee's attendance and personal care.
- D. "Immediate family" means the employee's spouse, child, stepchild, mother, father, mother-in-law, father-in-law, or person with whom the employee maintains a spousal relationship or to whom the employee stands in the place of a parent.
- E. Documentation justifying the employee's attendance and personal care must be provided with the request for leave.

€ **Section xx.3. Notice.** All employees requesting sick leave for a scheduled medical appointment shall notify the Division Head or designee as soon as possible. Absences for medical appointments are authorized only for the actual time necessary to complete the appointment, inclusive of necessary travel time, unless otherwise medically excused. The Employer may require a note from the medical provider to justify the amount of time an employee takes for a medical appointment. An employee requesting sick leave for other than a scheduled appointment must notify the Division Head or designee of the absence and reason therefore at least one (1) hour before the employee's scheduled starting time. Employees must follow this one (1) hour notification requirement each day the employee will be absent, unless instructed otherwise by the Division Head.

Ɔ **Section xx.4. Request for Leave.** Upon return to work from sick leave, an employee must immediately notify their immediate supervisor and complete a leave request form provided by the City.

£ **Section xx.5. Payment.** Employees absent on approved sick leave shall be paid their applicable straight-time hourly rate. Medical appointments scheduled with at least one (1) workday advance notice to the Division Head may be charged at the actual time off work, with the minimum increment charged being one (1) hour. Sick leave taken without such advance notice shall be charged as follows:

- Employees calling off before the start of a shift shall be charged off sick for the entire workday.
- Employees who leave work with notice shall be charged off sick the remainder of the workday.

~~No employee shall then be eligible to work overtime, call in or any other premium time until he has returned from sick leave and worked a full regular shift. Employees who have scheduled a medical appointment with one (1) workday advance notice remain eligible to work overtime if they return to duty prior to the end of the employee's regular work shift.~~

Ɔ **Section xx.6. Unauthorized Use and Abuse of Sick Leave.** Corrective action shall be taken hereunder for the unauthorized use of sick leave.

≠ A. Definition: "Unauthorized use *and abuse*" of sick leave means:

1. failure to timely notify Division Head of absence;
2. failure to properly and timely request leave;



3. failure to provide medical practitioner's statement when required;
4. fraudulent verification or request;
5. use for other than an allowed purpose
6. pattern abuse, or consistent periods of usage—(for example, before and/or after holidays, weekends, days off, paydays or overtime worked);
7. maintaining a zero or near zero balance.

B. Corrective Action:

When unauthorized use *or abuse* of sick leave is substantiated by the Division Head, the request for sick leave shall be denied and corrective disciplinary action shall be implemented under the City's disciplinary policy. In addition, the Division Head may thereafter require a medical practitioner's statement for all sick leave use for the next twelve (12) months.

C. Section xx.7. Excessive Use of Sick Leave.

- A.** Separate and apart from the corrective action described above for unauthorized use of sick leave, employees who use sick leave on more than six (6) occasions in any twelve (12) month period, with or without a physician's statement, shall be subject to progressive disciplinary action for excessive use of sick leave according to the following schedule:

Seventh Fifth occasion	informal conference
Eighth Seventh occasion	written reprimand
Ninth occasion	one day suspension
Tenth occasion	three day suspension
Eleventh occasion	up to and including termination of employment

- B.** "Occasion" for this purpose means an individual utilization of sick leave regardless of the number of hours or days involved. A pre-scheduled medical appointment for which leave is requested at least one (1) workday in advance shall not count as an occasion. Use of sick leave for an illness or injury of the employee which would qualify as a serious health condition under the Family and Medical Leave Act or as a disability under the Americans with Disabilities Act shall not count as an occasion. When an employee is notified at work by a licensed child care facility or school of an illness or injury of the employee's minor child which requires the employee to leave work to personally attend to the child, the employee shall be excused from work for the actual time necessary (one hour minimum) to care for the child, which time shall be charged to sick leave. Three times per any twelve (12) month period, any such absence for which the employee is able to return to work within two (2) hours shall not count as an occasion. A notice from a non-licensed child care provider may be approved at the discretion of the appointing authority. A regimen of regular treatments at a hospital, clinic or physician's office, which cannot be scheduled outside the employee's regular hours shall be considered as one (1) occasion, provided, in advance of the second visit, the Division Head is provided a copy of the physician's statement ordering the schedule of treatment.

