



**LIEUTENANTS AND SERGEANTS (RANK) CONTRACT**

**BETWEEN**

**THE CITY OF AVON**

**AND**

**THE FRATERNAL ORDER OF POLICE,  
OHIO LABOR COUNCIL, INC.**

**Case No.: 2011-MED-11-1665**

**Effective July 8, 2012, through April 30, 2015**

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**ARTICLE 1**  
**AGREEMENT AND PURPOSE**

**Section 1. Agreement.** This agreement is made and entered into by and between the City of Avon, Ohio, hereinafter referred to as the City, and the Fraternal Order of Police, Ohio Labor Council, Inc., representing full-time Sergeants and Lieutenants in the City of Avon, and hereinafter referred to as the Labor Council or Union.

**Section 2. Purpose.** This agreement is made for the purpose of promoting harmonious relations between the City and its employees.

**Section 3. Definitions.** "City," "Employer," and "Management" means the City of Avon, Ohio.

"Employee" or "member" means full-time bargaining unit employees (Sergeant or Lieutenant) employed by the City.

"Labor Council" or "Union" means the Fraternal Order of Police, Ohio Labor Council, Inc.

**ARTICLE 2**  
**RECOGNITION**

**Section 1.** The City of Avon hereby recognizes the Fraternal Order of Police, Ohio Labor Council, Inc. (hereinafter Labor Council or Union) as the sole and exclusive representative of all full-time bargaining unit employees of the City, for the purpose of collective bargaining with respect to wages, hours, terms and other conditions of employment. The bargaining unit shall consist of all full-time employees now or hereafter employed by the City and as designated below:

Lieutenants and Sergeants

**ARTICLE 3**  
**NON-DISCRIMINATION**

**Section 1.** The Employer and the Union recognize their responsibilities under applicable civil rights laws. Where there is an alleged violation of such statutes by a bargaining unit employee, the appropriate mechanism for appeal shall be through the Equal Employment Opportunity Commission (EEOC), the Ohio Civil Rights Commission (OCRC), or the courts, as applicable.

**Section 2.** The Employer and the Union recognize the rights of employees to join, assist, or participate in the Union and lawful concerted activities, and the right of employees to refrain from joining, assisting, or participating in the Union and lawful concerted activities. The Employer agrees not to interfere with the rights of employees to become members of the Union, and agrees there shall be no interference, restraint, or coercion against any employee because of any lawful activity in an official capacity on behalf of the Union, provided that activity does not conflict with the terms of this agreement. The Union agrees not to interfere with the rights of employees to refrain or resign from membership in the Union, and agrees there shall be no

interference, restraint or coercion against any employee exercising the right to abstain from involvement in Union activities.

**Section 3.** All references to employees in this agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

#### **ARTICLE 4** **FAIR SHARE FEE AND DUES DEDUCTION**

**Section 1.** It is hereby agreed between the City and the Labor Council that sixty (60) days following the beginning of employment or the effective date of this agreement, whichever is later, every full-time employee in the bargaining unit shall either become a dues paying member of the Labor Council, or remit a fair share fee in an amount not to exceed the dues of said employee organization. Fair share fees shall be an automatic monthly deduction. Dues deduction shall require a voluntary dues authorization signed by the employee electing such deduction.

The City agrees to remit said dues and/or fair share fees directly to the Fraternal Order of Police, Ohio Labor Council, Inc., 222 East Town Street, Columbus, Ohio 43215, on a monthly basis.

Any changes in the amount of dues and fair share fees to be deducted shall be certified by the Labor Council, in writing to the Employer, at least thirty (30) calendar days in advance of the effective date of the change.

**Section 2.** Any non-member of the Labor Council may exercise the option provided in Section 4117.09 (C) of the Ohio Revised Code for Charitable Contributions.

**Section 3.** Any non-member of the Labor Council may apply for reimbursement of any portion of the fair share fee amount, not used for collective bargaining and representation purposes, to the reimbursement committee of the Labor Council as provided under Section 4117.09 (C) of the Ohio Revised Code, and any other applicable statute or judicial interpretation.

**Section 4.** The Labor Council agrees to indemnify and hold the Employer harmless from any and all liabilities or damages (claims, actions, or proceedings) which may arise from the performance of its obligations under this article. Once dues and fair share fees are remitted to the Labor Council, their disposition thereafter shall be the sole obligation and responsibility of the Labor Council.

#### **ARTICLE 5** **HEALTH AND SAFETY/COMMUNICATION**

**Section 1. Health And Safety.** The City agrees to furnish and to maintain in safe working condition all tools, facilities, vehicles, supplies, and equipment required to safely carry out the duties of each employee. An employee shall be required to make a written report of any unsafe working condition, and such report shall be submitted to the Chief of Police (or his designee). The Chief shall take the necessary action to correct the reported hazard, provided it is within his power to do so. Should the condition constitute a potential threat to the lives of an employee

and/or the citizens of the community, the Chief shall take immediate action to correct the hazardous condition, if it is within his power to do so. If the action required is not within the Chief's jurisdiction, he shall immediately report the situation and actions required to his superiors for their action with a copy of such report to be forwarded to the employee.

**Section 2. Communication.** There shall be established and maintained by the FOP/Labor Council, for the duration of this agreement, an FOP/Labor Council bulletin board on the police station premises. It will be available to authorized FOP/Labor Council representatives to post notices of general and business nature for the FOP/Labor Council membership and other employees who may have an interest.

There shall be no posting of matter which is scurrilous or defamatory to any other City employee.

**Section 3.** Meetings of Union members shall be permitted on City premises provided permission from the Chief of Police or his representative is obtained and provided meeting space is available without disruption to City operations.

**ARTICLE 6**  
**PRIOR RULES AND REGULATIONS**

**Section 1.** This agreement represents the entire agreement between the Employer and the Labor Council, and unless specifically set forth in the express written provisions of this agreement, all rules, regulations, benefits, and practices previously and presently in effect may be modified or discontinued at the sole discretion of the Employer.

**Section 2.** Any decision or action of the Employer pursuant to Section 1 may be questioned by the Labor Council at any Labor/Management meeting held pursuant to Article 10 herein.

**ARTICLE 7**  
**LONGEVITY PAY**

**Section 1.** Each full-time employee shall be entitled to and will receive longevity pay under the following schedule:

<b><u>Years Of Service</u></b>	<b><u>Longevity Pay</u></b>
5 Years	\$500.00
6 Years	\$625.00
7 Years	\$750.00
8 Years	\$875.00
9 Years	\$1,000.00
10 Years	\$1,125.00
11 Years	\$1,250.00
12 Years	\$1,375.00
13 Years	\$1,500.00
14 Years	\$1,625.00

15 Years	\$1,750.00
16 Years	\$1,875.00
17 Years	\$2,000.00
18 Years	\$2,125.00
19 Years	\$2,250.00
20 Years	\$2,375.00
21 Years	\$2,500.00
22 Years	\$2,625.00
23 Years	\$2,750.00
24 Years	\$2,875.00
25 Years or more	\$3,000.00

**Section 2.** Longevity pay shall be computed only on years of full-time employment with the City of Avon and shall be paid as of the anniversary date of hire of that employee. The City of Avon shall have an option of making such payment by separate check or identifying the payment as a separate item. Longevity shall be paid in the twelfth (12<sup>th</sup>) pay of the calendar year based upon years of service as of December 31 of the applicable year.

**ARTICLE 8**  
**RATIFICATION**

**Section 1.** The Labor Council shall be permitted, with the prior notification to the Chief of Police, to place ballot boxes at Police Headquarters for the purpose of collecting employee ballots on all Labor Council issues subjected to ballots. Such boxes shall be the property of the Labor Council, and neither the ballot boxes nor the ballots shall be subjected to the City's review, and shall be removed as soon as practicable after the Labor Council issue has been determined.

**ARTICLE 9**  
**CONFLICT AND AMENDMENT**

**Section 1.** This agreement is meant to conform to and should be interpreted in conformance with the Constitution of the United States, the Constitution of the State of Ohio, and all applicable federal and state laws. Should any provision or provisions of this agreement be invalid by operation of law or be declared invalid by any tribunal of competent jurisdiction, or be found to be in conflict with state and/or federal laws, all other provisions of the agreement shall remain in full force and effect.

In the event of invalidation of any portions of this agreement by a court of competent jurisdiction, and upon written request of either party, the parties to this agreement shall meet at mutually convenient times in an attempt to modify the invalidated provisions by good faith negotiations.

