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04/04/2013

AN AGREEMENT

BETWEEN

THE CITY OF BEREA

AND

THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
CLERK-DISPATCHERS

Effective: January 1, 2013

Expires: December 31, 2015

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ARTICLE 1

THE CONTRACT

1.01 This Agreement is entered into by and between the City of Berea, Ohio, hereinafter referred to, variously, as the "Employer" and the "City," and the Ohio Patrolmen's Benevolent Association, hereinafter referred to, variously, as the "Union," the "Bargaining Unit," the "Bargaining Agent" or, individually, as "employee(s)" or "Clerk-Dispatcher(s)".

ARTICLE 2

PURPOSE AND INTENT

2.01 In an effort to continue harmonious and cooperative relationships with its employees and to ensure the orderly and uninterrupted efficient operations of government, the Employer desires to enter into a collectively bargained Agreement which has for its purposes, among others, the following: 1) to recognize the legitimate interests of the employees to participate through collective bargaining in the determination of the terms and conditions of their employment; 2) to promote fair and reasonable working conditions; 3) to promote effective and efficient service to the residents of the City of Berea, Ohio; 4) to avoid interruption, interference, or inefficiency in the operation of the Government of the City; and 5) to provide a basis for the adjustment of matters of mutual interest by means of amicable discussion.

ARTICLE 3

RECOGNITION

3.01 The Employer hereby recognizes the Union as the sole and exclusive Bargaining Agent with respect to wages, hours, and certain terms and conditions of employment for all employees occupying the position(s) of Clerk-Dispatcher, excluding all part-time employees. All other employees of the Employer are excluded from the Bargaining Unit.

ARTICLE 4

MANAGEMENT RIGHTS

4.01 The Employer retains all rights of management, including the rights to: 1) employ, discharge, transfer, suspend, and discipline employees; 2) determine the qualification(s) of employees; 3) determine the hours to be worked by its employees; and to 4) make rules and regulations relating to the performance of work assigned to its employees; 5) determine the type of equipment to be used and the sequence of work processes; 6) determine the making of technological alterations by revising either process or equipment or both; 7) determine work standards and the quality and quantity of work to be produced; 8) establish facilities; 9) consolidate, merge, or otherwise transfer any or all of its facilities, property, processes or work with, or to, any other municipality or entity, or effect or change in any respect the legal status, management, or responsibility of such property, facilities, or processes of work; 10) eliminate all or any part of its work or facilities.

4.02 In addition, the Union agrees that all of the functions, rights, powers, responsibilities, and authority of the Employer with regard to the operation of its business, and its direction of the work force, which the Employer has not specifically deleted, granted, or modified by the express and specific written provisions of this Agreement are, and shall remain, exclusively those of the Employer.

ARTICLE 5

NO-STRIKE

5.01 The Union does hereby affirm and agree that it will not, directly or indirectly, call, sanction, encourage, finance, instigate, or assist in any way, in any strike, slow-down, walk-out, work stoppage, or other concerted interference with, or the withholding of services from, the Employer including any sympathy strike, nor shall any employee member of the Union act to do so.

5.02 In addition, the Union shall cooperate at all times with the Employer in the continuation of its operations and services and shall actively discourage, and attempt to prevent, any violation of this

Article. If any violation of this Article occurs, the Union shall immediately notify all employees that the strike, slowdown, work stoppage, or other concerted interference with, or the withholding of services from, the Employer is prohibited and not sanctioned by the Union, and immediately order all employees to return to work forthwith.

5.03 It is recognized by the parties that the Employer is responsible for, and engaged in, activities which affect the health, safety, and welfare of its citizens and that any violation of this Article gives rise to irreparable damage to the Employer and the public at large. Accordingly, it is understood and agreed that, in the event of any violation of this Article, the Employer shall be entitled to seek and to obtain immediate injunctive and other relief, including judgment ordering the Union to indemnify and hold the Employer harmless from any and all costs arising from a violation of this Article.

5.04 It is further agreed that any violation of this Article shall be sufficient grounds for immediate discharge or other disciplinary action.

5.05 The Employer shall not lock-out any employees during the term of this Agreement.

ARTICLE 6 **NON-DISCRIMINATION**

6.01 The Employer and the Union agree not to discriminate against any employee(s) on the basis of race, color, creed, national origin, age, sex, disability, or handicap.

6.02 The Union expressly agrees that membership in the Union is at the option of the employee and that it will not discriminate with respect to representation between members and non-members.

ARTICLE 7 **DUES DEDUCTIONS/FAIR SHARE**

7.01 During the term of this Agreement, the Employer shall deduct regular Union dues from the wages of those employees who have voluntarily signed dues deduction authorization forms authorizing such deductions. If the compensation of an employee for any period is insufficient, the Employer shall make the deduction from the next pay period which is sufficient.

7.02 The Employer agrees to supply the Union with a list of employees for whom dues deductions are to be made.

7.03 A draft in the amount of total dues withheld from employees authorizing such deduction shall be tendered to the Treasurer of the Union within thirty (30) days from the date of making said deductions.

7.04 All members of the bargaining unit, as identified in Article 3 of this Agreement, shall either (1) maintain their membership in the OPBA, (2) become members of the OPBA, or (3) pay a Fair Share Fee to the OPBA in an amount not to exceed the annual dues for membership in the OPBA, as a condition of employment, all in accordance with Ohio Rev, Code Sec. 4117.09.7.05 In the event that a Fair Share Fee is to be charged to a member of the Bargaining Unit, the Employer shall deduct such fee in the same manner as dues are deducted as specified in the Article of this Agreement entitled "Dues Deduction."

7.06 The Union hereby agrees to hold the Employer harmless from any and all liabilities or damages which may arise from the performance of the obligations of this Article, and the Union shall indemnify the Employer for any such liabilities or damages that may arise.

ARTICLE 8

SPECIAL UNION MATTERS

8.01 One employee, who is the elected employee Union representative for the OPBA, shall be authorized to attend Union meetings, without pay. If such employee is scheduled for duty, she/he may attend such meeting, without pay, upon at least five (5) days prior advance approval of the Chief and the Officer in Charge, and so long as he/she obtains his/her substitute for duty at his/her expense.

8.02 Whenever a Clerk-Dispatcher is killed in the line of duty, one (1) employee member of the bargaining unit shall be given time off with pay to attend the funeral, and shall be afforded the use of a marked police vehicle for such purposes.

ARTICLE 9

SENIORITY

9.01 Seniority shall be determined by the length of service with the Division of Police, Department of Public Safety of the City of Berea, Ohio. In the event that an employee shall have formally been separated from the Division of Police of the City, and is subsequently rehired, the seniority for such rehired employee shall be determined by the length of service with the Division of Police since the date of rehire.

