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AGREEMENT BETWEEN

THE CITY OF BARBERTON

and

THE AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES,
LOCAL 265

and

OHIO COUNCIL 8, AFL-CIO

Effective: **Upon Ratification**

Expires: **February 10, 2011**

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**ARTICLE 1
PREAMBLE/PURPOSE**

Section 1. Parties. This Agreement is between the City of Barberton, Ohio, hereinafter known as the Employer, and Ohio Council 8 and Local 265 of the American Federation of State, County and Municipal Employees (AFSCME) AFL-CIO, hereinafter referred to as the Union. The term Employer, as used in this Agreement shall refer to and include all departments, divisions, boards, commissions, or any other subdivisions of the municipal corporation created or provided for by law or by the Barberton City Charter.

Section 2. Purpose. It is the purpose of this Agreement to achieve and maintain harmonious relations between the Employer and the Union; to provide for the equitable and peaceful adjustment of differences which may arise; to promote individual efficiency and service to the citizens of the City of Barberton; to avoid interruption or interference with the efficient operation of the Employer's business; to establish the wages, hours, and other terms and conditions of employment for employees of the bargaining unit, and to provide a basis for the adjustment of matters of mutual interest by means of amicable discussion; and to meet the other provisions of Ohio Revised Code 4117.

**ARTICLE 2
RECOGNITION**

Section 1. Unit Definition. The Employer recognizes the Union as the sole and exclusive bargaining agent with respect to all matters pertaining to wages, hours, or terms and conditions of employment for the following deemed certified bargaining unit in accordance with the Settlement Agreement between the parties dated May 26, 1993, attached as Appendix A. Classifications included in the bargaining unit are:

Account Clerk	Equipment Operator	Signal Man
Activities Coordinator	Working Group Leader	Specialist
Animal Control	Handyman	Strategic Planner
Auto Mechanic	Inspector-Building	System Operator
Carpenter	Inspector-Property	Technician
Clerk	Maintenance	Water Safety Instructor
Clerk Administrative	Inspector Property	
Custodian	Maintenance Tech	
Driver	Laborer	
Economic Development	Maintenance Mechanic	
Specialist	Painter	
Electrical Inspector	Plant Operator	
Electrician	Plant Technician	
Elevator Operator	Service Worker	

1.) Clerk Administrative would assume certain enhanced duties and responsibilities as per job description and be compensated at a rate equal to Account Clerk Senior.

2.) Electrical Inspector position would have Senior rate only. The Employer would reserve the right to hire Electrical Inspector(s) at Step 5 if necessary based upon the Labor Market for this position and it's skill set and certifications.

3.) Inspector Property Maintenance would be maintained at its current rate as an entry-level position.

4.) Inspector Property Maintenance Technician (Inspector PM Technician) would assume certain Technician duties as per job description and be paid at the Senior Technician's rate.

5.) The Strategic Planner position has no rate currently listed under Appendix D2. Previous incumbent was paid at a rate equal to Group Leader Senior. The inclusion of this position would be at the previous rate.

Section 2. Definitions

- A. **Bargaining Unit Work:** that work as described in the various job descriptions of employees of the bargaining unit.
- B. **Casual Employees:** those employees hired at various times throughout the year for a specific task or program not performing bargaining unit work, or if bargaining unit work is performed, whose employment is on an irregular basis and/or who work on call on an irregular basis.
- C. **Seasonal Employees:** those employees who work a certain regular season or period of the year performing bargaining unit work which is limited to that particular season or period and whose employment does not exceed eighteen (18) weeks per calendar year.
- D. **Part-time Employees:** those employees who perform bargaining unit work on a regular basis and whose hours of work are less than forty (40) hours per week.
- E. **Temporary or Intermittent Employees:** those employees who are filling in for an employee of the bargaining unit who is on approved leave or who is performing a particular task towards the completion of a specific project that is of a temporary nature and for an agreed time certain.

