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STATE EMPLOYMENT  
RELATIONS BOARD

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**DISPATCHERS CONTRACT**

**BETWEEN**

**THE CITY OF AVON**

**AND**

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

**Case Number: 2008-MED-07-0716**

1407-01

**Effective January 1, 2009, through December 31, 2011**

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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 all full-time dispatchers 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 (dispatchers) employed by the City within the Department of Police.

"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:

Dispatchers within the Department of Police

**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 to be paid with the pay for the payroll period in which the anniversary date falls.

| <b><u>Years Of Service</u></b> | <b><u>Longevity Pay</u></b><br><b><u>Effective 2008</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. Commencing in calendar year 2000 (1999 for Sergeants), longevity shall be paid in the month of June 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.

**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.

## **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, step-child or step-parent), 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 20% of the monthly premium/contribution costs.

**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 C), 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.** Each newly hired full-time dispatcher shall be issued or reimbursed for the following uniform items during the first year of employment and on a schedule established by the Chief of Police.

### **Dispatcher**

- (1) pair of uniform shoes
- (1) short sleeved shirts
- (1) long sleeved shirts
- (2) polo shirts
- (2) pairs of trousers
- (1) sweater or vest
- (1) name tag

- (1) lightweight (spring/fall) jacket
- (1) collar brass

**Section 2.** Each full-time dispatcher, after the first year of service, shall receive a yearly uniform allowance of six hundred dollars (\$600.00). Effective in calendar year 2010, the annual uniform allowance shall increase to six hundred fifty dollars (\$650.00); effective in calendar year 2011, the annual uniform allowance shall increase to seven hundred dollars (\$700.00).

**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.

## **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. An employee who attends a Departmental staff meeting, called in by the Chief of Police, and is posted seventy-two (72) hours in advance, 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 duty hours in excess of forty (40) hours in a work week shall constitute overtime. Compensable time (holidays, vacation days, sick 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 duty in excess of eight (8) in one (1) work day, or forty (40) in a work week.
- B. Double time for all hours on duty 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 right of refusal for the resulting overtime shall be given to the remaining members of 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.** The following thirteen (13) days are hereby declared holidays for the employees:

- |                                 |                              |
|---------------------------------|------------------------------|
| 1) New Year's Day               | 7) Columbus Day              |
| 2) Martin Luther King Day       | 8) Thanksgiving Day          |
| 3) Police Memorial Day (May 15) | 9) Day After Thanksgiving    |
| 4) Memorial Day                 | 10) Christmas Day            |
| 5) Independence Day             | 11) Employee's Birthday      |
| 6) Labor Day                    | 12-13) Two Floating Holidays |

**Section 2.** The floating holidays will be given to each employee. The date of said holiday will be at the discretion of the employee, with the consent of the appropriate supervisor.

**Section 3.** When the employee's birthday falls on one of the preceding holidays or on a non-working day, the employee shall take as a holiday the next succeeding Friday which is a working day, not a holiday.

**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, plus he shall receive eight (8) hours of holiday pay at straight time. Hours worked in excess of eight (8) on a holiday will be compensated at double time and one-half (2 1/2). An employee who is not required to work on a designated holiday will receive eight (8) hours of holiday pay or holiday compensatory time. The selection of holiday pay or holiday compensatory time shall be at the discretion of the employee, 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.

**Section 5.** All holiday compensatory time (excluding the floating holidays) shall be credited in January of the applicable calendar year and shall be scheduled and taken with the approval of the appropriate supervisor. Holiday compensatory time not used shall be paid in the first pay of December of the applicable calendar year, except that forty (40) hours of holiday compensatory time may be carried over into the next calendar year upon written request of the affected employee.

Floating holidays days shall be used in the year earned, 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 entitled to sick leave of one and one-fourth (1 1/4) work days (ten [10] hours) with pay 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.

**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 for retirement under this section, the employee must have worked full-time with the City of Avon and shall have attained the normal retirement age of that employee's pension system, or in the case of a Sergeant or Lieutenant, be granted a disability pension by the Police and Fire Disability and Pension Fund as the result of a service connected disability, or in the case of a Dispatcher, be granted a disability pension by the Public Employee 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 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. Appealable disciplinary actions (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.

**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 or the Union. Where a group of employees desires to file a grievance involving a situation affecting each member in the same manner, one member selected by such group or the Union 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 two (2) weeks 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.