9.02 All layoffs of employees shall be on the basis of reverse seniority, wherein an employee of lesser seniority shall be subject to layoff before an employee of greater seniority. Similarly, laid-off employees shall be called back to service in order of seniority, with the laid-off employee having the highest seniority called back before an employee of lesser seniority. If the City determines a layoff is necessary, employees affected by the layoff will be given as much advance notice of the layoff as is reasonably possible. If management determines that the Dispatch Department is to be operationally reduced to less than 200 hours per week and results in the lay-off of one full-time Dispatcher, then, to the extent that part-time Dispatch work is needed, such laid-off former full-time Dispatcher shall first be offered the opportunity to fill monthly scheduled part-time work up to 145 hours per month. The City will layoff part-time employees prior to regular full-time employees. However, in the event of a layoff of a full-time dispatch employee, the City will offer such reduced full-time employee part-time status and will lay-off a current part-time employee.

9.03 Seniority shall be terminated upon the occurrence of any of the following: (a) voluntary resignation, (b) retirement, (c) permanent total disability, (d) discharge for cause, (e) layoff or leave of absence for a period equal to the employee's length of service up to a maximum of twenty-four (24) months, (f) unauthorized absence from work for three (3) consecutive days.

9.04

- (a) A person seeking employment with the City who was previously employed by the City in any capacity during the immediately preceding twelve (12) month period shall, upon rehiring, be considered a reinstated employee for the purposes of this section.
 - (i) If an employee is reinstated as a Clerk-Dispatcher, he shall be paid at the same compensation rate as that last received when previously employed in that position.
 - (ii) If an employee is reinstated as a Clerk-Dispatcher and the previous rate of pay does not correspond to a step within the range of pay for the reinstated position, the employee shall be compensated at the pay step in such range which is closest to the compensation rate last received when previously employed in that position.

- (iii) If an employee is reinstated into other than a Clerk-Dispatcher, he shall be paid at the compensation rate within the compensation range for the position class in which reinstated at a step in such range which is closest to the compensation rate last received when previously employed by the City.
- (b) Reinstated employees who are absent from their original positions for a period not exceeding ninety (90) days may, upon reinstatement, be granted service credit for hospitalization benefits and other fringe compensation benefits as if such employee had not been absent, at the discretion of the director of the department in which such employee is reinstated and with the approval of the Safety Director.
- (c) Notwithstanding subsections (a) and (b) hereof, reinstated employees whose previous employment with the City was terminated by the City for cause may be reinstated at a compensation rate determined by the director of the department in which such employee is reinstated and with the approval of the Safety Director, without regard to the compensation rate previously received.
- (d) This section does not apply to employees absent from their positions on Leaves of Absence authorized by the Board of Control.

ARTICLE 10 **PROBATIONARY PERIOD**

10.01 All newly-hired employees are required to serve a Probationary Period of twelve (12) months. During the first sixty (60) days of the Probationary Period, the newly-hired employee shall not be entitled to participate in the medical and hospitalization employee benefit plan provided for by this Agreement, but shall otherwise be covered by the terms of this Agreement. During the entire Probationary Period, the Employer shall have the sole discretion to discipline or discharge any such probationary employee.

10.02 If an employee is separated from service with the City during the initial Probationary Period, and is later rehired, such employee shall be considered a new employee and shall be subject to the provisions of paragraph 10.01 above.

ARTICLE 11 **HOURS OF WORK**

11.01 Regularly assigned workweek and assigned workday for all employees shall be established by the Chief of Police.

11.02 The practice of rotating shifts for Clerk-Dispatchers shall continue; except that the Chief shall have discretion to add shifts as needed.

ARTICLE 12 **OVERTIME**

12.01 For the purpose of this Article, overtime work is defined as any work in excess of eight (8) hours per day or eighty (80) hours per bi-weekly pay period. For the purpose of calculating overtime, all Leave With Pay calculated elsewhere in this Agreement shall be included as work actually physically performed for purposes of overtime calculation. Additionally, a one (1) hour paid lunch shall be included as work actually physically performed for purposes of overtime calculation.

12.02 Any employee who works overtime as defined in paragraph 12.01 above shall be compensated for all overtime worked at one and one-half (1-1/2) times the employee's hourly rate. Shift change day is considered regularly scheduled work hours and does not create any overtime.

When an operational need arises out of unforeseen or unscheduled leave, consideration will be given to full-time dispatchers for overtime opportunities based upon seniority prior to such work opportunities being made to part-time employees.

12.03 Any employee who works overtime as defined in paragraph 12.01 above shall be compensated for all overtime hours worked, at the appropriate overtime premium rate as in paragraph 12.02 above; but in any event, such employee shall be paid the appropriate overtime premium rate for not less than three (3) hours whether or not the employee actually performed physical work during such three (3) hour period, and provided further that the three (3) hour minimum shall not apply to any overtime work which is continuous with the beginning or ending of a regularly scheduled work shift.

12.04 Compensatory Time can be banked to a maximum of one hundred sixteen (116) hours and will be earned and paid at the same rate as other overtime. The time can be used with the permission of the Chief with five (5) days of prior notice and in blocks of two (2) hours. All Compensatory Time that has not been used or paid by December 31 of any year shall be paid to the employee by the end of the succeeding January at such employee's preceding December rate of pay except that, at such employee's option exercisable in December, such employee may opt to carryover up to 16 hours of Compensatory Time to the succeeding year.

12.05 Any employee required to travel outside the City of Berea shall be compensated, at the appropriate rate, for all time spent both in actual work and in transit.

12.06 A dispatcher shall receive one (1) hour of Compensatory Time at the overtime rate for providing sixteen (16) hours of training to a new dispatcher.

ARTICLE 13 ON-CALL STATUS

13.01 Any employee directed by the Employer to be "on-call," thereby requiring such employee to remain at the personal residence of such employee for instant contact, shall receive one (1) hour compensation for each one (1) hour required to be on such status.

13.02 Any employee directed by the Employer to be "on-call," thereby requiring such employee to remain at a telephone where such employee can be reached within one (1) hour, shall receive one (1) hour compensation for each four (4) hours required to be on such status.

ARTICLE 14 TELEPHONE INQUIRY

14.01 Insofar as reasonably practical, the Employer will attempt to avoid calling employees for information that could reasonably be secured upon the employee's return to duty, except for situations requiring the urgent need of the knowledge of such information. Any employee responding to telephone information while off duty shall receive compensation at the rate of one (1) hour for every telephone inquiry.

ARTICLE 15 RATES OF PAY

15.01 Effective the first pay in January 2013, January 2014 and January 2015, respectively, all employees shall be paid bi-weekly according to the wage schedule reflected therein and set out in Exhibit A, attached hereto and made a part hereof as if fully rewritten herein.