Section 3. Unit Erosion. The Employer agrees that any classification presently included in the bargaining unit shall remain in the bargaining unit unless mutually agreed otherwise. Supervisory personnel shall not perform bargaining unit work unless the employees are unavailable to perform said work or in the case of an emergency as determined by the work situation that requires immediate attention. Supervisory personnel shall be permitted to perform work for the specific purpose of instructing an employee as to how to perform the employee's duties and/or how to operate equipment.

ARTICLE 3 NON-DISCRIMINATION

Section 1. Nondiscrimination/Union Affiliation. It is agreed that any employee within the bargaining unit has the right to join the Union for mutual aid or protection and to bargain collectively. Employees also have the right to refrain from being a member of the Union. In addition to the right to join and participate in the Union, the Employer recognizes the employee's right to Union representation in accordance with this Agreement. Neither party shall discriminate for or against any member of the bargaining unit on the basis of age, sex, handicap, marital status, race, color, creed, national origin, religion, veteran status, political affiliation, nonunion affiliation or for the purpose of evading the spirit of this Agreement.

Section 2. Gender and Plural. Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and word in the plural, the singular. Further it is understood and agreed that the use of words whether in the masculine, feminine or neutral gender shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

ARTICLE 4 INTERPRETATION OF AGREEMENT/MID-TERM BARGAINING

Section 1. Headings. It is understood and agreed that the use of headings before articles or sections is for convenience only and as a method to identify such articles and sections.

Section 2. Entirety. This Agreement represents the entire agreement between the Employer and Union. All prior agreements, either oral or written, are hereby declared to be non-binding on the parties. This clause is intended to modify all laws covered in this Agreement and the specifications under each section.

Section 3. Acknowledgment. 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.

Section 4. Waiver of Obligation to Reopen Negotiations. **The parties agree that to the extent that they have bargained and reached agreement over a matter covered by this Agreement** each voluntarily and unqualifiedly waives the right, and agrees, that the other shall not be obligated to negotiate collectively with respect to any subject, topic, or matter covered in this Agreement, **except as otherwise provided herein.**

Section 5. Mid-Term Bargaining. **If the Employer is contemplating any changes that would have an effect on the wages, hours, and/or conditions of employment and such action is a mandatory topic of bargaining under R.C. 4117, not otherwise provided for in this contract, then the Employer, prior to making such change, shall inform the Union of said**

proposed change and negotiate to impasse with the Union concerning such change. The Employer may implement such change after impasse is reached, subject to review by an Arbitrator. The Union may grieve the reasonableness of the Employer's change and its reasons for doing so. Such grievance shall be initiated at Step 3 of the grievance procedure.

**ARTICLE 5
CONFORMITY TO LAW/APPLICATION OF CIVIL SERVICE**

Section 1. Pertinent Statute. To the best knowledge of the parties this Agreement complies and is consistent with any applicable current federal and state laws. It is specifically understood that City Council shall not enact any ordinance that alters any provision of this Agreement without mutual agreement of the Union.

Section 2. Separability. In the event the United States Congress or the General Assembly of the State of Ohio enacts legislation that renders any provision of this Agreement invalid or unenforceable, such future law shall not affect the validity of the surviving provisions. If a determination by a court of final and competent jurisdiction renders any provision of this Agreement invalid or unenforceable, such decision shall not affect the validity of the surviving provisions of this Agreement, which shall remain in full force and effect as if such invalid provision thereof had not been included herein.

Section 3. Amendments. In the event a provision of this Agreement is rendered invalid as set forth in Section 2, or when mutually agreeable to the parties on other subjects and matters of mutual concern, the parties, upon notice of either the Employer or Union, shall attempt to negotiate a legal alternative. Upon the execution of the parties' representatives, such alternatives and amendments shall then become enforceable provisions of this Agreement.

Section 4. Application of Civil Service Law. The parties agree that no section of the civil service law contained in the Ohio Revised Code Sections 9.44, 124.01 through 124.56, nor any local ordinance of the City of Barberton or Rules and Regulations of the Civil Service Commission of the City of Barberton, 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. Notwithstanding this, Section 124.388 and 124.57 ORC shall continue to apply to bargaining unit employees.