- C.** In the event an employee reaches four (4) occasions in any three (3) month period, the Department Head may counsel such employee and shall make note in the record of any



extenuating circumstances affecting the employee.

~~H~~ **Section xx.8.** All employees covered by this Agreement shall be subject to the tardiness policy as set forth in ~~Section 7.02 of~~ the City of Mansfield Personnel Policy and Procedure Manual, ~~1st Edition~~.

~~I~~ **Section xx.9. Medical Practitioner's Statement.** Employees shall be required to provide a written statement from a physician who has examined the employee or immediate family members when:

1. The employee or family member obtains medical treatment while the employee is on sick leave;
2. The illness or injury of the employee or family member extends for three (3) or more consecutive workdays;
3. Unauthorized use of sick leave is substantiated (See Section 22.1(F)(2) herein).

Employees required to provide a medical practitioner's statement must provide the statement along with a leave request within three (3) days of returning to work.

~~J~~ **Section xx.10. Credit for Prior Service.** Employees who have previously separated from service with the City will be credited with their unused balance of accumulated sick leave upon appointment, if the unused balance has not been converted to cash. Employees are responsible for informing the Human Resources Department of such prior service.

~~K~~ **Section xx.11. Medical Examination.** The City may require an employee to take an examination, conducted by a licensed physician chosen by the City. Such physician shall determine the employee's physical capability to perform the essential duties of his position. The cost of such examination shall be paid by the City.

~~L~~ **Section xx.12. Incentive Bonus.** An employee who uses no accrued sick leave nor has any unauthorized sick leave, absences without leave or unpaid disciplinary suspensions during any calendar year shall receive a Five Hundred Dollar (\$500) bonus; an employee who uses one (1) day or less of such time shall receive a Four Hundred Dollar (\$400) bonus; an employee who uses two (2) days or less of such time shall receive a Three Hundred Dollar (\$300) bonus. Such bonus shall be payable in a separate check in the second pay period in January of the following year. This provision applies only to employees hired before May 1, 2009.

~~M~~ **Section xx.13. Annual Conversion Option.** An employee who has at least six hundred (600) hours of accumulated sick leave to his credit as of January 1 of each year may elect to convert up to eighty (80) hours of accrued but unused sick leave into compensatory time, subject to the compensatory time limits of Section ~~9~~**10.3** herein. Such election shall be made in writing on a form provided by the City delivered by the employee to his Division Head between January 1 and January 31. Only one election per year shall be processed. Any sick leave hours converted to compensatory time cannot be converted to cash. The time must be used. This will become effective May 1, 2010 or as soon as the program for the tracking system is implemented, whichever occurs first.



~~¶~~ **Sick Leave Conversion Upon Resignation.** *Bargaining unit members hired after 2/22/2013, shall not be eligible for sick leave conversion under this section. For all unit members hired prior to 2/22/2013, upon resignation after eight (8) or more years of service with the City, an employee shall be compensated for accrued, unused sick leave in accordance with the following computation. Compensation for each day of such leave shall be computed on a basis of the employee's annual salary at the time of resignation, divided by 2080, and the number of compensated hours shall be in accordance with the following schedule:*

1. One-third of the first two hundred forty (240) hours (or less) of accrued, unused sick leave, plus,
2. One-fourth of the portion of accrued, unused sick leave in excess of two hundred forty (240) hours but less than nine hundred sixty (960) hours, plus
3. Fifteen percent (15%) of the portion of accrued, unused sick leave in excess of nine hundred sixty (960) hours.