**ARTICLE 10**  
**LABOR-MANAGEMENT CONFERENCE**

**Section 1.** In the interest of effective communications, either party may at any time request a Labor-Management Conference. Such request shall be made in writing and be presented to the

other party fourteen (14) calendar days in advance of the requested meeting date. The written request shall include an agenda of items the party wishes to discuss and the names of those representatives who will be attending. A Labor-Management Conference shall be scheduled within ten (10) days of the date requested, but no more frequently than quarterly, unless both parties agree to meet more frequently. Additionally, this process may be expedited upon mutual agreement of the parties. The parties are not obligated to discuss any issue not listed upon the exchanged agendas. Nothing herein shall preclude the parties from meeting on an informal basis as deemed appropriate.

**Section 2.** The purpose of such conference shall be limited to:

- A. notifying the Union of changes made by the Employer which affect bargaining unit employees;
- B. disseminating general information of interest to the parties;
- C. giving the Union representative the opportunity to share the views of their members and/or make suggestions on subjects of interest to their members;
- D. considering and discussing health and safety matters relating to employees;
- E. discussing substantial changes in job duties and responsibilities.

**Section 3.** There shall be no more than two (2) employee Union representatives per bargaining unit in attendance at the Labor-Management Conference. There shall be no more than four (4) management employee representatives at the conference.

## **ARTICLE 11** **EDUCATIONAL INCENTIVE**

**Section 1.** Any full-time employee who has obtained an Associate's Degree in Police Science, or a Police Science-related degree, shall receive an educational incentive of six hundred fifty dollars (\$650.00) additional compensation each year, pro-rated in the year of completion. This compensation is to be paid in the first pay period of December.

Any full-time employee who has obtained an Associate's Degree in a field other than Police Science, where such degree has been deemed beneficial to the Department and/or indicative of supporting the ability of the officer to better perform the job duties and responsibilities of the position by the Chief of Police, and as approved by the Mayor, shall receive an educational incentive of four hundred fifty dollars (\$450.00) additional compensation each year, pro-rated in the year of completion/submission of appropriate verification. Management's determination of the benefits, or lack thereof, of a non-police science degree, shall not be made in an arbitrary and capricious manner. It shall be the responsibility of the affected employee to submit diplomas, transcripts, and other pertinent material he/she wishes to be considered.

**Section 2.** Any full-time employee who has obtained a Bachelor's Degree in Police Science, or a Police Science related degree, shall receive a total educational incentive of one thousand

dollars (\$1,000.00) additional compensation each year, pro-rated in the year of completion. This compensation is to be paid in the first pay period of December.

Any full-time employee who has obtained a Bachelor's Degree in a field other than Police Science, where such degree has been deemed beneficial to the Department and/or indicative of supporting the ability of the officer to better perform the job duties and responsibilities of the position by the Chief of Police, and as approved by the Mayor, shall receive an educational incentive of seven hundred dollars (\$700.00) additional compensation each year, pro-rated in the year of completion/submission of appropriate verification. Management's determination of the benefits or lack thereof, of a non-police science degree, shall not be made in an arbitrary and capricious manner. It shall be the responsibility of the affected employee to submit diplomas, transcripts, and other pertinent material he/she wishes to be considered.

## **ARTICLE 12** **SPECIAL LEAVES**

### **Section 1. Bereavement.**

- A. If a death occurs among a member of the full-time employee's immediate family (spouse, son, daughter, mother, father, stepchild and stepparent), such employee shall be granted, upon request, up to four (4) days bereavement leave, without loss of pay, benefits, days off, holidays, vacation time, or loss of sick leave. Additional leave may be granted at the discretion of the Chief of Police, with such leave being chargeable to sick leave in accordance with the provisions of that article.
- B. If a death occurs among a member of the employee's family (grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, grandmother or grandfather of employee's spouse, or a legal guardian or other person who stands in the place of a parent), such employee shall be granted, upon request, up to three (3) days bereavement leave, without loss of pay, benefits, days off, holidays, vacation time, or loss of sick leave. Additional leave may be granted at the discretion of the Chief of Police, with such leave being chargeable to sick leave, in accordance with the provisions of that article.

### **Section 2. Military Leave.**

- A. Any employee who is an active member of the Ohio organized militia or a member of another reserve component of the armed forces of the United States, including the Ohio National Guard, is entitled to a leave of absence with pay for performance of service in the uniformed services as defined in Section 5923.05 of the Ohio Revised Code (ORC). Such leave with pay shall be for up to a month, twenty-two (22) eight (8) hour work days (one hundred seventy-six [176] working hours) in any one calendar year. The affected employee shall be required to submit to the Employer a copy of the published military orders or a written statement from the appropriate military commander evidencing the period of training or active duty. Notification and evidence of the need for such leave should be submitted at least thirty (30) calendar days prior to the commencement of the leave unless the orders are received by the employee after that time period.

Notwithstanding the above, an employee who is a member of the uniformed service as defined within Section 5923.05 ORC, who is called or ordered to military service for longer than one month within a calendar year, because of an executive order issued by the President of the United States, an act of Congress, or because of an order to perform duty issued by the Governor pursuant to Section 5919.29 or 5923.21 ORC is entitled to a leave of absence, during the period designated in the act or order, and to be paid each monthly pay period of that leave, the lesser of the following:

1. the difference between the employee's gross monthly wage or salary as a public employee and the sum of the employee's gross military pay and allowances received that month;
2. five hundred dollars (\$500.00).

No employee will receive payment under this section, if the sum of the employee's gross military pay and allowances received in the period exceeds the employee's gross wage or salary.

- B. Any employee who presents official orders requiring his attendance for a period of voluntary active duty as a member of the United States Armed Forces shall be entitled to military leave without pay. Any employee who enters military service with the Armed Forces shall be granted a leave of absence without pay to extend until ninety (90) days beyond the termination of such service. This provision shall not apply to re-enlistments or voluntary acceptance of extended duty.
- C. Starting Rate on Return From Military Service. Any employee who has been honorably discharged from the Armed Forces, and is subsequently reinstated to a position previously held by him/her, shall be entitled to receive compensation at the rate corresponding to the same grade and step when he/she originally entered the service, in addition to any increases which would have accrued to the position had the employee been in active service with the Employer.
- D. Any additional benefits as determined by City Council and afforded by any applicable City Ordinance, relative to the activation of reservists or other military leave, shall also apply to bargaining unit employees.

### **Section 3. Jury Duty.**

- A. Each full-time employee who is summoned for jury duty in any court of record, for a time which he is regularly scheduled to work, shall be paid at his regular salary rate for each of his work days during the period of time so served. The employee shall provide the Employer with a copy of the jury duty summons when requesting such leave. Time so served shall be deemed active and continuous service for all purposes. Any compensation received by the employee member from the court of record for such jury duty shall be turned into the City. On days when a first shift employee is released early

from his jury duty obligation, he shall report to work in order to complete his regularly assigned shift, provided four (4) hours or more remain in the shift.

#### **Section 4. Medical Leave.**

- A. Upon exhaustion of all paid leave time and proper application and medical documentation, an employee with a disabling illness or injury, including pregnancy and medical conditions related thereto, shall be granted a medical leave of absence without pay, not to exceed six (6) months.
- B. If the Employer has reason to believe an employee is unable to fulfill the essential functions of his position by reason of illness or injury, including pregnancy and medical conditions related thereto, the Employer may require the employee to undergo a medical and/or psychological examination. If such examination indicates that the employee is unable to perform the essential functions of the position, the employee will be placed on sick leave and/or medical leave.
- C. The validity of medical evidence supplied by an employee may be subject to review by a physician designated by the City. The cost of any examination or review required by the Employer shall be borne by the Employer. If a conflict exists, the employee may seek a third opinion, with the cost borne by the employee.
- D. If the illness or disability continues beyond six (6) months, the employee may be granted up to an additional six (6) months of unpaid medical leave, at the discretion of the Employer, and provided the employee timely supplies medical documentation justifying the need for the leave, inclusive of a probable date of return to work.
- E. An act of an employee who has been granted a medical leave, which is determined by the Employer to be inconsistent with the reason for the leave, may subject the employee to an Employer-required medical examination, a cancellation of the leave, and disciplinary action.

### **ARTICLE 13** **HEALTH COVERAGE/LIFE INSURANCE**

**Section 1.** For the term of this agreement, the Employer agrees to provide bargaining unit employees the same medical insurance (health plan) as provided to other City employees under a group insurance plan. Such group insurance may be provided through a self-insured plan or an outside provider. Cost containment measures may be adopted by the Employer in consideration of projected costs, market availability of coverages, and utilization. The City shall meet and confer with the Unions (all recognized bargaining units) regarding health care providers and levels of coverage, but the City shall make the final determination if a consensus is not reached.