Without limiting the foregoing paragraph, in accordance with the provisions of Ohio Revised Code section 4117.10 (A), this agreement covers the wages, hours, and terms and conditions of employment to the extent provided herein. It is therefore the intent of the parties that the terms and conditions of this agreement specifically preempt and/or prevail over the statutory rights of bargaining unit members as set forth below:

Contract Article	Statute/Regulation Preempted (All Statutory References include Corresponding MCSC Rules)
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Article 7- Probationary Periods

ORC 124.37

Article 19 - Discipline	ORC 124.34
Article 9 - Grievance Procedure	ORC 124.34
Article 7 - Seniority	ORC 124.321-124.328; ORC 9.44
Article 7 - Reduction in Force	ORC 124.321-124.328
Article 21 - Vacations	ORC 9.44
Article 27 - Leaves of Absence	ORC 124.38; ORC 5923.05
Article 7 - Vacancies, Transfers, and Bidding	ORC 124.31; ORC 124.27
Article 29 - Severance Benefit	ORC 124.39

**ARTICLE 6
MANAGEMENT RIGHTS**

Section 1. Function of Employer. The Union recognizes that except as otherwise limited in this Agreement, it is the exclusive function of the Employer to maintain order, discipline, efficiency, and to generally operate the City; to hire; direct; classify; assign; transfer; evaluate; promote; demote; layoff employee; discipline, suspend, or discharge employees for just cause; to promulgate and enforce rules and regulations; to determine classifications, size, and the duties of the work force; to determine shifts and reasonable overtime requirements; to assign and allocate work within and between departments; to reorganize, discontinue or enlarge any departments, or portions thereof, to determine or change the methods and means by which its operations are to be carried on, and to otherwise generally carry out all other ordinary and customary functions of the Employer as set forth in Ohio Revised Code 4117.08(C).

Section 2. Inherent Rights. The Union recognizes and accepts that all rights and authority of the Employer not specifically modified by this Agreement or ensuing agreements shall remain the function of the Employer.

**ARTICLE 7
PROBATIONARY PERIODS**

Section 1. New Employee Probationary Periods. The probationary period for a newly hired employee shall not exceed ninety (90) calendar days from the date of hire. However, for good and sufficient reason, the Employer may extend the probationary period of newly hired employee for a period not to exceed ninety (90) calendar days. If the Employer so elects to extend the probationary period as set forth above, it shall provide written notice of the extension and the length of the extension to both the employee and the Union. The Employer may terminate new employees during their probationary period with or without cause, and such removal shall not be made subject to the grievance procedure. The Employer shall notify the Union of all newly hired employees. This **Article** is intended to modify Ohio Revised Code 124.27.

Section 2. Promotional/Job Bid Probationary Periods. Probationary periods for promotions and job bid transfer situations are covered in Article 7, Vacancies, Transfers, Bidding.

Section 3. Seniority and Continuous Service.

- A. **Seniority.** Seniority shall be established as of the date of the employee's original appointments to a department of the Employer, and shall be the total length of continuous service with the Employer in that department after that date. Seniority shall be used for: the order in which vacation selections shall be made; determining who shall receive an out of classification assignment among qualified individuals; annual job reassignments within a classification provided the employee is qualified for the job as determined by the Employer; shift assignments; or, for any other purpose or purposes as expressly stated in this Agreement.

- B. **Continuous Service.** Continuous service with the Employer shall be defined as the length of time from an employee's original date of employment with the Employer to include and taking into account any consecutive interdepartmental transfers or appointments. Continuous Service with the Employer shall be used for; determining longevity and vacation entitlement; the purpose of determining layoff and recall rights; and, any other purpose or purposes as expressly stated in this Agreement.

- C. **Termination.** An employee's Seniority and Continuous Service shall be terminated when one or more of the following occur: the employee resigns or retires; or, the employee is discharged for just cause; or, the employee is on layoff for more than thirty-six (36) months.