15.02 A Certification Premium shall be paid to the employee member who achieves all certifications in Police Department operations for the following:

- a) Ohio Law Enforcement Network (OLEN)
- b) Law Enforcement Automated Data System (LEADS)
- c) Computerized Criminal History (CCH)
- d) National Crime Information Center (NCIC)
- e) Ohio Local Law Enforcement Information Sharing Network (OLLEISN)
- f) Ohio Law Enforcement Gateway (OHLEG)

Such Certification Pay shall be equal to the annual base pay of such employee multiplied One and One Quarter Percent (1-1/4%) and shall be paid in December of each year.

In the event that an employee retires before December of a given year, that given year's Certification Pay will be pro-rated to reflect the percentage of days worked that year by the retiring employee.

15.03 In recognition of the additional certification requirements added over the course of the last Collective Bargaining Agreement, the Parties agree that each employee will participate in twenty-four (24) hours of training over the course of this Agreement. The specific training activities making up these 24 hours will be a matter of mutual consent between the parties. Such hour figure shall be considered only a floor as to the amount of such training and shall not be a strict limitation.

15.04 Effective 1/1/2013 wage rates to be increased by zero percent (0%);
Effective 1/1/2014 wage rates to be increased by two percent (2%);
Effective 1/1/2015 wage rates to be increased by two percent (2%).

ARTICLE 16 LONGEVITY COMPENSATION

16.01 All employees shall receive additional compensation for length of service with the Employer according to the following schedule:

- a) On the first December 1 following the completion by the employee of five (5) years of continuous service, such employee shall receive One Hundred Dollars (\$100).
- b) On December 1 in each calendar year following the year in which the payment set out in sub-paragraph (a) above has been made, the employee shall receive an amount calculated by multiplying the total number of consecutive years of service, minus three (3), times Eighty-Five Dollars (\$85).

16.02 All payments made to employees by reason of this Article shall be made in a draft separate and distinct from the regular bi-weekly wage payments, and Federal Withholding Tax shall be calculated on this sum separately and distinctly from all other wage payments.

16.03 Upon separation of any employee for cause, or voluntary termination with less than fourteen (14) days advance notice, an employee shall forfeit any accrued Longevity Compensation. Upon any other separation or retirement of an employee, annual Longevity Compensation shall be calculated pro rata as to the date of such separation.

ARTICLE 17

UNIFORM ALLOWANCE

17.01 All probationary employees shall immediately be provided with one (1) entire new complement of Dispatcher clothing. On the first pay date after successful completion of the Probationary Period, such Dispatcher shall receive a uniform allowance according to the following schedule: If completion of the Probationary Period falls between February 1 and July 31, then Six Hundred Fifty Dollars (\$650); if completion of the Probationary Period falls between August 1 and January 31, then Three Hundred Twenty-Five Dollars (\$325).

17.02 All non-probationary employees shall be paid an allowance for uniform purchase, replacement, maintenance, and repair in an amount of Eight Hundred Twenty-Five Dollars (\$825), payable on the first pay date in the month of February of each year.

17.03 All payments made to employees by reason of this Article shall be made in one (1) draft separate and distinct from the regular bi-weekly wage payments.

ARTICLE 18

EXPENSE ALLOWANCE

18.01 Any employee who is authorized by the Chief to use a private automobile for a business purpose shall be compensated in cash money for such use, at the rate of reimbursement per mile consistent with Internal Revenue Service regulations then in effect.

18.02 Any employee who is authorized by the Chief to expend personal funds for lodging, food, and other reasonable expenses of travel in the line of duty shall be compensated for the same upon the presentation of an appropriate voucher indicating the actual expenditure(s) made.

ARTICLE 19

INSURANCE

19.01 The Employer shall provide, at no cost to the employee, insurance upon the life of all employees who have completed one (1) month of continuous service with the City, in the amount of Twenty-Five Thousand Dollars (\$25,000). All employees shall have the further option to purchase additional life insurance in an amount of up to a total of One Hundred Fifty Thousand Dollars (\$150,000) subject to insurability requirements of the carrier, upon the payment of the appropriate premium for such additional amount of insurance.

19.02 The Employer shall continue to provide hospitalization insurance in effect for employees who have completed sixty (60) calendar days of employment and their dependents upon the terms and conditions of the "Summary Description of Your Group Health Care Benefits for City of Berea Employee Benefit Plan". Such hospitalization insurance includes provisions for basic medical, major medical, prescription drug, dental care, and vision care benefits.

19.03 The Basic Benefits for the medical and hospital insurance shall be as follows:

- (a) For Medical Mutual and emergency care consistent with the current plan coverage there shall be a One Hundred Dollar (\$100), per person, Two Hundred Dollar (\$200), per family, deductible. Thereafter, the employee will pay ten percent (10%) of the next Two Thousand Dollars (\$2,000) of medical expenses up to a maximum out-of-pocket of Four Hundred Dollars (\$400), per family.
- (b) For coverage outside of the Medical Mutual Plan there shall be a One Hundred Fifty Dollar (\$150) deductible, per individual, Three Hundred Dollar (\$300) deductible, per family. Thereafter, the employee will pay twenty percent (20%)

21.02 All employees shall earn Sick Leave at the rate of four and six-tenths (4.6) hours per bi-weekly pay period during which such employee actually worked or was absent by reason of paid time off granted in this Agreement with the exception of Sick Leave and Personal Leave of Absence for a full bi-weekly period. An employee may accumulate Sick Leave to an unlimited amount.

21.03 An employee who is to be absent on Sick Leave shall notify the Employer of such absence and the reason therefor at least one (1) hour before the start of the work shift on each day of absence, unless hospitalized.

21.04 Sick Leave may be used in segments of not less than one (1) hour.

21.05 In the event an employee is absent for more than two (2) consecutive regularly scheduled shifts, or more than four (4) regularly scheduled shifts in any fourteen (14) consecutive day period by reason of illness, the Chief may require appropriate and satisfactory proof as to the reason for such absence before the absence(s) may be charged against accumulated Sick Leave. In addition, the Chief may require of any employee claiming Sick Leave, as set out in this paragraph, a statement from a licensed physician indicating the ability of such employee to return to active duty in the capacity which was left by reason of such illness. The cost of such examination and opinion shall be borne by the Employer.

If the employee fails to submit appropriate and satisfactory proof of illness or, if required, fails to submit a statement as to physical fitness for returning to duty, any absence relating thereto shall be considered an Unauthorized Leave Without Pay.

In the event an employee requires the use of sick time on the day immediately before or after a holiday, personal day, or vacation day, the Chief may require verification of sickness from a qualified medical doctor acceptable to the City. Failure to comply with this section would result in the loss of pay for the holiday, vacation day, or personal day taken.

21.06 Any abuse of Sick Leave shall be just and sufficient cause for a disciplinary action, including dismissal.

21.07 When the use of Sick Leave is due to illness or injury in the immediate family, the term "immediate family" shall be defined to include all persons related to the employee in the first degree by consanguinity or affinity, or one (1) other person not included in this definition.