In the event of a termination due to a disciplinary action, the aforementioned conversion shall apply.

~~¶~~ **Section xx.14. Sick Leave Conversion Upon Full Retirement.** Upon full retirement, compensation for accrued, unused sick leave shall be made in accordance with the following computation. Compensation for each day of such leave shall be computed on a basis of the employee's annual salary at the time of retirement, divided by 2080, and the number of compensated hours shall be as follows:

A. For employees hired before 9/1/2010

SENIORITY	HOURS
1 to 25 years	one (1) hour for every two (2) hours accrued.
+25 years to 30 years	one (1) hour for every one (1) hour accrued up to a maximum of 1,500 hours accrued and one (1) for every two (2) hours accrued remaining beyond 1,500 hours.
over 30 years	one (1) hour for every one (1) hour accrued up to a maximum of 2,000 hours accrued and one (1) hour for every two (2) hours accrued remaining beyond 2,000 hours.

B. For employees hired on or after 9/1/2010 but before 6/1/2012

SENIORITY	HOURS
1 to 25 years	one (1) hour for every three (3) hours accrued.



+25 years to 30 years	<i>one (1) hour for every one (1) hour accrued up to a maximum of 1,500 hours accrued and one (1) for every two (2) hours accrued remaining beyond 1,500 hours.</i>
over 30 years	<i>one (1) hour for every one (1) hour accrued up to a maximum of 2,000 hours accrued and one (1) hour for every two (2) hours accrued remaining beyond 2,000 hours.</i>

C. Employees hired on or after 6/1/2012

An employee may elect at the time of full retirement from active service with the City, and with ten (10) or more years of service with the state, any political subdivisions, or any combination thereof, to be paid in cash for one-fourth the value of the employee's accrued but unused sick leave credit. The payment shall be based on the employee's rate of pay at the time of retirement and eliminates all sick leave credit accrued but unused by the employee at the time payment is made. An employee may receive one or more payments under this division, but the aggregate value of accrued but unused sick leave credit that is paid shall not exceed, for all payments, the value of thirty (30) days of accrued but unused sick leave.

D. Full retirement being defined as an employee ~~who is eligible for retirement by age, service, or disability requirements of the~~ *who retires from active service from the City or is granted a disability retirement from active service with a State Retirement System.*

~~¶~~ **Section xx.15. Sick Leave Conversion Upon Death.** If an employee otherwise eligible for sick leave conversion under Section 22.1 (N) of this article dies while still employed, then the employee will be considered for purposes of this section to have retired on the date of his/her death and the employee's sick leave conversion benefits shall be computed in accordance with Section 22.1 (O) of this article and will be paid to the deceased employee's dependents as defined in Ohio Revised Code § 4123.59 (D)(1) and (2).

~~¶~~ **Section xx.16. Sick Leave Donation.**

~~¶~~**A.** Eligibility - Any AFSCME bargaining unit employee may apply to the Public Works Director or Service-Safety Director, as the case may be, to receive donated sick leave, if the employee requesting such donated sick leave:

1. Has a non-work related serious illness or injury, as documented in writing by a medical doctor, which renders them unable to perform the essential functions of their position for a minimum of four consecutive weeks;
2. Does not have a sufficient amount of accrued and unused paid leave to cover the estimated period of absence;
3. Has not been offered non-work related Transitional Duty as described in Section 19.3 (B) herein; and