Section 4. Vacancies and Job Postings. Whenever a vacancy exists in the bargaining unit, and the Employer intends to fill the vacancy, the Employer shall post a notice of such vacancy on all Union bulletin boards. The Employer shall post a notice of such vacancy on the Union bulletin board in the department where the vacancy has occurred for a three (3) day period. After the expiration of three (3) days if no department employee has applied, then the notice of vacancy shall be posted on all Union bulletin boards. Said posting notice shall remain posted for a period of five (5) working days. Such notice shall contain the, classification, pay rate, number of vacancies if know, job description, date of posting and bid deadline. The Departments of the Employer, for purposes of posting, are as follows:

Beautification	Signal
Building	Street
Engineering	Utilities - Collection
Finance	Utilities - Customer Service
Paint	Utilities - Distribution
Parks	Utilities - Water Treatment Plant
Planning	Utilities - Waste Water Treatment Plant
Police	

Section 5. Bidding. Any employee choosing to bid on a posted vacancy must submit the application to bid, as set forth in Appendix B, to the Human Resource office by the end of the posting period in order to be considered. Employees may withdraw a bid prior to the close of the posting. Employees who anticipate that a job posting may occur during an authorized leave of

absence may submit an application to bid prior to commencing such leave. Such application shall expire upon completion of the leave in the event no such posting occurred during the employee's leave. An employee may request a time stamped copy of the application to bid. An employee who is awarded a bid may not bid on another position for a period of six (6) months from the date such employee is placed in the new position and such employee shall serve a forty five (45) day probationary period. Additionally, during this forty-five (45) day probationary period the employee may exercise an option to return to his/her previous position. Part-time employees shall not be permitted to bid on a posted position until such part-time employee has worked 2,080 hours.

Section 6. Promotion and Transfers. The term promotion, for the purposes of this Agreement shall mean the act of placing an employee in a higher paying classification within the same classification. The Employer has sole discretion in determining who shall be promoted. In determining whether an employee is qualified for a position, the following factors may be considered: education and training for the job in question; skills for the job in question; ability to perform the work in question; disciplinary action; and seniority. The factors shall be considered in descending order. The Employer agrees that in the event the Employer determines any two or more applicants to be equally qualified, seniority shall be used to determine the appointment. Promotions shall not be subject to appeal through the grievance procedure except where seniority has been ignored or a patterned abuse of the Employer's discretion can be established. When an employee is promoted to a higher paying classification the employee shall be placed in the same step of that classification based upon Continuous Service with the Employer. Probationary periods for promotional jobs shall also not exceed thirty (30) calendar days. If during the probationary period, it is determined by the Employer that the employee has failed the probationary period due to substandard performance, such employee shall return to the previously held position and appropriate rate of pay. An employee displaced by a failed employee must either exercise displacement rights to the employee's previous position or accept voluntary layoff. Any employee hired and then subsequently laid off under this provision will have recall rights as provided in Section 8.

When an employee is promoted, the Employer shall notify the Union of the promotion indicating the name of the promoted employee, classification into which the employee is promoted, effective date and effective wage rate. When an employee is promoted such letter of promotion shall be posted with a copy to the Union President.

If due to operational needs, it becomes necessary to transfer employees between departments, said transfers will be mutually agreed to by the Union and the City prior to the transfer. It is understood that transfers will be temporary and the transferred employee will be recalled to the original position as soon as the needs of the City are met.

Section 7. Layoff. When it becomes necessary through lack of work or funds to reduce the number of employees in a department, the employee with the least amount of Continuous Service shall be laid off first. It is agreed that prior to implementing a layoff of bargaining unit personnel the Employer will; 1) serve a thirty (30) calendar day notice to the Union and the affected employees of the impending layoff indicating the number of employees affected, the department(s) involved, and documentation as to a proof of lack of funds or work; 2) meet and

confer with the Union to consider alternatives; 3) consider implementation of twenty-five (25) year service incentive buyout retirement plan; and 4) discontinue use of any and all part-time, seasonal, casual, probationary, temporary, intermittent employees performing bargaining unit work in the department where the layoff has occurred.