21.08 An employee who leaves the service of the Employer voluntarily and who has not less than ten (10) years of continuous employment with the said Employer, or an employee who has qualified for retirement benefits under the Ohio Public Employers Retirement System (PERS) without regard to the number of years of consecutive service with the Employer, shall be entitled to receive a payment equal to the hourly rate of pay at the time of separation and multiplied by one-third (1/3) the total number of accumulated but unused sick hours earned by such employee, providing that such resulting number of hours to be paid shall not exceed three hundred and sixty (360) hours, but provided further that an employee who has twenty (20) years of cumulative service with the City of Berea shall be entitled to receive, upon separation, the compensation set out in this paragraph without regard to the three hundred and sixty (360) hour limitation. The payments outlined above shall be paid in three annual installments: the first occurring on the date of the employee's retirement and/or voluntary termination; the second payment occurring on the first anniversary date of the employee's retirement; and the third payment occurring on the second anniversary date of the employee's retirement. All payments will be made at the rate of the current year of payment and at the grade level in which the employee separated.

ARTICLE 22

PAYMENTS DURING DISABILITY PERIODS

An employee covered by this Agreement who may be disabled as a result of a traumatic injury suffered in the discharge or performance of off-premises police duties, prisoner searches, related prisoner activities or inflicted by a third party non-employee shall be entitled to receive regular compensation during such period of disability, but in no case for a period longer than six (6) months; provided, however, that any employee making claim for such compensation, as provided in this Article, shall reimburse to the Employer any temporary, total disability benefits received from Workers' Compensation and at the request of the Chief, submit to a physical examination by a physician chosen by the employee from three (3) physicians licensed to practice in the state of Ohio and designated by the Employer. In the event such physician finds that such employee is able to resume assigned duties, the compensation provided for herein shall cease. The cost of such examination and opinion shall be borne by the Employer.

The compensation provided for in this Article is exclusive of Sick Leave and shall no way affect the Sick Leave accumulated pursuant to other provisions of this Agreement. If the period of disability exceeds six (6) months, the employee shall be entitled to compensation from accumulated Sick Leave pro rated to supplement Workers' Compensation temporary total benefits up to regular compensation. Nothing herein shall be deemed to amend, impair, or repeal any law establishing and maintaining any employee disability or pension fund.

ARTICLE 23

VACATION LEAVE

23.01 Each employee is entitled to annual Vacation Leave with pay according to the following schedule, based upon continuous employment with the City:

- a) Two (2) weeks in the calendar year in which the employee completes one, two, three, and four years service; and thereafter.
- b) Three (3) weeks in the calendar year in which the employee completes five, six, seven, eight, nine, and ten years service; and thereafter.
- c) Four (4) weeks in the calendar year in which the employee completes eleven, twelve, thirteen, fourteen, fifteen, and sixteen years of service; and thereafter.
- d) Five (5) weeks in the calendar year in which the employee completes seventeen, eighteen, nineteen, and twenty years service; and thereafter.
- e) Six (6) weeks in the calendar year in which the employee completes twenty-one or more years service with the employer.

23.02 For the purpose of calculating Vacation Leave, only such time as the employee has in continuous service with the City of Berea shall be utilized, and no credit for previous employment other than with the City of Berea shall be given; provided, however, that any part-time service with the City of Berea shall be credited toward Vacation Leave on a pro rata basis.

The provision of this paragraph shall not act to modify, alter, or change the calculation of Vacation Leave for any present employee whose Vacation Leave has been calculated heretofore by means of any credit for prior service.

24.04 Any employee desiring to use a holiday which will interfere with shift manpower requirements may have another full-time Clerk-Dispatcher work the shift for which the holiday is to be used. The Clerk-Dispatcher working the holiday will be paid the normal overtime rate. Each Clerk-Dispatcher will be permitted to use this benefit one (1) time each year.

ARTICLE 25 **PERSONAL LEAVE**

25.01 Each employee shall earn Personal Leave with pay at the rate of one-fourth (1/4) day for each calendar month of service completed, provided that the employee has actually worked and been physically present at all times during the regular work period scheduled for such employee, or been absent by reason of Leave granted elsewhere in this Agreement, with the exception of Sick Leave.

25.02 Personal Leave with pay must be scheduled with the approval of the Chief of Police or his designee.

25.03 Personal Leave may be carried over from one calendar year to the next; provided, however, that no employee shall accumulate a total amount of Personal Leave in excess of nine (9) days. Accumulated Personal Leave shall be forfeited upon separation from employment with the Employer and shall not accrue to the benefit of the employee's estate, heirs, or assigns.

25.04 Personal Leave shall be taken in not less than two (2) hour increments at the option of the employee, but subject to the approval of the Chief or his designee.

ARTICLE 26 **LEAVE OVERLAP**

26.01 Vacation Leave, Holiday Leave, and Personal Leave may not be scheduled to overlap, at the beginning or the end thereof, between more than one (1) employee per shift, and such overlap may not be more than two (2) consecutive days in duration; provided, however, that any such overlap shall have received the prior approval of the Chief. Never the less the availability of part timers will be taken into consideration.

ARTICLE 27 **FUNERAL LEAVE**

27.01 All employees shall be granted Funeral Leave according to the following schedule, to-wit:

- a. Upon the death of a close friend, an employee may use personal days or Compensatory Time to attend the funeral of a close friend. In the event the employee has no available personal days or Compensatory Time, a sick day may be used to attend the funeral of a close friend. The employee shall give satisfactory evidence to the Chief that the deceased was a close friend.
- b. Upon the death of a stepbrother, stepsister, grandparent or grandchild, one (1) day of funeral leave.
- c. Other than as provided in (d) below, upon the death of an immediate family member, the employee will receive three (3) days of funeral leave. "Immediate family member" shall be defined to include spouse, child, stepchild, mother, father, mother-in-law, father-in-law, brother or sister.
- d. Upon the death of a spouse or child or step-child residing with the employee, five (5) days.

27.02 In the event that an employee requires Funeral Leave in addition to the time set out in paragraph 27.01 above, such employee may utilize any and all accumulated unused personal Leave, Holiday Leave, or Vacation Leave,

ARTICLE 28 **MILITARY LEAVE**

28.01 All employees who are Members of the Ohio National Guard, the Ohio Military Reserve, the Ohio Naval Militia, or other reserve components of the Armed Forces of the United States of America, shall be entitled to Military Leave from their respective duties for such times as they are on field training or active duty, for a cumulative period not to exceed thirty-one (31) days in any calendar year. Application for Military Leave must be submitted to the Chief at least thirty (30) days in advance of the proposed Leave.

28.02 If compensation by any Military Authority given during the period of Leave is less than the regular compensation which would have been given by the City of Berea for such period, the employee shall be paid by the Employer the difference in cash money between the regular pay and the military pay.