4. Has no disciplinary actions for unauthorized or excessive use of sick leave on record for progressive disciplinary purposes.
- ~~B.~~ Approval - Upon approval of an employee's request for donated sick leave, the Public Works Director or Service Safety Director, as the case may be, shall:
- ~~A1.~~ Notify all City employees of the employee's need for donated sick leave, while respecting the employee's right of privacy;
 - ~~B2.~~ Approve payment of any such donated sick leave to the requesting employee on a pay period by pay period basis up to the amount of donated leave, or the hours necessary to provide the employee with their regular, straight-time pay for such pay period, whichever is greater.
- ~~C.~~ Donating Sick Leave - Any AFSCME bargaining unit employee may donate accrued and unused sick leave to their credit to any other City employee who has been approved to receive donated sick leave if the donating employee:
- ~~A1.~~ Retains a sick leave balance of at least 480 hours after deduction of the hours offered for donation; and
 - ~~B2.~~ Voluntarily elects to donate sick leave to the employee approved for donation, understanding that any such leave donated and used shall not be returned.
- ~~D.~~ Terms and Conditions - The following additional terms and conditions shall apply to the sick leave donation program:
- ~~A1.~~ All donations of sick leave shall be in eight hour increments, with eight hours being the minimum donation;
 - ~~B2.~~ An employee receiving donated sick leave shall be paid at their regular, straight-time rate of pay, regardless of the rate of pay of the employee donating such leave;
 - ~~C3.~~ Sick leave shall be deducted from donating employees in order of the date and time of donation, and credited to the receiving employee's account on pay day up to the amount necessary for the employee to be paid their regular two weeks' pay. No sick leave shall accumulate in the account of a receiving employee or be converted to cash or compensatory time. Any sick leave donated by an employee which is not used shall remain in the account of the donating employee.
 - ~~D4.~~ An employee using donated sick leave shall be in active pay status and accrue vacation leave, and be entitled to any benefits they would normally receive.
 - ~~E5.~~ Employees receiving donated sick leave shall be eligible to receive such leave only until the employee's estimated date of return to duty. Persons who have continued to receive full donations and whose physicians extend their estimated date of return will be



eligible for notification for the need for further donation

- ¶6.** No employee receiving donated sick leave will be permitted to be off work on such leave more than 12 consecutive calendar months. An employee may not apply for donated leave more than once in any 12 month period.
- ¶7.** Donated sick leave shall not count for purposes of the donating employee's sick leave attendance bonus.
- E.** The Public Works Director or Service Safety Director, as the case may be, shall ensure that no employee is forced or coerced into donating sick leave to a fellow employee. Donation shall be strictly voluntary. No city employee shall directly solicit donations of sick leave from another employee.

ISSUE 13, NEW ARTICLE _____
WAGE CONTINUATION

Section 22.2. Wage Continuation

Section xx.I. A. Eligibility and Qualifications. Any employee covered by this agreement who suffers a compensable industrial injury or illness shall be eligible for wage continuation benefits in lieu of workers' compensation lost time benefits. Payment of related medical benefits shall remain the responsibility of the Bureau of Workers' Compensation (BWC). Wage continuation benefits are paid with the written approval of the appropriate Director subject to the following conditions.

- A.** The injury or illness must be determined to be compensable by the City, or in the case of dispute, the Ohio Industrial Commission (OIC). In no event will compensation begin before a state claim number is assigned.
- B.** Valid medical proof of disability must be provided on BWC Form C-84. The ~~employee's attending~~ **City approved** physician must complete and sign the form in its entirety. Copies are unacceptable.
- C.** The employee must submit to a drug and/or alcohol test under the procedure described in the Drug/Alcohol Testing Section herein and test negative for drugs/alcohol.
- D.** The employee must complete a C-1 or OD-1 or a FR01-1 application, and sign both a wage continuation agreement and a medical release.
- E.** The City reserves the right to have an employee examined by an occupational health physician to confirm any medical diagnosis and/or period of disability.
- F.** Wage continuation will be paid for only those periods of lost time that would qualify the employee for receipt of workers' compensation lost time benefits.
- G.** *Provide a medical certification from a physician on the list of City approved providers*



opining that the claimant is disabled from employment in excess of seven (7) consecutive days as a result of the work-related injury and specifying the injury, recommended treatment, and the employee's inability to return to work as a result of the injury along with an estimated return to work date.

Section xx.2. B. Payment. Wage continuation benefits shall be the employee's then current rate of pay multiplied by the employee's regularly scheduled hours per week. Such payments shall normally commence immediately upon receipt of disability proof and a completed claim application.