**Section 2.** The City agrees to pay eighty percent (80%) of the premium/contribution costs for health coverage for each eligible full-time employee enrolled in any of the health coverage plans offered by the City.

The election of single or family coverage rests with the eligible bargaining unit employee.

Each eligible bargaining unit employee electing single or family coverage shall pay twenty percent (20%) of the monthly premium/contribution costs, with no "maximum."

**Section 3.** Any full-time bargaining unit employee may waive health plan coverage and be paid one hundred twenty dollars (\$120.00) per month in lieu of such coverage. The waiver must be requested, in writing, to the Finance Director thirty (30) days prior to the beginning of any billing cycle. Applicable waiver amounts are payable by the City to the applicable employee(s) in June and December of each year. Employees may elect to enroll in the health plan by submitting prior written notification to the Finance Director. Health coverage will commence with the applicable date following the next open enrollment period. At the time of actual enrollment, the employee shall forfeit the waiver. Notwithstanding the provisions above, if a change of status occurs (see Appendix B), an employee may elect to enroll in the health plan by submitting prior written notification to the Finance Director, and coverage shall commence in accordance with the terms of the plan.

**Section 4.** The City, at its sole cost and expense, shall provide each full-time employee with group life insurance coverage in the face amount of thirty thousand dollars (\$30,000).

**Section 5.** Where an employee is on personal sick leave, his medical insurance premiums will be paid as provided above and medical insurance continued for the duration of his receiving payments for accumulated sick leave and vacation time. Where an employee continues to be disabled, due to a line of duty illness or injury, after using sick leave and vacation time, medical insurance costs as provided above will be paid by the City for up to six (6) additional months of disability. Upon exhaustion of those benefits, medical insurance may be continued as provided by statute at the option of the employee by his paying the full premium cost directly to the City of Avon.

**Section 6.** Employees may make a change in their election for health plan coverage as permitted by the provisions of the Lorain County Health Plan, or any other applicable plan in effect.

**Section 7.** The Employer and the Union agree that Article 13, Section 1, shall apply in the event the Employer determines it necessary to change health plan providers during the term of this agreement. It is understood that all involved parties reached a consensus in August 1996 to transfer to coverage under the Lorain County Health Plan, and that such transfer includes being subject to any modifications and/or changes in coverage and levels of benefit as determined appropriate by the Lorain County Board of Commissioners, or as may result due to a transfer of coverage to a plan other than that provided through Lorain County.

**ARTICLE 14**  
**PROFESSIONAL LIABILITY INSURANCE**

**Section 1.** The City shall indemnify each full-time employee for professional liability while operating within the scope of employment. This indemnification shall protect the member from liability which may arise in the performance of his law enforcement duties unless one of the following applies:

- A. His acts or omissions were manifestly outside the scope of his employment or official responsibilities.
- B. His acts or omissions were with malicious purpose, in bad faith, or in wanton or reckless manner.

The parties agree that this indemnification shall apply only while the employee is on active full-time working status.

The parties agree that the City shall defend charges noted in exceptions (A) and (B) above. There will be no indemnification for any judgment where such charges are determined to be true and insurance coverage of the City does not provide indemnification.

**ARTICLE 15**  
**MANAGEMENT RIGHTS**

**Section 1.** Not by way of limitation of the following paragraph, but to only indicate the type of matters or rights which belong to and are inherent to the Employer, the Employer retains the right to:

- A. The conduct and grading of civil service examinations, rating of candidates, establishment of eligible lists, original appointments;
- B. Determine inherent managerial policy, such as functions, programs, standards of service, budgets, organization structure;
- C. Direct, supervise, evaluate, or hire employees;
- D. Maintain and improve the efficiency and effectiveness of governmental operations;
- E. Determine overall methods, processes, means or personnel by which governmental operations are to be conducted;
- F. Suspend, discipline, demote, or discharge, for just cause, or layoff, transfer, assign, schedule, promote, or retain employees;
- G. Determine the adequacy of the work force;
- H. Effectively manage the work force;

I. Take actions to carry out the Employer's mission as a governmental unit.

**Section 2.** For the term of this agreement, the exercise of any rights, power, authority, duty, or responsibility by the Employer, shall be limited only to the extent specifically set forth by the express terms of this agreement.

**ARTICLE 16**  
**COPIES OF AGREEMENT**

**Section 1.** The City will print copies of this agreement at City expense and provide one (1) copy to each full-time employee in the bargaining unit.

**ARTICLE 17**  
**COMPENSATION PLAN/PROBATION**

**Section 1. Compensation Plan.** Employees shall be compensated on a biweekly basis. The hourly rates as shown in the attached Appendix A, Wage Table, shall be deemed to comprise the compensation plan.

**Section 2. Probation Period.** Probationary period, probationary removal, or reduction: All original and promotional appointments of employees, including provisional appointments, shall be for a probationary period of twelve (12) months, and no appointment or promotion is final until the appointee has satisfactorily served his probationary period.

During the probationary period the employee may be removed or reduced without restriction at the discretion of the Employer. Probationary reductions and/or removals are not subject to the grievance procedure.

**ARTICLE 18**  
**UNIFORM ALLOWANCE**

**Section 1.** The Employer shall furnish or make available the following items of job-related equipment to sergeants and lieutenants for use during their employment with the City:

- |  |   |
|--|---|
| (1) bullet resistant vest and 2 carriers<br>per life of vest | (1) rain coat                                 |
| (1) leather duty belt  | (1) rain hat cover                            |
| (6) leather belt keepers                                     | (1) mini flashlight                           |
| (1) canister 10% OC pepper spray                             | (1) ballistic helmet, gas mask, flex<br>cuffs |
| (1) pepper spray holder                                      | (1) gear bag                                  |
| (1) holster  | (2) pairs of handcuffs                        |
| (1) service weapon   | (2) leather handcuff cases                    |
| (3) service weapon magazines                                 | (3) badges (2 breast, 1 hat)                  |
| (1) leather pair of magazine pouches                         | (1) two-way portable radio                    |
| (1) 26" ASP expandable baton                                 | (1) leather radio holder                      |
| (1) leather ASP holder                                       |   |
| (1) leather flashlight holder                                |   |

- (1) leather glove pouch

Each officer is responsible for the proper care and maintenance of City-issued equipment items and will return such items to the City upon separation from employment, except as may be specifically set forth otherwise in this agreement.

When replacement of equipment items by the City is authorized by the Employer, the cost shall be borne by the Employer. Bullet resistant vests shall be worn at all times when an officer (inclusive of detectives) is on duty and/or in uniform, except when a member of the bargaining unit is teaching or attending classes or seminars.

**Section 2.** Each full-time Sergeant and Lieutenant (including detectives maintaining a patrol uniform), after the first year of service, shall receive a yearly uniform allowance of nine hundred and fifty dollars (\$950.00).

**Section 3.** Yearly uniform allowances will be issued with one-half (1/2) paid in April and one-half (1/2) paid in September.

**Section 4.** In the event of damage to uniform items, including watches and prescription eyeglasses, which damage occurs in the active discharge of an employee's duties enforcing the law, the Employer shall pay the difference between the amount of reimbursement from the employee's personal insurance, court ordered recovery, and/or workers' compensation, and the cost of repair or replacement at current fair market value. However, the Employer's monetary reimbursement obligation for repair or replacement of the following articles shall not exceed the maximums set forth below:

<u>Item</u>	<u>Maximum Employer Cost</u>
Watch	\$30.00
Prescription Eyeglasses	\$100.00
Uniform Jacket	\$200.00

Line of duty damage shall be reported immediately to the Chief of Police. On approval of the Chief of Police, the above-noted payment shall be forwarded to the employee. Workers' compensation claims will be filed by an employee where applicable. In the event the Employer reimburses the employee prior to the employee's receipt of personal insurance, court-ordered recovery, and/or workers' compensation, reimbursement to the Employer will be made upon receipt of any such monetary award by the employee.

**Section 5.** At the discretion of the Chief of Police, the Employer will provide special equipment for the performance of a special assignment (e.g., dive equipment, SWAT Team, first responder).

**Section 6.** Whenever a Lieutenant or Sergeant is assigned by the Chief/designee to function as a detective in "plain clothes" for a period of two (2) consecutive work weeks or more, the assigned employee will be eligible for a stipend. The stipend will be paid in the amount of nineteen dollars and twenty-three cents (\$19.23) per week as applicable.

right of refusal for the resulting overtime shall be given to the remaining members of the classification within the applicable bargaining unit.