ARTICLE 29 **JURY DUTY LEAVE**

29.01 Any employee who is called for Jury Duty, federal, county, or municipal shall suffer no loss in regular compensation. Any compensation received from such Court for jury service shall be surrendered to the Employer.

ARTICLE 30 **COURT APPEARANCE LEAVE**

30.01 Any employee who is required to appear in any court due to a job-related incident, where the employee is not a plaintiff or other claimant, shall suffer no loss in regular compensation. Any compensation received from such court as for such appearance shall be surrendered to the Employer.

30.02 Any employee who has been separated from service with the City and, thereafter, is required to attend any judicial proceeding relating to such former employment, other than as a claimant, shall be compensated for such judicial attendance at the then prevailing rate of compensation.

ARTICLE 31 **LEAVE WITHOUT PAY**

31.01 An employee may be granted a Leave Without Pay for a period not to exceed one (1) year for sickness, disability, educational development, or other reasons found to be in the mutual interests of the Employer and the employee. Such Leave Without Pay must be approved by the Chief, the Safety Director, and the Mayor, and ratified by the Board of Control. All approved leave without pay shall be inclusive of family and medical leave.

ARTICLE 32 **GRIEVANCE PROCEDURE**

32.01 All employees have the right to present a grievance in accordance with the procedures provided herein, free from any interference, coercion, restraint, discrimination, or reprisal. It is the intent and purpose of the parties to this Agreement that all grievances shall be settled, if possible, at the lowest step of this Grievance Procedure.

32.02 For the purposes of this Grievance Procedure, the terms used are defined as follows:
a) Grievance - A "grievance" is a dispute or controversy arising from the application or interpretation of the specific and express written provisions of this Agreement.

- b) Aggrieved Party - The “aggrieved party” is an employee or group of employees within the Bargaining Unit, or the Union, who may file a grievance.
- c) Party in Interest - A “party in interest” is any employee named in a grievance who is not the aggrieved party.
- d) Days - A “day” is a calendar day, excluding Saturdays, Sundays, and Holidays recognized by the Government of the United States of America.

32.03

The following procedures shall control the administration of this Grievance procedure:

- a) Except at Step 1, a grievance shall identify the aggrieved party; the Article of this Agreement grieved; the time and place of all alleged events or conditions constituting the grievance; the identity of the party alleged to have caused the grievance, if known to the aggrieved party; and a general explanation of the grievance.
- b) Except at Step 1, all decisions made upon any grievance shall be rendered in writing at each step of the Grievance Procedure with copies to the aggrieved party and any representative.
- c) If a grievance concerns more than one (1) employee, it may initially be submitted at Step 3.
- d) All matters concerning the filing of grievances shall be conducted during non-working hours, unless otherwise authorized by the Employer.
- e) Any employee having a grievance may discuss the matter informally with the Chief and/or any appropriate member of the administration and agree to informally resolve the grievance without the intervention of the Union; provided, however, that the terms of this informal resolution are acceptable to the employee. In the event that a grievance is resolved without a formal determination, the terms of such informal resolution shall not be deemed to create a binding precedent for future proceedings on other similar matters.
- f) This Grievance Procedure does not require an employee to pursue the remedies herein provided, and does not impair or limit the right of an employee to pursue any other remedies available under law. Conversely, an employee who pursues any remedy other than those explicitly provided for by this Grievance Procedure shall automatically be considered to have waived all remedies provided under this Article.
- g) The Grievance Procedure established in this Agreement for the determination of grievances as between the Employer and the employee shall not be available for matters concerning discipline resulting in a wage loss equal to more than three (3) days compensation, or in any instance of termination of employment, those matters being subject solely to the jurisdiction of the Berea Civil Service Commission pursuant to law, except that any appeal from the Civil Service Commission shall be to binding arbitration pursuant to all the procedures and provisions of Article 33.

- h) The Grievance Procedure established in this Agreement for the determination of grievances as between the Employer and the employee shall be the lone avenue of appeal with concern to written reprimands.
- i) The time provisions herein are to be strictly applied, and any grievance not filed within the specified time limits shall be void.
- j) This procedure shall not be used for the purpose of changing, amending, modifying, or altering any of the provisions of this Agreement.

32.04 All grievances are administered according to the following Grievance Procedure:

Step 1:

An employee who may have a grievance shall notify the immediate supervisor of such grievance, in writing, within five (5) days of the occurrence of the facts giving rise to the same. The Supervisor shall schedule an informal meeting with the employee within five (5) days of the employee's filing the grievance. The purpose of this meeting will be to discuss the dispute and resolve it informally. The Supervisor shall verbally report the determination resultant from such informal meeting to the employee within five (5) days thereafter.

Step 2:

In the event that an employee initiating a grievance is not satisfied with the decision rendered by means of Step 1 above, the employee may give written notice of the grievance to the Chief within five (5) days from the date of the decision rendered in Step 1 above. Within ten (10) days after such written notice to the Chief, the Chief shall hold a formal hearing upon such grievance, and the Chief may invite any persons whom he may deem necessary for the fair and impartial determination of the grievance. Within ten (10) days from the date of such hearing, the Chief shall issue a written decision upon the grievance with a copy to the aggrieved party.

Step 3:

In the event the employee initiating the grievance is not satisfied with the decision rendered by means of Step 2 above, the employee may give written notice of the grievance to the Mayor within five (5) days from the date of the decision rendered in Step 2 above. Within ten (10) days after such written notice, the Mayor or his/her designee shall hold a formal hearing upon such grievance. The Mayor may invite any other person or party necessary to provide information required for the rendering of a fair and equitable decision. Within ten (10) days from the date of such hearing, the Mayor shall issue a written decision upon such grievance with copies to the aggrieved party and all parties present at such hearing.

ARTICLE 33 ARBITRATION PROCEDURE

33.01 If an arbitrable grievance is unresolved by the Grievance Procedure, the aggrieved party may submit the grievance to arbitration not less than ten (10) days following the completion of the Grievance Procedure. Within ten (10) days thereafter, the parties shall meet to attempt to mutually agree upon an Arbitrator selected from the permanent panel created by this procedure. If agreement is not reached, the panel members' names are stricken, alternatively, until one Arbitrator remains, who shall hear the grievance.

33.02 The Arbitrator has no authority to alter the specific terms of this Agreement, or to make any award requiring the commission of any act prohibited by law, or to make any award that itself is contrary to law or violates any term or condition of this Agreement.

33.03 The Arbitrator shall not decide more than one (1) grievance on the same hearing day(s), except by mutual written agreement of the parties.

33.04 All arbitration hearings shall be conducted pursuant to the "Rules of Voluntary Arbitration" of the American Arbitration Association.

33.05 The fees and expenses of the Arbitrator and the cost of the hearing room, if any, are assessed against the party losing the grievance, or split equally between the parties upon a split award. All other expenses shall be borne by the party incurring them. Neither party shall be responsible for any of the expenses incurred by the other party.