Section 8. Recall. In the event an employee is laid off such employee shall be subject to recall up to thirty-six (36) months from the date of layoff with loss of Seniority and Continuous Service for the time spent on recall where such layoff exceeds one (1) year. If said employee is laid off for a period of time exceeding thirty-six (36) months the employee shall not be subject to mandatory recall. Employees laid off under this Article shall be recalled to any vacancies which thereafter in their classification or any classification the employee has the ability to perform. Notice or recall shall be sent by certified mail, return receipt, and sent to the employee's last known address provided to the Employer by the employee. Failure of an employee to report to the Employer within ten (10) calendar days, except for extenuating circumstances preventing the employee from returning within the ten (1) day period, after receipt of the recall notice or from return of the unclaimed, refused or otherwise undeliverable certified mail, shall constitute forfeiture of the employee's right to recall. The Employer agrees that it will not hire or promote employees within classifications where layoffs exist and laid off employees have a right to recall. However, nothing contained herein shall prevent the Employer from transferring, assigning, or reassigning duties within classifications among remaining employees to maintain the services provided. The foregoing right of the Employer shall not be used as a pretext to circumvent recall.

Section 9. Displacement. An employee who is displaced by a reduction in the work force in a particular department may exercise the employee's right to "bump" an employee with less Continuous Service within the same classification in another department, or if such employee has less Continuous Service in that classification City-wide, the employee may bump an employee with less Continuous Service within another classification provided the employee is qualified and able to perform the work of that classification and position. Any employee displaced from a classification under the procedures of this Article may elect to take the layoff rather than exercise bumping rights. Any employee affected by layoff who chooses to exercise bumping rights must so notify the Employer of such desire in writing to the Human Resources Department within five (5) calendar days of receipt of notification of layoff pursuant to this Article or will be deemed to have elected to take the layoff. The Union President or designee shall be provided a copy of the filing of any displacement rights filed with the Human Resources Department.

All employees who are required to possess a valid driver's license, and who fail to maintain a valid drivers license by virtue of suspension, or revocation, or who the Employer's liability insurer determines is not insurable, shall be afforded the right to bump into a lateral or lower classification which the employee has the qualifications and experience to perform and where a valid driver's license is not required. The employee bumped shall have the same right to bump as an employee who was placed on layoff.

Section 10. Ohio Revised Code. Section 7.7 through 7.9 are intended to modify Ohio Revised Code 124.321 et seq.

ARTICLE 8
CHECKOFF AND FAIR SHARE FEE

Section 1. Dues and Political Action Committee Checkoff. The Employer agrees to payroll deductions, to include Union dues, initiation fees, and assessments as certified by the Union on the basis of individually signed voluntary checkoff authorization cards. The signed payroll deduction form(s) shall be furnished to the employee by the Union and then subsequently placed on file with the Finance Director's office. Upon receipt of the checkoff authorization, the Employer shall deduct deductions from the bi-weekly earnings of such employee (s) in the next pay period immediately following the execution of the aforementioned checkoff authorization card.

The Employer agrees to deduct voluntary contributions to Public Employees Organized for Political Legislative Equality (PEOPLE). Deductions shall be submitted to the Union pursuant to written authorization, as set forth in Appendix C, no later than the tenth (10th) day following the deductions. The Union shall be furnished with an alphabetical listing of employees having political deductions made at the time the contributions are submitted to the Union.

Section 2. Checkoff Disbursement. Amounts deducted shall be remitted by warrant to the Ohio Council 8, AFSCME, AFL-CIO, with a copy also submitted by the Employer to the Treasurer of Local 265. The Union shall advise the Employer in writing of the amounts to be deducted and of the address where all checkoff proceeds shall be remitted. One (1) month advance notice to the Finance Director is required prior to making any changes in members' deductions. Monies deducted pursuant to the provisions of this section shall be remitted to Ohio Council 8 within ten (10) days of their deduction. Each remittance shall be accompanied by: 1) an alphabetized list that states the names of employees for whom deductions and fair share fees were made, their address and social security number, and amount deducted; and, 2) a statement of any changes, additions, or omissions from the previous checkoff.