**Section 5.** At their option, employees may elect to take overtime compensation in the form of pay or compensatory time off. Conversion of overtime to compensatory time is available for whole hour increments only. Employees may not accrue nor use more than ninety (90) hours of compensatory time at any one time or use more than ninety (90) hours in any calendar year. If an employee does not indicate an election for compensatory time, or has an accumulation of the maximum number of compensatory hours, the employee shall be paid for the overtime. Requests for overtime compensation or compensatory time shall be made within the same work period the overtime was earned. Compensatory time off shall be scheduled in advance at the request of the employee subject to the approval of the Chief and operational needs.

**Section 6.** Premium or overtime compensation shall not be paid more than once for the same hours worked.

**Section 7.** Tentative work schedules will be posted two (2) months in advance recognizing the right of the Employer to adjust the schedule, following posting, as necessary. The Employer may also adjust the schedule as determined necessary once the time period for submitting vacation requests has elapsed.

**Section 8.** Employees may request to trade shifts with another employee in the same classification with such requests normally being for a single work day. Requests will be approved or denied within the seven (7) calendar day period following the date of submission of the request. The trading of shifts shall occur within the same pay period and shall not result in overtime.

**ARTICLE 20**  
**HOLIDAYS**

**Section 1.** Effective January 1, 2013, the following ten (10) days are hereby declared designated holidays for the employees:

- |                                 |                           |
|---------------------------------|---------------------------|
| 1) New Year's Day               | 6) Labor Day              |
| 2) Martin Luther King Day       | 7) Columbus Day           |
| 3) Police Memorial Day (May 15) | 8) Thanksgiving Day       |
| 4) Memorial Day                 | 9) Day After Thanksgiving |
| 5) Independence Day             | 10) Christmas Day         |

Effective January 1, 2013, in addition to the designated holidays set forth above, each bargaining unit employee shall be eligible for three (3) floating holidays per year (one of which is in consideration of the employee's birthday).

**Section 2.** The floating holidays will be credited to each employee in January of the applicable calendar year. The date of said holiday will be at the discretion of the employee, with the consent of the appropriate supervisor.

**Section 3.** In consideration of the designated holidays in Section 1 above, bargaining unit employees will be afforded eighty (80) hours of holiday time in January of each calendar year. Employees with less than one (1) year of service as of January 1 of the applicable calendar year shall receive holiday time on a pro-rated basis.

All holiday time shall be scheduled and taken with the approval of the appropriate supervisor and the Chief. Holiday time not used, up to a maximum of eighty (80) hours per year, shall be paid in the first pay of December of the applicable calendar year, except that an employee may submit a holiday(s) for pay during the pay period in which a holiday falls, provided notice is given to the City within the applicable pay period.

**Section 4.** If an employee is required to work on any of the holidays listed in Section 1 above (to exclude the floating holidays), he shall be entitled to pay for all hours of such time worked at one and one-half (1 1/2) times his regular base rate of pay.

Hours worked in excess of eight (8) on a designated holiday will be compensated at double time (2x). The selection of holiday pay or holiday compensatory time shall be at the discretion of the employee in accordance with the limitations set forth above, and such notice shall be given to the City within the pay period such holiday is worked.

Holiday pay does not count as "compensable time for purposes of overtime computation as addressed in Article 19, Section 4, of this agreement; holiday compensatory time does count as "compensable time." There shall be no pyramiding of overtime/premium pay.

Floating holidays days shall be used in the year earned or lost, and may not be carried over into the next year.

Should an employee leave the service of the Employer prior to December 31 of the applicable calendar year, holiday time shall be reconciled and the employee shall be charged for any holiday time taken in excess of the holidays that have actually occurred prior to separation.

## **ARTICLE 21** **SICK LEAVE**

**Section 1. Computation.** Each full-time employee shall be credited with sick leave with pay in the amount of one and one-fourth (1 1/4) work days (ten [10] hours) for each completed month of service. Each full calendar month of service shall be deemed a completed month of service.

**Section 2. Unused Sick Leave.** Unused sick leave shall be cumulative.

**Section 3. Allowance Of Sick Leave.** An employee eligible for sick leave with pay may use sick leave only for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, and illness or death in the employee's immediate family. An employee on sick leave shall inform his immediate supervisor of the fact and the reason therefore as soon as possible, and failure to do so within one-half (1/2) hour prior to the start of the shift, unless emergency conditions exist, may be cause for the denial of sick leave with pay for the period of absence. Any employee fraudulently obtaining (or attempting to obtain) sick leave

shall be disciplined. Excessive or patterned use of sick leave shall also be just cause for discipline.

**Section 4. Fractional Days.** Absence for a fraction or part of a day that is chargeable to sick leave in accordance with these provisions shall be charged proportionately in an amount not smaller than one-half (1/2) hour.

**Section 5. Required Reports.** The use of paid sick leave, in excess of three (3) days, for the reason of any illness or injury, may require a written statement by a reputable physician certifying that the employee's condition prevents him from performing the duties of his position. If illness or injury continues more than seven (7) calendar days, weekly written reports from the physician must be presented. In lieu of the physician's written reports, a written statement by the Chief of Police will be accepted.

**Section 6. Sick Leave Credit.** An employee who is laid off from his position and is reappointed or subsequently recalled shall have available to him any unused sick time that existed at the time of the layoff. Any employee who transfers to the Police Department from another department of the City of Avon shall be credited with the unused balance of his accumulated sick time.

**Section 7. Sick Leave Conversion.** An employee may convert sick leave, in excess of ninety (90) days, into vacation leave at the rate of one (1) vacation day for each sick day, up to a maximum of five (5) vacation days per year. Requests to convert sick leave must be submitted within the month of January of each year.

**Section 8. Payment Upon Retirement.** All sick leave days which have accrued at the retirement date of the full-time employee shall be paid at a ratio of one (1) day for each two (2) days earned up to a maximum of nine hundred sixty (960) hours of pay. The rate will be that of the full-time employee at time of retirement. There is unlimited accumulation of sick leave.

To be eligible under this section, the employee must have worked full-time with the City of Avon for ten (10) years or more or been hired prior to November 1, 2009, and shall have attained an age and service requirement under the employee's pension (retirement) system and shall have been approved for service retirement, or be granted a disability pension by the Retirement System as the result of a service connected disability.

## **ARTICLE 22**

### **PAYMENT TO THE ESTATE UPON DEATH**

**Section 1.** When a full-time employee has earned regular pay, holiday pay, vacation pay, or sick pay, or compensatory time, and dies before receiving payment for same, his estate shall receive the pay which has accrued.

**ARTICLE 19**  
**WORK WEEK/SCHEDULED HOURS**

**Section 1.** For the purpose of this agreement, a work day shall normally consist of eight (8) scheduled consecutive hours in a twenty-four (24) hour period commencing with the start of a shift. A normal work week for full-time employees shall normally consist of forty (40) scheduled hours within a calendar week. The “work week” schedule shall include two (2) consecutive days off except to accommodate training needs/adjustments. This article is intended to define the normal range of work hours for regular full-time employees. Schedule requirements may on occasion result in shift assignment wherein a member has eight (8) off hours separating two (2) scheduled shifts. Such shift assignments shall be considered as separate work days and paid at straight time rates, where such shift assignment is part of a standard shift schedule, or results from changing to a new schedule.

**Section 2.** Compensation for regularly scheduled eight (8) hour days shall be at a straight rate of pay.

**Section 3.** An employee who is called in to work at a time which does not abut his scheduled work hours shall receive a minimum of four (4) hours work, or four (4) hours pay, at the applicable rate of pay. This provision shall not apply to any schedule change(s) or scheduled overtime. However, an employee who attends a Departmental staff meeting when called in by the Chief of Police outside of regular work hours shall receive a minimum of two (2) hours work or two (2) hours pay at the applicable rate of pay. Unworked minimum call-out hours shall not apply for purposes of overtime computation; however, an employee shall be compensated at the highest of either the actual hours worked or the minimum call-out hours.

**Section 4.** Any actual hours of work in excess of forty (40) hours in a work week shall constitute overtime. Compensable time (holidays, vacation days, compensatory days, and actual duty hours) shall be considered as time worked for the purposes of computing overtime. Overtime shall be compensated at one of the following rates as applicable:

- A. Time and one-half (1 1/2) for all hours of work in excess of eight (8) in one (1) work day, or forty (40) hours of work in a work week.
- B. Double time for all hours of work in excess of twelve (12) consecutive hours in a work day.
- C. Double time for hours worked during scheduled vacation when an employee is called out and required to report to work by the Employer. In such case, the employee will receive the double time for a minimum of four (4) hours or the actual number of hours, whichever is greater. Days off abutting a full work week of requested time off, i.e., vacation, compensatory time, or holiday time, shall be considered “vacation” for purposes of this provision.