33.06 The decision of the Arbitrator, and any award made, shall be in writing and delivered within thirty (30) calendar days from the final day of hearing, unless extended by agreement. The decision of the Arbitrator shall be final, and binding upon the parties.

33.07 The Union agrees to indemnify and hold the Employer harmless against any and all claims, demands, suits, or other forms of liability that may arise out of any determination that the Union may have failed to fairly represent a member of the Bargaining Unit during the exercise of any rights provided by the Grievance and/or Arbitration Procedures.

33.08 The permanent panel of arbitrators established in this Agreement are as follows: 1) Robert Stein; 2) Daniel Zeiser; 3) Alan Miles Ruben; 4) Jonathon Klein; and 5) Nels Nelson.

ARTICLE 34 DISCIPLINARY PROCEDURE

34.01 This procedure shall only apply to all non-probationary employees covered by this Agreement.

34.02 The following disciplinary actions can be taken against an employee for just cause.

- a.) Non-Appealable Disciplinary Action 1.
 - 1. Counseling.
- b.) Appealable Disciplinary Action
 - 1. Written reprimand (exclusively grievable up to the Mayor's level);
 - 2. Suspension for three or less days;
 - 3. Suspension for four or more days;

4. Demotion;
5. Termination.

34.03

The following administrative procedures shall apply to disciplinary actions:

- a.) The Employer, the employee involved, and the Union are encouraged to settle disciplinary matters informally. All parties shall extend a good faith effort to settle the matter at the earliest possible time. The Employer is encouraged to hold an informal meeting with the employee for the purpose of discussing the matter prior to the formal presentation of written charges. At this meeting, the specific nature of the matter will be addressed, and the Employer may offer a proposed disciplinary penalty. The employee must be advised before the meeting that she/he is entitled to representation by the Union or counsel during the initial discussion.
- b.) If a mutually agreeable settlement is not reached at this informal meeting the employee's supervisor will, within five (5) days, prepare a formal Notice of Discipline and present it to the employee. A copy will also be given to the Union. If no informal meeting is held, the supervisor may just prepare a Notice of Discipline and present it to the employee and the Union.

1. This Notice of Discipline must include:

- i. The date the Notice of Discipline was issued;
- ii. The specific acts for which discipline is being imposed;
- iii. The penalty proposed;
- iv. The following statement of employee rights:

All employees shall have the following rights:

An employee shall be entitled to representation by a Union representative or counsel at each step of the disciplinary procedure.

Except in cases of counseling, an employee may appeal disciplinary action to the Police Chief within five (5) days of receiving this Notice.

No recording device or stenographic or other record shall be used during the questioning of an employee unless the employee is advised in advance that a transcript is being made and is thereafter supplied a copy of the record, at least thirty (30) days prior to the date of any related hearing.

An employee shall not be coerced, intimidated, or suffer any reprisals either directly or indirectly that may adversely affect his hours, wages, or working conditions as the result of the exercise of his rights under this procedure.

35.07 If a verbal complaint is made against an employee containing no corroborative evidence of any kind, the employee accused shall not be required to submit to any investigation, or make any report, until the Employer reasonably qualifies such complaint.

35.08 There shall be no press release(s) initiated by the Employer, any employee, or the Union regarding any employee under investigation.

35.09 Any record of discipline involving a counseling or written reprimand shall not be considered in future disciplinary actions twelve (12) months after their effective date and twenty-four (24) months after their effective date of suspensions of three (3) days or less, providing there are no intervening discipline during the same time frame. Suspensions of four (4) days or more will not be considered in future disciplinary actions after forty-eight (48) months providing there is not intervening disciplinary action during the same time frame.

ARTICLE 36 TOTAL AGREEMENT

36.01 This Agreement represents the entire Agreement between the Employer and the Union and, unless specifically and expressly set forth in the 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.

ARTICLE 37 CONFORMITY TO LAW

37.01 This Agreement shall be subject to, and subordinated to, any applicable present and future federal and state laws, and the invalidity of any provision(s) of this Agreement by reason of any such existing or future law shall not effect the validity of the surviving provisions.

37.02 If the enactment of legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the within parties, or in one not between the parties but controlling by reason of the facts) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not effect the validity of the surviving provisions of this Agreement, which shall remain in full force and effect as if such invalid provision(s) thereof had not been included herein.

ARTICLE 38 DURATION

38.01 This Agreement shall become effective at 12:01 a.m., January 1, 2013, or upon the date of execution, whichever is later, and shall continue in full force and effect, along with any amendments made and annexed hereto, until midnight, December 31, 2015. In the event that this Agreement shall be executed at a date later than January 1, 2013, all terms and conditions herein contained shall be retroactive to January 1, 2013, and any and all sums accrued by virtue of this Agreement shall be paid to all employees covered hereunder not later than two (2) pay periods following the date of execution hereof.

ARTICLE 39 HEADINGS

39.01 It is understood and agreed that the use of headings before Articles and sections is for convenience only and that no heading shall be used in the interpretation of said Article or section nor effect any interpretation of any Article or section.

ARTICLE 40 OBLIGATION TO NEGOTIATE

40.01 The Employer and the Union acknowledge that during negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to

any subject or matter not removed by law from the area of Collective Bargaining negotiations, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

40.02 For the life of this Agreement, the Employer and the Union each agree that neither shall be obligated to negotiate collectively with respect to any subject or matter referred to, or covered in this Agreement, nor 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 or contemplation of either or both of the parties at the time of the negotiation and execution of this Agreement.

ARTICLE 41

MISCELLANEOUS

41.01 Upon full Pension retirement, an employee shall receive sole, absolute, and exclusive title to the badge or shield designating such retiree as a Dispatcher.

41.02 The Employer shall provide the Union with adequate bulletin board space located in the Division of Police. The Union shall be responsible for the care, maintenance, and replacement of the bulletin board. A copy of all notices to be posted thereupon shall be submitted to the Chief prior to posting. The Employer shall have the right to remove any material not in conformance with paragraph 41.03 below.

41.03 No notices, memoranda, posters, or other forms of communication are to be posted on the bulletin board established in paragraph 41.02 above that contain any defamatory, political, or controversial material, or any material critical of the Employer or any employee of the Employer. The Employer shall have the right to remove any material not in conformance with this paragraph.

41.04 The Employer shall provide all employees covered by this Agreement benefits similar to those provided to other employees of the City pursuant to Ordinance No. 85-85 relative to the Public Employees' Retirement System Fund contribution pickup.

41.05 If base wages or health insurance fringe benefits for police patrolmen or firemen is increased after execution of this Agreement, but to be effective during the remaining term of this Agreement, (i.e., if there is any increase in wages or benefits beyond those indicated in the already existing contracts between the Employer and police patrolmen and/or firemen), then the Employer shall provide the same increase to members of this Bargaining Unit.