Section xx.3. C. Employment Status. An employee qualifying for wage continuation shall be considered to be in active pay status. While on wage continuation, an employee shall earn paid leave, earn seniority and have the City's share of any health insurance premium paid (and have the employee's share, if any, deducted from such wage continuation). Employees on wage continuation shall be eligible to reschedule any pre-scheduled vacation which was to be taken during the period of wage continuation. If such vacation, or other accrued vacation cannot be taken before the end of the employee's anniversary year, the employee shall be entitled to payment for such vacation hours, at the employee's then current hourly rate of pay. Such employees shall be entitled to holiday pay for any holidays which occur during a period of wage continuation leave, in addition to wage continuation.

Section xx.4. D. Termination of Benefits. Wage continuation will cease upon any of the following conditions.

- A. The employee returns to work.
- B. The employee's or City's physician releases the employee to return to work.
- C. The employee begins working for another employer without prior approval from the appropriate Director.
- D. The employee fails to return to work on a Transitional Duty assignment consistent with the employee's medical restrictions.
- E. The employee fails to appear for a City-sponsored medical exam.
- F. The employee has reached maximum medical improvement (MMI) and/or the condition has become permanent.
- G. The claim is found to be fraudulent after payment has begun.
- H. The employee attempts to collect both temporary total compensation and wage continuation.
- I. Termination of employment; or
- J. Regardless of the above conditions, wage continuation benefits shall terminate when an employee is on wage continuation for one thousand five hundred sixty (1560) hours as a result of each incident of compensable injury or illness or re-aggravation of same ***within six (6) months.*** An employee who is unable to return to work after the termination of wage



continuation benefits shall be placed on the appropriate leave of absence, as requested by the employee.

Section 5. Transition to Provider List. Prior to the transition and implementation date of the provider list under Section 1 (B) and (G), the City will meet with the Union to review the scope of the list and set a date for implementation. Physicians not on the approved list will be considered on a case-by-case basis. Anyone requesting a physician not on the list must contact the Union so that the request can be forwarded to the City for consideration. Bargaining unit members with existing claims may remain with their respective physician of record (POR) for that claim. Subsequent list adjustments will be communicated to the union through the labor management process prior to becoming effective.

**ISSUE 14, ARTICLE 24
WAGES**

Section 24.1. Wage Rates.

- A. Wage rates for employees covered by this Agreement shall be as set forth in Appendix C.
- B. *(Delete Current Language in B) Annual Compensation. Bargaining unit members shall receive general wage increases as follows:*

<i>For the first year of the agreement</i>	<i>0.0%</i>
<i>For the second year of the agreement</i>	<i>0.0%</i>
<i>For the third year of the agreement</i>	<i>0.0%</i>

Section 24.2. Pay Plan Administration. Each employee shall be assigned to the pay grade specified by ordinance of the City for the employee's classification. Step B shall be the minimum rate for a pay grade and shall be the hiring rate for a classification.

The following shall be the method of administration of the wage rate plan referenced in Section 1 of this article:

- A. *An employee shall remain in Step B until the completion of their new hire probationary period and shall then advance to Step C.*
- B. *An employee shall be advanced to Step D of a pay grade following the employee's satisfactory completion of one (1) year in Step C of the pay grade.*
- C. *An employee shall be advanced to Step E of a pay grade following the employee's satisfactory completion of one (1) year in Step D of the pay grade.*
- D. *An employee shall be advanced to Step F of a pay grade following the employee's satisfactory completion of one (1) year in Step E of the pay grade.*
- E. *An employee who moves to a higher pay grade by reason of a change in job classification shall*



be placed at Step C or that Step of the new pay grade which would represent an increase in pay over the employee's pay (excluding any premium payments) at his previous grade and step, whichever is higher.

- F. An employee who moves to a lower pay grade by reason of a voluntary change of job classification shall be placed at the employee's current step in the new pay grade.*

Section 24.3. Promotion/Demotion. Employees who have successfully bid on and received a promotion or demotion shall remain in the new step for a period of one (1) year before receiving an increase.