When an opening on a shift occurs due to the absence, for any reason, of a bargaining unit employee, and the position is to be filled by someone working in an overtime capacity, the first

**ARTICLE 23**  
**ACCIDENT INSURANCE**

**Section 1.** The City will pay the monthly premium for accidental death, dismemberment, loss of sight, and permanent disability insurance to the Ohio Municipal League Group Accident Plan. Additional amounts of insurance may be purchased at no cost to the City, with the yearly premium payable in advance. This benefit shall apply to all full-time employees.

**ARTICLE 24**  
**DISCIPLINE**

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

- A. Instruction and cautioning (documented oral warning).
- B. Written reprimand.
- C. Suspension without pay. (At the option of the employee, and with the concurrence of the Employer, accrued vacation or holiday time may be forfeited equal to the length of the suspension. Record of suspension will be maintained.)
- D. Reduction in pay and position (demotion).
- E. Discharge.

**Section 2.** Whenever the Employer determines that an employee may be suspended, demoted, or discharged for just cause, a predisciplinary hearing will be scheduled to give the employee an opportunity to offer an explanation of the alleged misconduct. A notice of the predisciplinary conference shall be provided to the employee and shall contain a general description of the alleged misconduct. The employee shall have the right to have a Union representative present at the conference if he so desires. When possible, the date and time of the predisciplinary conference may be extended to accommodate a desired Union representative. If immediate attention is required, an alternate representative will attend. In any event, predisciplinary hearings shall be completed within thirty (30) calendar days from presentation to the employee of the notice of alleged misconduct. A written report will be prepared by the hearing officer concluding whether or not the alleged misconduct occurred. The Employer will decide what discipline, if any, is appropriate. A copy of the hearing officer's report will be provided to the employee, and the Union representative if applicable, within fourteen (14) calendar days following the close of the hearing. Any resulting disciplinary action will be issued within forty-five (45) calendar days of the receipt of the hearing officer's findings.

**Section 3.** Disciplinary action involving a reduction in pay or position may be appealed through the grievance procedure set forth herein. Disciplinary actions resulting in reductions in pay and/or position must be filed at the Mayor's level of the grievance procedure within ten (10) calendar days of the receipt of the notice of discipline to the employee. Receipt will be deemed

to have occurred three (3) calendar days from the date of mailing, or at the time of hand delivery. Written reprimands may be appealed through the grievance procedure up to and including the Mayor's level (Step 4), but are not subject to arbitration.

**Section 4.** Any employee under indictment or arrested for a crime of moral turpitude who is not disciplined or discharged by the Employer shall be placed on a leave of absence with pay until resolution of the court proceedings. An employee may use accrued vacation or holiday time during the leave. An employee found guilty by the trial court shall be summarily discharged. An employee found innocent of the charges may be returned to work or placed on administrative leave and shall have any vacation or holiday time used restored to his credit, and may be subject to disciplinary action if such action was held in abeyance. The Employer shall continue to pay the Employer's share of the health premium/contribution during the leave of absence; however, if the employee is summarily discharged, the amount of such premium/contribution shall be reimbursed to the City by the employee.

Predisciplinary hearings will be conducted by a representative of the Employer (hearing officer). The employee may choose to:

- A. appear at the hearing to present oral or written statements in defense;
- B. or appear at the hearing and have one (1) chosen representative present oral or written statements in defense of the employee;
- C. or elect in writing to waive the opportunity to have a predisciplinary hearing.

Failure to elect and pursue one of these three (3) options will be deemed a waiver of the employee's rights to a predisciplinary hearing.

At the predisciplinary hearing, the hearing officer will ask the employee or his representative to respond to the allegations of misconduct as outlined to the employee. At the hearing, the employee or his representative may present any testimony, witnesses, or documents which explain whether or not the alleged misconduct occurred. The hearing officer may request the employee to respond directly to any inquiry. The employee shall provide a list of witnesses and the name of his representative, if any, to the Employer as far in advance as possible, but no later than eight (8) hours prior to the predisciplinary hearing. It is the employee's responsibility to notify his Union representative and witnesses that he desires their attendance at the hearing.

**Section 5.** Any suspension imposed shall not be deducted from the employee's seniority date.

**Section 6.** Any investigations, interviews, and disciplinary procedure shall be conducted in a professional manner. Discipline and/or corrective action shall be conducted in a private manner and not in the presence of the employee's co-workers or the public.

**Section 7.** The employee shall, at his request, have the right to have a Union representative present at any investigation or interview where the employee reasonably believes disciplinary action may result. If the Union representative is not available immediately, the Employer and

the Union representative shall attempt to agree to a time reasonable for both parties, or an alternate Union representative will be assigned by the Union.

**Section 8. File Review.** The employee may request his personnel file upon a written request; such request must be submitted five (5) days prior to the date of review.

Should an employee, upon review of his personnel file, observe materials of a negative or derogatory nature, the employee may provide a written and signed comment or rebuttal, and such response shall be attached to the material in question. The comments or rebuttals shall remain in the file with the adverse material.

**Section 9. Media.** When a department member is charged with or is under investigation for alleged violations of departmental rules and regulations, reasonable efforts consistent with applicable law shall be made to withhold publication of the officer's name and the extent of the disciplinary action taken or contemplated until such time as final inter-departmental ruling has been made and served upon the officer. If any of the aforementioned are leaked to the media, it will not negate the Employer's right to proceed with the matter at hand.

Release of photographs or personal information about any officer in relation to departmental matters shall not be provided to any news or related service without consent of the subject officer.

Members of the bargaining unit shall be notified of third party requests to review their files.

**Section 10. Cease To Have Force And Effect.** Written reprimands and warnings shall cease to have force and effect one (1) year from the date of the discipline provided no other disciplinary action of a like nature has occurred during that period.

Suspensions or demotions shall cease to have force and effect five (5) years after the date of the discipline provided no other disciplinary action of like nature has occurred during the period.

**Section 11.** Disciplinary action which exceeds the time limits set forth in Section 10 above may be removed from the personnel file upon written request of the affected employee. Such disciplinary records will be maintained in a separate file. Pre-hire investigative reports shall also be maintained in a separate file. The parties recognize the obligation of the Employer to comply with the provisions of Ohio's Public Records Law.

## **ARTICLE 25**

### **GRIEVANCE PROCEDURE**

**Section 1.** The grievance procedure is a formal mechanism intended to assure that employee grievances arising from misunderstandings that may develop in the administration of this agreement are promptly heard, answered, and appropriate action taken to correct a particular situation.

**Section 2.** The term grievance shall mean an allegation by a bargaining unit employee or the Union that there has been a breach, misinterpretation, or misapplication of the express terms of

this agreement. Unsafe or unhealthy working conditions not acted upon in accordance with the provisions of Article 5 may be processed at Step 3 within fifteen (15) days of the written report to the Chief.

**Section 3.** A grievance, under this procedure, may be brought by any employee. Where a group of employees desire to file a grievance involving a situation affecting each member in the same manner, one member selected by such group may process the grievance.

**Section 4.** A grievance is barred unless it is presented at Step 2 within thirty (30) calendar days of the actual event giving rise to the grievance.

**Section 5.** All grievances must be processed at the proper step in the progression in order to be considered at the subsequent step.

Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements to lapse without further appeal.

Any grievance not answered by management within the stipulated time limits shall be considered to have been answered in the negative and may be appealed to the next step of the grievance procedure.

**Section 6.** The Labor Council agrees to indemnify and hold the Employer harmless against any and all claims, demands, suits, or other forms of liability that may arise out of any determination that the Labor Council failed to fairly represent an employee during the exercise of his rights as provided by the Grievance and Arbitration Procedure contained herein.

**Section 7.** A grievance shall be submitted in writing and shall contain the following information:

- A. aggrieved employee's name;
- B. aggrieved employee's classification;
- C. name of the employee's immediate supervisor;
- D. date and time of the incident giving rise to the grievance;
- E. date and time the grievance was first discussed;
- F. a statement as to the specific articles and sections of the agreement violated;
- G. a brief statement of the facts involved in the grievance; and
- H. the remedy requested to resolve the grievance.

**Section 8.** The time limitations provided for in this article may be extended by mutual written agreement between the Employer and Labor Council. Working days, as used in this article, shall not include Saturdays, Sundays, or holidays.