41.06 The Employer will pay the regular compensation rate of pay to the employee Union representative in the event the employee Union representative is on duty and is called away from such duty by the Employer and required by the Employer to attend any disciplinary or arbitration hearings, conferences, or meetings. All other time away from work shall be without pay.

41.07 This Agreement constitutes the entire understanding and agreement of the parties hereto, and no oral statements of any kind shall vary the express written conditions hereof. No Ordinances, or other laws, established by the Employer, now or in the future, shall be controlling or applicable to the matters herein negotiated between the parties. This Agreement is the sole governing instrument regulating the conduct of the Employer and the employee in relation to each other, and no ordinance or other law of the Employer are applicable to the Employer-employee relationship established by this Agreement.

ARTICLE 42

PREMIUM PAY

42.01 The City and Union acknowledge that employees are required to work on holidays and that the dispatcher center must be staffed twenty four hours a day, three hundred sixty five days a year. All employees shall receive an annual amount equal to sixteen hours pay, at their regular straight time rate. Such payments shall be made in December each year. Said payment shall be made in one (1) draft separate and distinct from the regular weekly wage payments.

ARTICLE 43

FAMILY AND MEDICAL LEAVE

The parties agreed to add a new article codifying the Family Medical Leave Act of 1993 but requiring certain usage of holidays, vacation, and sick leave as follows:

43.01 Employees may request and be granted time off without pay pursuant to the Family Medical Leave Act of 1993. Such time off without pay shall not exceed twelve (12) weeks in any twelve (12) month period. Leave under this provision shall be computed when first approved. During such leave the employee shall continue to receive health care insurance.

43.02 The Employer may require an employee to use accrued vacation, holiday or accumulated sick leave which shall be inclusive of the twelve (12) weeks of Family Medical Leave. The Employer shall not require an employee who has forty (40) hours or less of vacation or sick leave to exhaust such vacation time or sick leave time which shall constitute separate banks of time under this provision.

43.03 A husband and wife employed by the City of Berea in any position or capacity are eligible for FMLA Leave up to a combined total of twelve (12) weeks of leave during the twelve month period referenced in Section .01 if the leave is taken:

- (1) For the birth of the employee's son or daughter or to care for the child after birth;
- (2) For placement of son or daughter with the employee for adoption or foster care, or to care for the child after placement; or
- (3) To care for the employee's parent with a serious health condition,

ARTICLE 44

SUBSTANCE TESTING AND ASSISTANCE

44.04 All employees are subject to drug and alcohol testing pursuant to the policy attached as Exhibit B.

ARTICLE 45

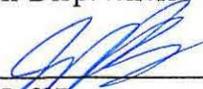
LABOR MANAGEMENT COMMITTEE

45.01 In the interest of sound labor management relations, a labor/management committee consisting of department union representatives, the Chief of Police and the Mayor or his designee. The labor management committee shall meet on an as needed basis to discuss and promote a more harmonious labor/management relationship. Employee representatives who are scheduled to be at work during the time of this meeting shall receive no loss of pay. It is further agreed that any employee on duty may be required to return to work if an emergency arises during the meeting.

ARTICLE 46 EXECUTION

46.01 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed this 18 day of MARCH , 2013.

FOR THE UNION:
Ohio Patrolmen's
Benevolent Association
Clerk-Dispatchers

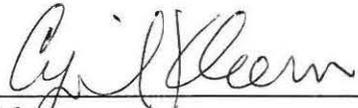


By: Jeff Perry

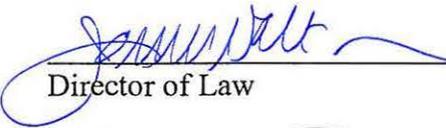


Clerk-Dispatcher

FOR THE EMPLOYER:
City of Berea, Ohio



Mayor



Director of Law



Chief, Division of Police 

APPENDIX A

APPENDIX A

Beginning the first pay period in 2013, all employees covered by this Agreement shall be compensated as follows:

2013	Base Hrly Rate	Base Salary
Start-1yr	19.60	40,768
after 1yr	20.54	42,723
after 2 yr	21.60	44,928
after 3 yr	22.67	47,154
after 4 yr	23.80	49,504

Beginning the first pay period in 2014, all employees covered by this Agreement shall be compensated as follows:

2014	Base Hrly Rate	Base Salary
Start-1yr	19.99	41,579
after 1yr	20.95	43,576
after 2 yr	22.03	45,822
after 3 yr	23.12	48,090
after 4 yr	24.28	50,502

Beginning the first pay period in 2015, all employees covered by this Agreement shall be compensated as follows:

2015	Base Hrly Rate	Base Salary
Start-1yr	20.39	42,411
after 1yr	21.37	44,450
after 2 yr	22.47	46,738
after 3 yr	23.58	49,046
after 4 yr	24.77	51,522

All wages are based on an hourly wage rate. The figures under the salary column are derived by multiplying the hourly wage rate by 2,080 hours.

EXHIBIT B
SUBSTANCE ABUSE TESTING AND ASSISTANCE POLICY

I. SITUATIONS UNDER WHICH AN EMPLOYEE OR PROSPECTIVE EMPLOYEE MAY BE TESTED

A. Pre-Employment Drug Testing

1. As part of the City's employment procedures, all applicants will be required to undergo a post-offer, pre-employment drug test/screening that is conducted by a contractor designated by the City. Any offer of employment is contingent upon, among other things, satisfactory completion of this test/screening.

B. Reasonable Suspicion Testing

1. 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 or withdrawal of a drug or alcohol;
 - b. A pattern of abnormal conduct or erratic behavior;
 - 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 by reliable and/or credible sources;
 - e. Facts or circumstances developed in the course of an authorized investigation of an accident or unsafe working practice.

C. Post-Incident Testing

2. An "incident" is defined as an occurrence
 - a. Involving a city-owned vehicle or a privately owned vehicle operated while conducting city business, which results in:
 - 1) A fatality; or
 - 2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - 3) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle or where damage to any property, real or personal, exceeds \$500.

- b. Involving any act(s) of an act of violence committed by an Employee against another person. An “act of violence” is an assault, as defined in Ohio Revised Code 2903.13.

Follow up Testing after Return to Work from Assessment or Treatment

- 1. This type of testing occurs at the point an employee who has previously tested positive returns to work.
- 2. The return-to-work test is required before the employee is allowed to return. Once an employee passes the drug and/or alcohol test and returns to duty, there may be additional tests conducted over a period of at least one year. Any employee with a second positive test result will be terminated.