Section 24.4. Pay for Mandatory Training. The City will pay the tuition or fees for any schooling or training which is newly mandated by the City for an employee covered by this agreement to maintain his position with the City. All time spent in such required training shall be considered compensable hours worked. Lodging, meals and travel reimbursement shall be paid in accordance with the City's travel policy.

SIDE LETTER **LUMP SUM PAYMENTS/RE-OPENER**

Section 1. Lump Sum Payments. *For the second year of the contract, bargaining unit members shall receive a \$350.00 lump sum payment in January of 2014. For the third year of the contract, bargaining unit members shall receive a \$350.00 lump sum payment in January of 2015.*

Section 2. Re-Opener. *In the event that another City bargaining unit receives a greater general wage increase (anything added to the base) for the second or third year of their agreement than is provided for in this Agreement, the union may request to re-open this agreement under 4117. Such re-opener will be limited to the wage article only, with all other provisions of this Agreement remaining in full force and effect.*

ISSUE 15, ARTICLE 26 **PERS CONTRIBUTIONS**

Section 26.1. *For each employee who is member of this bargaining unit as of February 22, 2013,* the City shall pick-up (assume and pay) on behalf of employees covered by this Agreement, in lieu of payment by the employee, 8.5% of each employee's earned compensation to the Public Employees Retirement System of Ohio (PERS) in accordance with the following terms:

- A. The term "earned compensation" shall mean any and all monies earned by an employee from the City for which there is a pension contribution.
- B. The City shall, in reporting and making remittances to PERS, report that each employee's contribution has been made as provided by statute.
- C. The City hereby declares that the sums paid hereunder by the City on behalf of employees are not to be considered additional salary or wages and shall not be treated as increased compensation. For



purposes of computing the employee's earnings or basis of contributions to PERS, the amount paid by the City on behalf of an employee as a portion of his statutory obligation is intended to be and shall be considered as having been paid by the employee in fulfillment of the employee's statutory obligation. .

- D. If, at any time, PERS reduces the employee contribution to an amount less than 8.5%, the City's obligation shall be reduced accordingly with no obligation to adjust the employee's contribution.

Section 26.2. *Each employee who becomes a member of the AFSCME bargaining unit after February 22, 2013, shall be required to contribute the statutorily required pension contribution to the Public Employees Retirement System of Ohio (PERS).*

ISSUE 16, ARTICLE 30 VACATIONS

Section 30.1. Vacation Accrual.

- A. All employees covered hereunder earn paid vacation leave and begin accruing such leave upon appointment. After each full year of service, all vacation leave accrued is credited to the employee, who shall then be eligible to take such leave. No employee is entitled to vacation leave until the completion of one (1) full year of service with the City.
- B. Employees shall earn paid vacation for each hour in active pay status according to the following schedule.

Employees hired before 6/1/2012

YEAR OF SERVICE	MAXIMUM HOURS ACCUMULATED	HOURS EARNED
Less than one (1) year	0	0
One (1) year but less than eight (8) years	96	.04615
Eight (8) years but less than fifteen (15) years	144	.06923
Fifteen (15) years but less than twenty (20) years	192	.09231
Twenty (20) years but less than twenty-five (25) years	240	.11538

Employees hired on or after 6/1/2012



<i>YEAR OF SERVICE</i>	<i>MAXIMUM HOURS ACCUMULATED</i>	<i>HOURS EARNED</i>
<i>Less than one (1) year</i>	<i>0</i>	<i>0</i>
<i>One (1) year but less than eight (8) years</i>	<i>80</i>	<i>.03846</i>
<i>Eight (8) years but less than fifteen (15) years</i>	<i>120</i>	<i>.05769</i>
<i>Fifteen (15) years but less than twenty (25) years</i>	<i>160</i>	<i>.07692</i>
<i>Twenty-five (25) or more years of service</i>	<i>200</i>	<i>.09615</i>

Section 30.2. Vacation Scheduling.