**Section 9.** The following procedure shall be utilized for handling an employee's grievance:

A. Step 1 - Informal

Prior to filing any written grievance, the grievant must attempt to resolve it informally with the Captain or Chief in the absence of the Captain.

B. Step 2 - Formal

Any grievance that is not resolved in the informal level must be presented, in writing, to the Chief of Police within ten (10) calendar days of the occurrence of the alleged grievance. The Chief of Police may hold a meeting to discuss such grievance and shall provide an answer to the grievant within one (1) week after its receipt.

C. Step 3 - Director of Public Safety

If the grievant is not satisfied with the resolution at Step 2, he may appeal to the Director of Public Safety or designate, in writing, within one (1) week after receipt of the Step 2 answer. The Director of Public Safety or designate shall hold a meeting with the grievant within one (1) week after receipt of the grievance and shall answer the grievance in writing within one (1) week of such meeting.

D. Step 4 - Mayor

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

E. Step 5 - Arbitration

If the grievant is not satisfied with the resolution at Step 4, he may request that the Labor Council file a request for arbitration. The Labor Council must file such request within thirty (30) working days of the Step 4 decision with the Mayor or designate. A request to the Federal Mediation and Conciliation Service (FMCS) for a list of arbitrators must be submitted simultaneously with the request submitted to the Mayor.

The arbitrator will be selected pursuant to the procedures of FMCS. If an arbitrator is not selected from the first list, a second list shall be provided to the parties.

The cost of the arbitration shall be split equally between the parties.

The decision of the arbitrator shall be final and binding on the parties.

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

1. contrary to or inconsistent with or modifying or varying in any way the terms of this agreement or of any applicable laws;
2. limiting or interfering in any way with the powers, duties, or responsibilities of the Employer under applicable law; limiting or interfering in any way with the powers, duties, or responsibilities of the Avon City Council under its rule making powers not inconsistent with this agreement;
3. contrary to, inconsistent with, changing, altering, limiting, or modifying any practice, policy, rules or regulations presently or in the future established by the Employer so long as such practice, policy, rules and regulations do not conflict with this agreement;
4. implying any restrictions or condition upon the Employer from this agreement, it being understood that, except to such restrictions or conditions upon the Employer as are specifically set forth herein, or are fairly inferable from the express language of any article and section hereof, the matter in question within the exercise of rights set forth in the article of this agreement entitled "Management Rights;"
5. providing agreement for the parties in those cases where, by their contract, they may have agreed that future negotiations should occur to cover the matter in dispute;
6. granting any right or relief of any alleged grievance occurring at any time other than the contract period in which such right originated.

The question of arbitrability of a grievance may be raised by either party before arbitration hearing of the grievance, on the grounds that the matter is non-arbitrable or beyond the arbitrator's jurisdiction. The first question to be placed before the arbitrator will be whether or not the alleged grievance is arbitrable. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same arbitrator.

**ARTICLE 26**  
**VACATION**

**Section 1. Amount Of Vacation Pay.** The amount of vacation pay in the case of bargaining employees shall be computed and compensated based upon a forty (40) hour work week.

- A. During the period of December 1 through December 31 (preference period), employees shall submit to the Employer vacation leave preference requests for the following calendar year (i.e., January 1 through December 31 of the following year). Vacation preference requests shall be awarded based upon departmental seniority and operational and scheduling requirements as determined by the Employer. Seniority will be determined according to the date of hire as a full-time employee of the Avon Police Department.

Vacation leave may be utilized in increments of eight (8) hours per scheduled work day, subject to operational and staffing needs. Requests for less than four (4) hour increments may be granted at the discretion of the Chief of Police.

- B. Non-preference vacation requests shall normally be submitted by an employee at least fourteen (14) calendar days in advance of the date(s) being requested. The fourteen (14) day requirement may be waived at the discretion of the Chief. Non-preference vacation requests shall be granted on a first come first served basis except that when requests are simultaneous (requests presented on the same day), non-preference requests for a full week (seven [7] consecutive calendar days, Saturday through Friday or Monday through Sunday) of vacation, or more, will be given preference over simultaneous single day requests or simultaneous requests for less than one week.

**Section 3. Compensation.**

- A. The employee shall accumulate one (1) day for each full calendar month worked during each of the first five (5) consecutive years of service to a maximum of ten (10) days each calendar year. Vacation, holidays, sick days, compensatory time, or any time a member is in an active pay status shall be considered as time worked for the vacation computation.
- B. After five (5) years of continuous service, fifteen (15) days will be given, plus thereafter one (1) additional day for each additional full year of service to a maximum of twenty (20) days; after twenty (20) years of continuous service, twenty-five (25) days will be given.
- C. Vacations earned shall be taken within one (1) year from the calculation date, except that each employee shall be able to bank eighty (80) hours of vacation time which must be used during the following calendar year.
- D. The vacation calculation date shall be December 31 of each year. All vacations credited in the current year will be calculated on the basis of the months or years of continuous full-time service completed on December 31 of the preceding year. Vacation time will be

credited in January and must be used by December 31 of the calendar year in which it is credited or banked in accordance with the provisions of subsection "C" above, or it shall be lost.

Employees hired on or after January 1, 2012, are eligible for prior service credit for full-time service with the State of Ohio, an Ohio county, or another Ohio city or civil service township. Employees hired prior to January 1, 2012, will retain any prior service credit previously granted. It is the responsibility of the employee to obtain and submit documentation of service time from previous employers. Employees shall receive prior service credit commencing within the calendar year the necessary documentation is submitted.

- E. In the event of termination of employment by an employee for reasons other than just cause, and provided that the employee was employed by the City on December 31st of the preceding year, vacation credit shall be calculated in accordance with this section for the year in which the employment is terminated, based upon the actual time in the employment of the City during termination year, and the employee shall be paid as of the termination date in lieu thereof.
- F. If for any reason an employee should desire to work rather than take a vacation, there shall be no double pay allowed.
- G. If a member of any of the bargaining units ("A," "B," or "C") is injured on duty and unable to utilize the vacation time available in that year, the vacation time shall be carried over to the next year or the member shall be compensated for all remaining days at the proper hourly rate and at the discretion of the Chief. The Chief reserves the right to schedule vacation in such situations to avoid payment or carryover.

## **ARTICLE 27**

### **LABOR COUNCIL REPRESENTATION AND TIME**

**Section 1.** Any employee has the right to have the Labor Council representative or his designee present at any step of the grievance procedure and at any meeting which may result in disciplinary action being taken against the employee. The Labor Council Representative or designee shall have five (5) hours per quarter excused representation time with accumulation of unused time to a limit of twenty (20) hours per contract year. Said excused time shall be without loss of pay. Any time spent in excess of twenty (20) hours per contract year shall not be compensated by the Employer.

**Section 2.** An additional time bank of twenty-four (24) total hours (all units) shall be available to bargaining unit members to attend meetings, training, or other Union-related business held by the FOP or FOP/OLCI. This additional time shall be used with the prior approval of the elected bargaining unit representatives and a minimum of seven (7) days prior notification to the Chief of Police.

**ARTICLE 28**  
**NO STRIKE/NO LOCKOUT**

**Section 1.** No employee shall engage in any concerted work stoppage, slow-down, strike, or other job action designed to impair or impede the functions of the Employer.

**Section 2.** Any representative of the Labor Council or negotiating committee, upon notice from the Employer of such job action, shall take whatever affirmative actions that are within their ability to end such job action, and will not in any manner encourage, ratify, condone, suggest, or participate in any such job action.

**Section 3.** The Employer shall not lockout any employee.

**ARTICLE 29**  
**ABSENCE WITHOUT LEAVE AND REINSTATEMENT**

**Section 1.** An employee who is absent from duty shall report the reason therefore to his supervisor one-half (1/2) hour prior to the time of absence unless emergency conditions exist. All unauthorized and unreported absences shall be considered absent without leave and a deduction of pay shall be made for the period of absence. Such absence may be made the grounds for disciplinary action.

**Section 2.** Provisions shall be made for emergencies where the requirement of an immediate report is impossible to be complied with.

**ARTICLE 30**  
**ON-DUTY INJURY LEAVE**

**Section 1.** In the event of an occupational injury, exceeding seven (7) working days, and incurred as a direct result of performing an assigned duty or sworn function within the scope of the employee's job duties and authority, said employee shall be entitled to (on-duty) injury leave in an amount not to exceed one hundred twenty (120) consecutive work days when the injury is timely reported, recommended by the employee's department head, and verified by a competent physician as a disabling injury. The City reserves the right, at its cost, to require the employee to see a physician of its choice before injury leave may be granted.