### **Section 2. Vacation Scheduling.**

- A. 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. 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. In the event of a conflict with another employee requesting the same dates, the employee with the most seniority shall prevail for the dates requested, except that 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 irrespective of seniority.

### **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 forty (40) hours of vacation time which must be used during the following calendar year.
- D. The vacation calculation date shall be December 31st 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 31st of the preceding year. Vacation time will be credited in January and must be used by December 31<sup>st</sup> 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 are eligible for prior service credit for full-time service with the State of Ohio, county, or another Ohio city. 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 of 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 the bargaining unit 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, when possible, and in no case later than noon on the first day of absence. 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.

**Section 2.** To apply for or receive any benefits under this article, the employee shall first make application for workers' compensation benefits and complete a "Reimbursement

Agreement" (attached to this agreement as Appendix B). Written application shall then be made to the Employer, and shall be accompanied by the "reimbursement agreement" and a certificate from a licensed physician stating that the employee is unable to work, and that such disability is the result of the exercise of his duties as an employee.

**Section 3.** Upon receipt of the employee's application and required documentation and certification, the Employer shall place the employee on injury leave and may require an examination by a licensed physician of the Employer's choice.

- A. Once injury leave is approved by the Employer, injury leave shall be granted from the first day of the injury and shall continue during the time said employee is receiving payment for lost wages through workers' compensation, not to exceed the one hundred twenty (120) work day maximum.
- B. Once workers' compensation begins making payments to the employee for lost wages, the employee shall submit such payments to the City for the period during which the employee received full pay.

**Section 4.** In the event an employee's claim for lost wages is disallowed by the Bureau of Workers' Compensation or the Industrial Commission of Ohio, the employee shall be charged for all time lost from work, first against sick leave, then against vacation and any other accrued compensable leave time. If the employee does not have enough compensable leave to cover all time off, the employee shall be responsible to repay the difference to the Employer.

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

**Section 1.** In the event an employee is laid off due to lack of work or funds, or job abolishment, the layoffs or reductions in force will be made in accordance with the following guidelines:

- A. The employee with the least amount of continuous service in the job classification to be reduced will be first to be laid off.
- B. 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.
- C. Seniority will be determined according to the date of hire as a full-time employee of the Avon Police Department.

**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.** A bargaining unit employee shall have the right to be informed at least twenty-four (24) hours in advance of the nature of any formal investigatory interview—if the employee is known to be the subject of alleged misconduct.

**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 during any questioning where the employee reasonably believes that punitive action could result.

**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.** Drug and/or alcohol testing may be conducted on employees upon reasonable suspicion, upon return to duty, random, and on a follow-up basis. Only the Chief of Police, or in his absence, the Captain, shall be permitted to order bargaining unit members to submit to random drug or alcohol testing. A lieutenant, sergeant or shift OIC may order reasonable suspicion drug or alcohol testing when the Chief and Captain are unavailable.

**Section 2.** All drug tests shall be conducted by laboratories certified by a Department of Health & Human Services (DHHS) recognized certification program. The procedures utilized by the Employer and testing laboratory shall include an evidentiary chain of custody, Medical Review Officer, and control and split sample collection and testing.

**Section 3.** The results of the testing shall be delivered to the Employer and the employee tested. An employee whose confirmatory drug test result is positive shall have the right to request a certified copy of the testing results in which the Medical Review Office shall affirm that the test results were obtained using professionally recognized testing methods. An alcohol concentration of 0.04 or greater shall be considered a positive result. The employee shall provide a signed release for disclosure of any and all testing results to the

Employer. The Employer shall not disclose the testing results without the consent of the employee, except as otherwise required by a court order.

**Section 4.**

- A. All specimens identified to the Medical Review Officer as positive on the initial drug test (screen) shall be confirmed through the use of the gas chromatography/mass spectrometry method of detection, or any other method that is professionally recognized as being as or more accurate than the gas chromatography/mass spectrometry method.
- B. In the event the initial and confirmatory test results are positive, the employee is entitled to have the split sample tested in the manner prescribed above at the employee's expense. The results of this test shall be determinative.
- C. In the event the confirmatory test confirms the results of the first test, the Employer will proceed with sanctions as set forth in this article.

**Section 5.** If the above drug testing produces a positive result, the employee may be suspended or terminated. If the employee is suspended, he will also be required to participate in a rehabilitation program. The cost of any rehabilitation program shall be borne by the employee, unless otherwise covered by the employee's health care insurance.