- A. Preference dates for scheduled vacations shall be in accordance with seniority as set forth in Article 21, subject to manning requirements of the division to which the employee is assigned. Vacation preferences shall be indicated prior to March of each calendar year, and schedules shall be posted on appropriate bulletin boards.
- B. Non-scheduled vacation, in minimum increments of two (2) hours, must be requested by employees in writing on a form provided by the City as far in advance as possible and no later than the end of the regular shift on the workday before the day desired off, except in emergency situations as approved in advance by the appropriate Director or designee or a case by case basis. The granting of such leave is subject to operational demands. A minimum increment of two (2) hours of non-scheduled vacation time may only be taken at the beginning or end of an employee's work shift.
- C. An employee who is unable to take vacation in the year in which it should have been taken, may carry over up to three years of vacation. Any vacation accrued over this amount will be lost.
- D. If an employee is hospitalized while on vacation, the "vacation" status may be changed to "sick leave".
- E. Holidays enumerated in this Agreement shall not be charged to an employee's vacation leave.

Section 30.3. Credit for Prior Service. Employees who previously separated from the City will be credited with their prior service as a regular full-time employee of the City for the purpose of computing years of service for vacation accrual *subject to Article 21.2*. Employees with such prior service shall begin accruing vacation at the applicable rate based on such prior service beginning on the effective date of this Agreement, but shall not be entitled to any retroactive vacation credit for the time before the effective date of this Agreement.

Section 30.4. Annual Conversion. An employee with twenty (20) or more years of service with the City for vacation accrual purposes may elect to trade up to forty (40) hours of accrued but unused vacation



to his credit for cash during his vacation year. Such election shall be made in writing on a form provided by the City delivered by the employee to his Division Head. Only one election per anniversary year shall be processed.

Section 30.5. Payment at Termination or Death.

- A. If an employee (other than a newly hired employee in his first year of employment) is laid off, terminated, resigns, or retires, the employee shall be entitled to and receive payment for all accrued and unused vacation leave to his credit at the time of separation, at his current rate of pay.
- B. If an employee (other than a newly hired employee in his first year of employment) dies while in active pay status or on an authorized leave of absence, all accrued and unused vacation leave to the employee's credit at the time of death, at his final rate of pay, shall be paid in accordance with O.R.C. § 2113.04, or to his estate.

ISSUE 17, ARTICLE 36 _____
DURATION OF AGREEMENT

This Agreement, subject to council approval, shall remain in full force and effect until 11:59 p.m. April 30, ~~2011~~ 2015, ~~and from month to month thereafter unless either party gives the notice required in this Section.~~ Either party desiring to modify this Agreement shall give notice of such desire to the other party *in the manner required by law. Such notice may be filed no sooner than one hundred twenty (120) days prior to the expiration of the Agreement.* ~~United State Postal Service certified mail, return receipt requested, at least sixty (60) days, but not more than one hundred and twenty (120) days prior to the expiration date of this Agreement or any extension thereof. Upon receipt of such notice, a conference shall be held within seven (7) calendar days for the purposes of commencing negotiations concerning such modification.~~

ISSUE 18, NEW ARTICLE _____
SEVERANCE OF PRIOR AGREEMENTS

Section x.1. This contract, it is mutually agreed, supersedes and cancels all prior agreements, whether oral or written, unless expressly stated to the contrary herein, and together with any addendums (e.g., letters of understanding, appendices, side letters, etc.) constitutes the complete and entire understanding and agreement between the parties and concludes collective bargaining for the term of this contract. Unless specifically and expressly set forth in the written provisions of this Agreement, all rules, regulations, and practices previously and presently in effect may be modified or discontinued by the Employer upon notification to the Union. Practices will be referred to the labor management committee for the purposes of notification and discussion prior to the decision about being rescinded.



TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not 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 April 2013 in Portage County, Ohio.

Robert G. Stein, Fact finder