**Section 2.** To receive on-duty injury leave with pay, the employee must:

- A. immediately notify the department head/supervisor when an incident or accident occurs.
- B. complete an Incident/Accident Report to be forwarded to the Department Head and Assistant Finance Director within twenty-four (24) hours of the incident or accident and seek appropriate medical attention. When an employee is hospitalized or otherwise unable to complete the report, the supervisor/department head shall initiate the form.
- C. complete a request for Injury Leave form.

- D. where applicable as requested by the Assistant Finance Director/designee, execute a release (reimbursement agreement), which obligates the employee to reimburse the City the amount of the Workers' Compensation benefits received for lost wages during the same time period the employee collected injury leave. Any employee who applies for lost wages must submit such payments to the City for the period which the employee also received ODIL.
- E. Attend a medical examination/evaluation whenever scheduled with a physician/medical provider selected and paid for by the City with at least forty-eight (48) hours advance notice.

**Section 3.** Injury leave shall not be cumulative, i.e., an employee may only receive injury leave only once for each work-related accident/injury. When an employee requests injury leave for a disputable illness/accident and is denied, the Employee may be subsequently credited with such leave upon a favorable decision by the Bureau of Workers' Compensation (BWC), provided that the City may appeal or otherwise contest a decision, in which case, injury leave will be credited only when the City either exhausts its remedies or accepts the judgment rendered by the BWC.

**Section 4.** An employee may be offered transitional work or modified duty by the City, consistent with the restrictions/limitations of the employee's physician or a physician selected by the City, when determined appropriate by the City, and when the following requirements are met:

- A. The assignment must be medically suitable. The employee must be capable of performing the work without violating any medical restriction or limitation.
- B. The assignment must fulfill a necessary job function or functions. The City shall not be required to "create work" and the availability of work at one time shall not mean that the work will always be available for transitional work within a department or within the City.
- C. The assignment must be anticipated to be temporary.
- D. The employee must have the capability (knowledge, skills, and abilities) necessary to properly perform the work.

The availability of transitional work and or modified duty assignments are solely determined by the City in consideration of operational and staffing needs as well as capability of the affected employee, are not guaranteed, and are subject to approval of the Mayor/designee.

**Section 5.** An employee forfeits all rights to any on-duty injury leave (wage continuation payments) or transitional work for which the employee would otherwise have been entitled, if the employee:

- A. engages in work with any other entity, whether part-time or full-time, while receiving ODIL payments; however part-time work will be allowed if the work is consistent with

any medical limitations.

- B. terminates employment for any reason.
- C. fails to act in a manner which is conducive to being off work convalescing from a job-related injury.
- D. refuses to perform light, modified, or transitional duty (within medical restrictions) when offered by the City.
- E. refuses to return to regular duty after being released by the treating physician or a physician selected by the City.

**Section 6.** An employee may return to full duty upon authorization by the employee's attending physician or by a physician of the City's choice. "Authorization" refers to and must include the physician's review of the employee's position description and a certification that the employee is fit to perform the essential duties described therein. In the event of a conflict between the attending physician and the physician selected by the City, the matter of fitness for duty shall be referred to a mutually agreed upon physician (or if mutual agreement is not reached, by a physician selected by the City's MCO) whose opinion shall be binding on the parties. The cost of the third physician shall be born equally between the parties.

**Section 7.** In the event an employee, who is entitled to injury leave, uses the maximum allowable injury leave per injury, and is still unable to return to active duty, an assessment of the status of the injury will be made by the City. If the City determines that within three (3) months from the date the expiration of the original one hundred twenty (120) work day period employee should be able to return to work and perform the essential functions of the position, the ODIL may be extended without precedent.

### **ARTICLE 31** **LAYOFF AND RECALL**

**Section 1.** The Employer shall determine when a job abolishment and/or layoff shall occur. In the event an employee is to be laid off due to lack of work or lack of funds (budgetary constraints), and/or job abolishment, the layoffs or reductions in force will be made in accordance with the following guidelines:

- A. As applicable, the employee with the least amount of continuous service in the job classification to be reduced will be first to be laid off. Notice of layoff will be issued in writing to the affected employee at least ten (10) calendar days in advance of the effective date of the layoff.
- B. A Lieutenant who is laid off may displace into a vacant position in the Sergeant classification or may displace the least senior Sergeant in accordance with the following:

The affected Lieutenant may apply his rank seniority to displace a Sergeant with less rank seniority; such displacement shall be of the Sergeant with the least rank seniority. An

affected employee shall notify the Employer in writing, within five (5) calendar days of the date of the notice of layoff, of intent to displace into the Sergeant classification.

“Rank” seniority, as used herein, shall mean the date continuous service began in a rank classification, i.e., Sergeant or Lieutenant.

- C. A Sergeant who is laid off may displace only into a vacant position in the classification of Patrol Officer.
- D. Laid off employees shall remain on a recall list for the affected classification for a period of two (2) years from the effective date of the layoff. Employees who are called back within two (2) years of the layoff to return to full-time status will be called back in reverse order of the layoff. It shall be the duty of each laid off employee to keep the City advised of his/her current residence address.
- E. “Continuous service” means the uninterrupted service of an employee in a rank classification or classifications, as applicable. A “break in continuous service” shall be deemed to have occurred when there is separation from or break in service in any rank classification of thirty-one (31) calendar days or more. A layoff of less than two (2) years, a disciplinary suspension, or an approved leave of absence shall not constitute a break in continuous service. A reduction back to Sergeant during the promotional probationary period for Lieutenant, or a demotion back to Sergeant, shall not constitute a break in continuous service.

**Section 2.** Consistent with the provisions of Article 36 herein, it is understood that these provisions shall completely govern any reduction in force (layoff and/or job abolishment) and the provisions of ORC 124.321 to 124.328, 124.37, and all local rules and regulations of the City of Avon Municipal Civil Service Commission governing work force reductions (i.e., layoff and/or job abolishment) shall be without standing and shall not apply.

**Section 3. Rank Pay Reduction Option.** Lieutenants who are placed on layoff due to budgetary constraints (lack of funds) may instead choose (opt) to keep their rank and take a pay reduction equivalent to a rate two percent (2%) above the highest Sergeant wage rate. Sergeants who are placed on layoff due to budgetary constraints (lack of funds) may instead choose (opt) to keep their rank and take a pay reduction equivalent to a rate two percent (2%) above the highest Patrol Officer wage rate.

The budgetary constraints causing the stated reductions in pay shall be reevaluated within three hundred sixty-five (365) days of the stated pay reduction. Should the budgetary constraints continue, the pay reduction will continue for another three hundred sixty-five (365) days before being reevaluated. Should the budgetary constraints continue to exist, the Employer shall determine if the pay reduction should continue. “Wage rate” as used herein means the base rate of pay for the classification. An affected employee shall notify the Employer, in writing, within five (5) calendar days of the date of the notice of layoff, of intent to exercise the rank pay reduction option.

The pay reduction of rank officers shall be no greater in number than the number of patrol officers on layoff due to budgetary constraints (lack of funds). However, nothing herein shall be construed to limit the ability of the Employer to abolish rank position(s).

## **ARTICLE 32** **BILL OF RIGHTS**

**Section 1.** A bargaining unit employee shall have the right to be represented by a Union officer or the Union's legal counsel, upon his request, at any time during any questioning when it relates to the employee's continued fitness for law enforcement services, or when the investigation could result in criminal charges.

**Section 2.** A bargaining unit employee shall have the right to be completely informed of his rights prior to the commencement of any questioning if he could be placed under arrest as the result of the investigation.

**Section 3.** At the time of an investigatory interview, an employee under investigation will be advised of the nature of the subject matter under investigation.

**Section 4.** A bargaining unit employee shall have the right, to the extent possible, to be informed at the initial contact if he is to be questioned as a witness only. If the meeting moves from investigatory to accusatory, the employee shall have the right to request Union representation.

**Section 5.** A bargaining unit employee shall have the right for all formal questioning to be recorded and has the right to make a separate recording of any questioning at the time of questioning.

**Section 6.** A bargaining unit employee shall have the right to request that at any one time all questions during an investigatory interview be directed through only one (1) questioner. When such request is made, it shall be honored.

**Section 7.** Questioning shall take place at a location designated by the Chief of Police and at a reasonable hour for all persons concerned.