**Section 6.** An employee who participates in a rehabilitation program shall be allowed, after completion of the suspension, to use sick time, compensatory time, and vacation leave for the period of the rehabilitation program. If no such leave time is available, the employee shall be placed on disability leave without pay for the period of the rehabilitation program. Upon completion of such program, as certified by a substance abuse professional, and upon receiving results from a return-to-duty test demonstrating that the employee is no longer under the influence of controlled substances, the employee will be returned to his former position.

Such employee may be subject to up to six (6) follow-up tests during the first twelve (12) months following his return to work.

**Section 7.** 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.

**Section 8.** The cost of drug screening and confirmatory tests shall be borne by the Employer, except any test initiated at the request of the employee shall be at the expense of such employee. The cost of any return-to-duty tests shall also be at the expense of the

employee. All records pertaining to drug/alcohol test results shall be kept in a confidential manner, except as otherwise required by law.

**Section 9.** Nothing contained in this article shall be construed as a waiver of the Union's right to appeal any disciplinary action.

**Section 10.** This drug testing article shall be implemented January 1, 2000, and all supervisors will receive training in drug detection, and to the extent available assistance programs, dealing with drug abuse prior to that date. Each person promoted to the rank of Sergeant shall receive this training as soon as practicable after the promotion.

### **ARTICLE 35** **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 other 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 ORC shall continue to apply to bargaining unit employees.

### **ARTICLE 36** **DURATION**

This agreement shall be effective as of January 1, 2009, and shall remain in full force and effect through December 31, 2011.

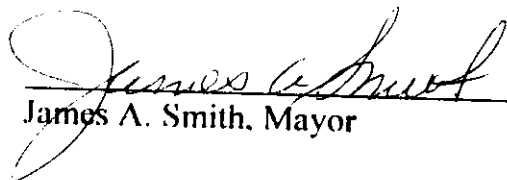
If either party desires to modify, amend, or terminate this agreement, it shall give written notice of such intent no earlier than one hundred eighty (180) calendar days prior to the expiration date, nor later than one hundred fifty (150) calendar days prior to the expiration date of this agreement. 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.

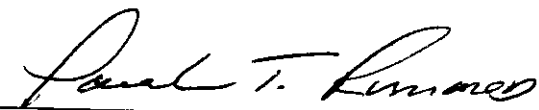
The parties acknowledge that during the negotiations which resulted in this agreement, each party had unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreement arrived at by the parties after 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 April 31 day of 2009.

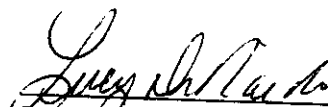
**FOR THE EMPLOYER**

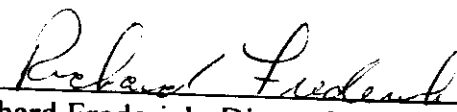
  
James A. Smith, Mayor

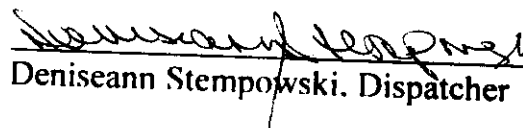
  
Paul T. Romond, Chief of Police

  
Sandy Conley, Account Manager

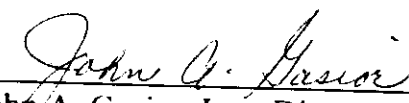
**FOR THE FOP/OLC**

  
Lucy DiNardo, Staff Representative  
FOP/OLC

  
Richard Frederick, Dispatcher

  
Deniseann Stempowski, Dispatcher

**Approved As To Content and Form**

  
John A. Gasior, Law Director

**APPENDIX A**  
**DISPATCHER WAGES**

**Section 1.** Effective January 1, ~~2006~~ 2009, all full-time employees shall be paid in accordance with the following scale (four percent [4%]):

| <b>Start Rate</b> | <b>After 1 Year</b> | <b>After 2 Years</b> | <b>After 3 Years</b> | <b>After 4 Years</b> |
|-------------------|---------------------|----------------------|----------------------|----------------------|
| 17.33             | 18.41               | 19.49                | 20.58                | 21.66                |