Section 3. Indemnification. **It is specifically agreed that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this article, and the Union hereby agrees that it will indemnify and hold Employer harmless from any claims, actions or proceedings by any employee arising from deductions made by Employer hereunder. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.**

Section 4. Union Dues During Probation. It is agreed that the Employer will deduct Union dues from probationary employees upon receipt of an authorization card from the employee, but such dues checkoff will not convey, grant, or imply any rights that would prohibit the Employer from terminating the employee due to poor performance evaluations or other failure of their probationary conditions of employment.

Section 5. Prepayment of Dues. In the event an employee's pay is insufficient in any pay period for which dues are deducted, the Employer shall make the appropriate deduction from the following pay period or pay periods for those monies owed as a result of such insufficient earnings. In the event of an advance in pay received for vacation or any other purpose, the

Employer shall make deductions as appropriate for the time period for which the advance is received.

Section 6. Fair Share Fee. All bargaining unit employees who are not members in good standing of the Union shall be required to pay a fair share fee to the Union, as a condition of continued employment. All bargaining unit employees who do not become members in good standing of the Union shall be required to pay a fair share fee to the Union effective sixty-one (61) days from the employee's date of hire, or the date of execution of this Agreement whichever is later, as a condition of continued employment with the Employer.

Section 7. Fair Share Fee Deduction Procedure. The assessment and collection of all fair share fee including, but not limited to, automatic payroll deductions, shall be in accordance with Ohio Revised Code, Section 4117.09(C). The fair share fee amount shall be certified to the Employer by the Union and shall not exceed the amount of Union dues. Fair share fees cover each employee's prorata share of: (1) direct costs incurred by the Union in negotiating and administering this Agreement and of settling grievances and other disputes arising under this Agreement; and (2) the Union's expenses incurred for activities normally and reasonably employed to effectuate its duties as the exclusive representative of the employees in the bargaining unit covered by this Agreement.

The deduction of the fair share fee from the earnings of an employee shall be automatic and shall not require written authorization as in Section 1. The Employer's responsibility to deduct such fair share fees is contingent, however, upon the Union's fulfillment of all obligations imposed upon it by this article. All disputes concerning the amount of fair share fee shall not be subject to the grievance procedure of this Agreement. Disputes of this nature shall be resolved under the Union's internal rebate reduction procedure, and the Union warrants to the Employer that it has in place a fair share fee notice and rebate procedure that complies with state and federal law. Such fees shall be deducted by the Employer and remitted in the same method and during the same periods as Union dues.

ARTICLE 9 GRIEVANCE PROCEDURE

Section 1. Definition of Grievance. A grievance is a dispute between the Employer and the Union, or an employee or a group of employees, as to the interpretation, application or alleged violation of any term or provision of this Agreement. The Employer and Union both encourage the informal settlement of disputes. This Article is intended to modify Ohio Revised Code 4117.10.

Section 2. Filing. A grievance may be filed by the Union, its representatives or by any member of the bargaining unit. The Union shall have the right to withdraw or settle any grievance at any step of the grievance procedure and, in that event, no further appeal shall be processed. In addition, the Union may designate an appropriate representative at any step of the grievance procedure; however, this shall not prohibit an Ohio Council 8 staff member from also being present. In the case of a grievance that affects the Union or a group of employees, the Union shall have the right to initiate and file a policy and/or group grievance. Such policy/group

grievance may be filed at Step 2 of this procedure.

Section 3. Timeliness. For the purpose of this Article the term “day” shall mean calendar days not to include Saturdays, Sundays or legal holidays. Failure by the Employer at any step of this procedure to communicate the decision on a grievance within the specified time limit shall permit the Union an appeal at the next step of this procedure. Any grievance not advanced from one step to the next step by the employee/Union within the time limits of that step, shall be considered dismissed with prejudice. Policy/group grievances filed at Step 2 shall be filed within five (5) days after its occurrence, or after it reasonably could have become know to the Union. The parties may mutually extend or waive the timeliness provided in this section in writing.