**Section 8.** A bargaining unit employee shall have the right to be represented by a Union officer of his choice (within the bargaining unit or the FOP/OLC representative) during any questioning where the employee reasonably believes that punitive action could result. If the Union representative/attorney is not available immediately, the Employer and the Union representative shall attempt to agree to a time reasonable for both parties, or an alternate representative will be assigned by the Union.

**Section 9.** No polygraph test or CVSA shall be requested/required by the Employer without a bargaining unit employee's prior consent, and without the presence of his union representative, if requested by the employee. Any polygraph or CVSA agreed to must be given by a licensed operator.

**ARTICLE 33**  
**WAIVER IN CASE OF EMERGENCY**

**Section 1.** In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Board of Lorain County Commissioners, the federal or state legislature, City Council, or the Mayor, such as acts of God or civil disorder, the following conditions of this agreement may automatically be suspended at the discretion of the Employer:

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

**Section 2.** Upon the termination of the emergency, should valid grievances exist, they shall be processed in accordance with the provisions outlined in the grievance procedure and shall proceed from the applicable point in the grievance procedure to which they had properly progressed.

**ARTICLE 34**  
**SUBSTANCE ABUSE TESTING**

**Section 1.** Bargaining unit employees shall comply with the Drug Free Workplace and Alcohol and Drug Testing policies and procedures as adopted/amended by the City Ordinance 62-11 and 01-12. Further, the City retains the right to update the list of unlawful drugs/substances.

**Section 2.** A second positive drug and/or alcohol test result will result in termination of any employee not terminated due to the first positive drug result.

**ARTICLE 35**  
**SERVICE WEAPON**

Any lieutenant or sergeant retiring from service with the City shall be provided with his City-issued service weapon at the time of retirement (disability or regular service retirement).

**ARTICLE 36**  
**BARGAINING UNIT APPLICATION OF CIVIL SERVICE LAW**

- A. The parties agree that no section of the Civil Service Laws contained in the Ohio Revised Code or as adopted by the City of Avon, nor any local City ordinances pertaining to wages, hours, terms and conditions of employment, shall apply to bargaining unit employees, where such matter has been addressed by this agreement.
- B. Notwithstanding Section 1 above, the parties agree that the conduct and grading of civil service examinations (as related to the City of Avon Civil Service Commission), the establishment of eligible lists from examinations, the original appointments from the eligible lists, and promotional examinations and appointments shall continue to be

governed by City Charter, local statutes, ordinances, and the Civil Service Commission Rules and Regulations of the City of Avon, as may be applicable.

- C. Notwithstanding the above, Section 124.57 and 124.388 ORC shall continue to apply to bargaining unit employees.

**ARTICLE 37**  
**DURATION**

This agreement shall be effective July 8, 2012, and shall remain in full force and effect through April 30, 2015.

If either party desires to modify, amend, or terminate this agreement, it shall give written notice of such intent no earlier than one hundred eighty (180) calendar days prior to the expiration date, nor later than one hundred fifty (150) calendar days prior to the expiration date of this agreement. Such notice shall be by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks after receiving notice of intent.

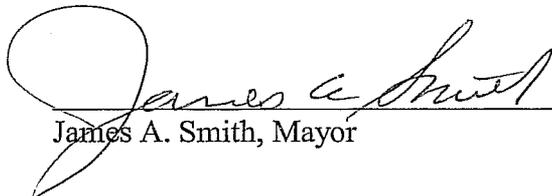
The parties acknowledge that during the negotiations which resulted in this agreement, each party had unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this agreement. Therefore, the Employer and the Labor Council, for the life of this agreement, each voluntarily and unequivocally waive the right and each agrees that the other shall not be obligated to bargain collectively or individually with respect to any subject or matter referred to or covered in this agreement, or with respect to any subject or matter not specifically referred to or covered in this agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this agreement.

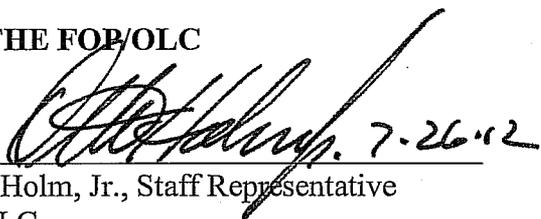
**SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on this  
31<sup>st</sup> day of July day of 2012.

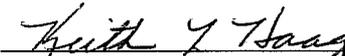
**FOR THE EMPLOYER**

**FOR THE FOP/OLC**

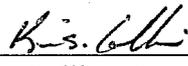
  
James A. Smith, Mayor

  
Otto J. Holm, Jr., Staff Representative  
FOP/OLC

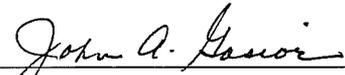
  
Richard Bosley, Chief of Police

 07/30/12  
Keith L. Haag, Lieutenant

  
Sandy Conley, Account Manager

 08/06/12  
Kevin Collins, Sergeant

**Approved As To Content and Form**

  
John A. Gasior, Law Director

**APPENDIX A**  
**SERGEANT AND LIEUTENANT WAGES**

**Section 1.** All full-time Sergeants shall be paid in accordance with the following scale:

- A. Sergeants shall receive a rank differential pay rate equal to fourteen percent (14%) greater than the rate received by a police officer in the highest wage rate.

**Section 2.** All full-time Lieutenants shall be paid in the accordance with the following scale:

- A. Lieutenants shall receive a rank differential pay rate equal to fourteen percent (14%) greater than the rate received by a Sergeant in the highest wage rate.

**Section 3.** The state-mandated employee's contribution to the OPFPF shall be deducted from the employee's gross pay before state and federal taxes are withheld in accordance with IRS rules.

**Section 4.** Whenever the Chief of Police assigns a sergeant the primary duties and responsibilities of the Chief of Police one (1) work day or more, the employee shall be entitled to receive the lieutenant hourly base rate of pay for the period of time served in that capacity. Whenever the Chief of Police assigns a sergeant the primary duties and responsibilities of a Lieutenant for one (1) work day or more, the assigned employee shall be entitled to receive the lieutenant hourly base rate of pay for the period of time served in that capacity.

Whenever the Chief of Police assigns a Lieutenant the primary duties and responsibilities of a Captain or the Chief of Police for one (1) work day or more, the assigned employee shall be entitled to receive the Captain hourly base rate of pay for the period of time served in that capacity.

**APPENDIX B**  
**HEALTH PLAN COVERAGE/CHANGE IN STATUS**

Employees may make a change in their election for health plan coverage when they experience one (1) of the following changes:

- Marriage or divorce
  
- Death of a spouse or dependent
  
- Birth or adoption of a child
  
- Termination or commencement of employment by employee's spouse
  
- Employee or employee's spouse changing from part-time to full-time employment or from full-time to part-time employment
  
- Employee or spouse taking an unpaid leave of absence
  
- Significant change in the health coverage of the employee or the employee's spouse attributable to the spouse's employment

Notice of an election to change coverage must be submitted to the Finance Director in accordance with the contractual provisions (Article 13). The effective date of any change of status shall be in accordance with the terms of the health plan.

**MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding is made and entered into by and between the City of Avon, Ohio, hereinafter referred to as the "City" or "Employer", and the Fraternal Order of Police, Ohio Labor Council, Inc., representing full-time Sergeants and Lieutenants in the City of Avon, and hereinafter referred to as the "Labor Council" or "Union".

The Union has requested to substitute "Easter" for the "Day after Thanksgiving" while retaining the same number of designated holidays as set forth in Article 20, Holidays, of the collective bargaining agreement between parties, effective July 8, 2012 through April 30, 2015. As there is no increased cost to the City, the Employer is agreeable to the substitution.

Therefore, effective January 1, 2013, designated holidays for the Sergeants and Lieutenants bargaining unit shall be as follows:

- |                                 |                     |
|---------------------------------|---------------------|
| 1) New Year's Day               | 6) Independence Day |
| 2) Martin Luther King Day       | 7) Labor Day        |
| 3) Easter Sunday                | 8) Columbus Day     |
| 4) Police Memorial Day (May 15) | 9) Thanksgiving Day |
| 5) Memorial Day                 | 10) Christmas Day   |

This Memorandum of Understanding shall be effective July 27, 2012 and shall terminate April 30, 2015.

**FOR THE CITY OF AVON**

**FOR THE FOP/OLC**

\_\_\_\_\_  
*June S. Mitchell*  
\_\_\_\_\_  
*[Signature]*

\_\_\_\_\_  
*[Signature] 7-26-12*  
\_\_\_\_\_  
*Kid Y Tang 07/30/12*  
\_\_\_\_\_

Date Signed: 7/31/12