II. TESTING PROCEDURES

A. In general

- 1. The City will use a testing site that affords visual and aural privacy to the individual being tested sufficient to prevent unauthorized persons from seeing or hearing test results. This site will have available all of the necessary equipment, personnel and materials for breath and drug testing. The City’s alcohol and drug testing sites are located at Southwest General Hospital and/or its satellite UrgiCare Centers, however other sites meeting the criteria set forth within may perform any test in the event that as a result of an accident, medical attention is sought at another suitable medical facility.
- 2. Any employee required to submit to an alcohol and/or drug test will be required to provide positive identification.
- 3. All alcohol and/or drug screening tests shall be conducted by medical laboratories meeting the standards of the National Institute of Drug Abuse and the National Institutes of Health. All urine specimens to be tested for the presence of controlled substances will be analyzed by a laboratory certified under the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs. All dru^e tests required by the City will therefore be shipped for analysis to a NIDA certified laboratory. No test shall be considered positive until it has been confirmed by a gas Chromatography/Mass Spectrometry full scan test or its equivalent.
- 4. The costs of testing required by the employer shall be paid by the employer.

B. Results

- 1. Alcohol testing: A positive result of blood alcohol concentration of .04% or above shall entitle the Employer to proceed with sanctions as set forth in this agreement.
- 2. Controlled substance test results

- a. Initial Screen: All urine specimens will be initially tested for the use of controlled substances by an immunoassay screen, which will eliminate negative urine specimens from further consideration. Any positive test results in an initial test will be subject to confirmation through an additional, more precise and accurate testing methodology.

The cut-off level set forth below will be used for the initial screening of specimens to determine whether they are negative for the following drugs:

- 1) Marijuana metabolites – 50 ng/ml
- 2) Cocaine metabolites – 300 ng/ml
- 3) Opiate metabolites – 300 ng/ml *
*(25 ng/ml if immunoassay specific for free morphine)
- 4) Phencyclidine – 25 ng/ml
- 5) Amphetamines – 1,000 ng/ml

- b. Confirmatory tests: Any urine specimen identified as positive on the initial test screen will be confirmed by a second analytical procedure independent from the initial test and which uses a different chemical technique and procedure. Gas chromatography/mass spectrometry will be used to confirm initial positive test results.

The cut-off levels set forth below will be used to establish the existence of a “confirmed positive” test result:

- 1) Marijuana metabolites – 15 ng/ml
(delta 9-tetrahydrocannabinol-9-carboxylic acid)
- 2) Cocaine metabolites – 150 ng/ml
(benzoylecgonine)
- 3) Opiates
Codeine – 300 ng/ml
Morphine – 300 ng/ml
- 4) Phencyclidine – 25 ng/ml
- 5) Amphetamines
Amphetamine – 500 ng/ml
Methamphetamine – 500 ng/ml (specimen must also contain amphetamine at a concentration of 200 ng/ml or greater)

- c. All confirmed positive and negative test results will be reported by the laboratory to a Medical Review Officer before they are communicated to the City.

To ensure that every employee who might be subjected to drug and alcohol testing by the City is treated in a fair and impartial manner, the City has retained the services of a Medical Review Officer (MRO). The MRO is a licensed physician with knowledge of substances abuse disorders who will review and interpret positive test results from the laboratory. The MRO will also review the chain of custody to ensure that it is sufficient and complete on its face and may request quantification of the test results from the lab.

III. EMPLOYEES' RIGHTS RELATED TO AN INITIAL POSITIVE TEST RESULT

- A. In the event of a positive result, the MRO will contact the employee directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. The employee will be given an opportunity to explain the findings to the MRO prior to the issuance of a report of a positive test result to the City. The MRO can request information on recent medical history and on medications taken within the last thirty days by the employee. In the event that the MRO finds support in the explanation offered by the employee, the employee may be asked to provide documentary evidence to support the employee's position.
- B. If the MRO has made reasonable, but unsuccessful efforts at contacting the individual, the MRO may contact the City in order to communicate said results. In all cases, the City shall not be informed of a positive test result until the employee has been informed or reasonable efforts have been made to inform the employee.
- C. In the event of a positive result, the employee has the right to have the sample split and tested by another DHHS-certified laboratory. Said request must be made to the MRO within 72 hours of notice to the employee that the test was positive. The cost of the test under this section is the responsibility of the employee.

IV. REHABILITATION/DISCIPLINE

- A. If the testing required has produced a positive result, the City may take disciplinary action and/or may require the employee to participate in any rehabilitation or detoxification program that is covered by the employee's health insurance. The City will not otherwise pay the costs of a rehabilitation program not covered by the employee's health insurance. An employee who participates in a rehabilitation or detoxification program shall be allowed to use sick time, vacation leave, and any other paid leave days for a period of the program. If no such leave credits are available, the employee may apply for unpaid leave.

If a rehabilitation or detoxification program is offered, the employee will not be permitted to return to the workplace until the employee demonstrates through a retest that he or she is no longer abusing any substance. Such employee may be subject to random testing upon return to work for a period of one (1) year from the date of return to work. As a condition of their continued employment, the employee must remain alcohol and drug free. Any employee in a rehabilitation or detoxification program in accordance with this Agreement will not lose any seniority or benefits.

- C. If the employee is referred to a rehabilitation or detoxification program, the City will be informed whether the employee is attending sessions and actively participating but will not receive information about the specifics of the counseling.
- D. The City will hold all employees accountable in terms of substance use but also supports rehabilitation.
 - 1. Those employees who come forward voluntarily to identify that they have a substance use problem will receive the City's support and assistance and will not be subject to disciplinary action. However, if an employee has a substance use problem and does not come forward, and the employee then tests positive for drug or alcohol use in violation of this Policy, the City reserves the right to take appropriate action, which may include referral to treatment, suspension without pay and/or termination. In all cases, the City reserves the right to take appropriate disciplinary action for other acts of misconduct which may be related to the use of alcohol and/or drugs.
 - 2. The City agrees that in the absence of other acts of misconduct, an employee testing positive for the first time for alcohol and/or other legally prescribed or over-the-counter medications will be referred to a rehabilitation program.
 - 3. There is a presumption that an employee who is found guilty or pleads no contest to a criminal offense related to substance use that occurs on City property or in a City vehicle or while conducting City business, will be terminated.
 - 4. In all other cases, whether an employee who tests positive will be allowed to sign a "last-chance" agreement to seek assistance aimed at changing substance use behavior will be determined individually based on such factors as quality of performance, length of service, willingness to acknowledge a problem and seek help and whether the use of any alcohol and/or drugs occurred while conducting City business.
 - 5. An employee's failure to cooperate in the implementation of this policy may be subject to disciplinary action.

V. **CONFIDENTIALITY**

- A. To protect the confidentiality of employees, all records of drug and alcohol testing will be stored separately and apart from the employee's general personnel documents. Access to these records shall be limited to designated City officials. Those designated City officials that shall have access to these records are charged with the responsibility of maintaining the confidentiality of these records in accordance with state and federal law. Any breach of confidentiality concerning these records may result in disciplinary action.