**Section 2.** Effective with the first pay of 2010, all full-time employees shall be paid in accordance with the following scale (three and three quarter percent [3.75%]):

| <b>Start Rate</b> | <b>After 1 Year</b> | <b>After 2 Years</b> | <b>After 3 Years</b> | <b>After 4 Years</b> |
|-------------------|---------------------|----------------------|----------------------|----------------------|
| 17.98             | 19.10               | 20.22                | 21.35                | 22.47                |

**Section 3.** Effective with the first pay of 2011, all full-time employees shall be paid in accordance with the following scale (three and three quarter percent [3.75%]):

| <b>Start Rate</b> | <b>After 1 Year</b> | <b>After 2 Years</b> | <b>After 3 Years</b> | <b>After 4 Years</b> |
|-------------------|---------------------|----------------------|----------------------|----------------------|
| 18.65             | 19.81               | 20.98                | 22.14                | 23.31                |

**Section 4.** The state-mandated employee's contribution to the PERS shall be deducted from the employee's gross pay before state and federal taxes are withheld in accordance with IRS rules.

**Section 5.** Shift differential and the clerical stipend (seventy-eight cent [\$0.78] equivalent) was rolled into the base rate of pay effective with the first pay of January 2000.

**Section 6.** Newly hired employees shall normally be compensated at the minimum rate. However, where qualifications and/or experience exist, the Chief of Police, with the approval of the Director of Safety/Mayor, may place a new employee at a higher rate of pay not to exceed the rate for three (3) years of service.

**APPENDIX A**  
**DISPATCHER WAGES (CONTINUED)**

**Section 7.** Effective with the first pay of September 2006, any bargaining unit employee acting as a training officer for a newly hired department member will be compensated one dollar and twenty-five cents (\$1.25) per hour each hour of training during the formal FTO training time.

**APPENDIX B**  
**REIMBURSEMENT AGREEMENT**

The City of Avon, by and between its Mayor, the Employer, and \_\_\_\_\_, its Employee, agree as follows:

Whereas, the Employee has been injured within the scope of and during the course of his or her employment with the City of Avon, and has filed a claim for workers' compensation, said injury having occurred on or about \_\_\_\_\_, and the claim being numbered \_\_\_\_\_; and

Whereas, the Employee desires and/or did desire to be paid regular compensation by the Employer while the Employee is and/or was disabled as the result of the aforesaid injury and has filed with the State of Ohio Bureau of Workers' Compensation a claim for loss of wages during the Employee's disability resulting from such injury.

Now Therefore, it is agreed by the Employer and Employee as follows: That if the Employer pays and/or has paid the Employee's regular compensation under pertinent City labor agreement during the period of the Employee's disability aforesaid, such Employee shall reimburse the Employer to the extent he or she is awarded workers' compensation for loss of wages when the same is received, and that the Employer will then give appropriate credit to such Employee relative to any sick or vacation leave for which the Employee was charged during his or her said period of disability.

The Employee authorizes a copy of this agreement to be filed with the Industrial Commission of Ohio and it is hereby authorized to carry out the terms and provisions hereof.

**CITY OF AVON, EMPLOYER**

By \_\_\_\_\_

Employee \_\_\_\_\_

**HAND DELIVERED**

STATE EMPLOYMENT  
RELATIONS BOARD

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

2009 MAY -4 P 2:33

IN THE MATTER OF:

|                            |   |                            |
|----------------------------|---|----------------------------|
| FRATERNAL ORDER OF POLICE, | } |                            |
| OHIO LABOR COUNCIL, INC.,  | } | Case No(s): 08-MED-07-0716 |
| EMPLOYEE ORGANIZATION,     | } | (Dispatchers)              |
|                            | } |                            |
| and,                       | } |                            |
|                            | } |                            |
| CITY OF AVON,              | } |                            |
| EMPLOYER.                  | } |                            |
|                            | } |                            |

|   |
|---|
| <p><b>FILING OF THE COLLECTIVE BARGAINING AGREEMENT</b></p> |
|---|

Pursuant to Board Rule 4117-09-07, the F.O.P. Ohio Labor Council Inc. hereby files a copy of the Collective Bargaining Agreement executed between the parties in the above captioned case(s).

Respectfully Submitted,



Tara M. Crawford  
Paralegal  
F.O.P., O.L.C.I.  
222 East Town Street  
Columbus, Ohio 43215  
614-224-5700

cc: Mr. Richard L. Leslie  
Clemans, Nelson & Associates, Inc.  
6500 Emerald Parkway, Suite 100  
Dublin, Ohio 43016-6235