Section 4. Form. The written grievance shall state the specific article and section of this Agreement alleged to have been violated, a brief set of facts, and the relief requested. A grievance as defined in this Article must be presented in writing on a form furnished by the Union. Copies of such form shall be provided for various departments, supervisory employees, stewards, and for the bargaining unit employees. The Union agrees to notify the Employer upon any change in the form and to supply a new adequate supply of same upon initiation of the change. At any time prior to filing the grievance in writing at Step 1, the grievant and the Union Steward may meet with the grievant's supervisor to discuss the issue involved. Any resolution at this informal meeting shall not be precedential.

Section 5. Disciplinary Grievance. All disciplinary actions including suspensions; demotions; removals; denials of step increases; or any other reduction in pay, rank or status are hereby made subject to this grievance procedure as the employee's sole source of remedy or appeal. Disciplinary grievances may be filed directly at Step 2.

Section 6. Procedural Steps.

Step 1: Supervisor. A written grievance must be filed with the employee's supervisor within five (5) days of the date the act or acts complained of became known to the employee or the Union. The grievant, the Union and the supervisor shall meet within three (3) days of filing of the grievance to discuss the matter. The supervisor shall provide a written answer to the grievant with a copy to the Union within three (3) days of the meeting. If the employee does not invoke Step 2 of this procedure within five (5) days after receipt of the written answer of the supervisor, such grievance shall be considered satisfactorily resolved.

Step 2: Department Head. If the grievance is not resolved at Step 1, the employee and/or the Union shall have the right to appeal in writing, within five (5) days after receipt of the supervisor's written answer to the grievance, to the employee's Department Head. The grievant, the Union and the Department Head shall meet within three (3) days of the filing of the grievance at Step 2 to discuss the matter. The Department Head shall provide a written answer to the grievant with a copy to the Union within three (3) days of the meeting. If the employee does not invoke Step 3 of this procedure within five (5) days after the required answer of the Department Head, said grievance shall be considered satisfactorily resolved.

Step 3: Human Resources Department. If the grievance is not resolved at Step 2, the

employee shall have the right to appeal in writing, within five (5) days after receipt of the Department Head's Step 2 written answer to the grievance, to the Human Resources Department. The Human Resources Department shall review the grievance and meet with the parties to the grievance, including the Union President or his designee, and a representative of Ohio Council 8 within fifteen (15) days from the date of receipt time stamped in the office of the Human Resources Department. The employee shall be accompanied by the employee's Union representative. A decision from the Human Resources Department shall be reduced to writing and submitted to the employee and the Union within five (5) days from the date of the grievance meeting. If the Union does not invoke Section 9.7 Arbitration of this procedure said grievance shall be considered satisfactorily resolved and dismissed with prejudice.

Step 4: Grievance Mediation. The party requesting grievance mediation shall contact the Federal Mediation and Conciliation Service and thereafter the parties shall select a mediator in accordance with A.A.A. (American Arbitration Association) rules and procedures.

Each party may have up to four (4) representatives as participants in the mediation effort. Persons representing the parties will be vested with full authority to resolve the issues being considered. The Employer may require City Council's approval to mediate certain issues; in this event the Employer will notify the Union that such approval is needed.

The purpose of the mediation effort is to reach a mutually agreeable resolution of the dispute and there will be no procedural constraints regarding the review of facts and arguments. No oaths will be administered and no verbatim record of the proceeding will be taken. The formal evidence rules will not be applied. The mediator may employ all of the techniques commonly associated with mediation including private caucuses with the parties. Written materials presented to the mediator will be returned to the party at the conclusion of the mediation meeting.

Mediation efforts will be informal in nature and will not include written opinions or recommendations from the mediator. In the event the Union appeals to binding arbitration a grievance that has been mediated, there will be no reference in the arbitration proceeding to the fact that a mediation conference was or was not held. Nothing said or done by either party in mediation conference may be used against it in arbitration.

At the mediation conference, the mediator will first seek to help the parties in reaching a mutually satisfactory settlement of the grievance that is within the parameters of the collective bargaining agreement. If the Union and the City reach a settlement, the parties will enter into a settlement agreement at the mediation conference. The mediator will not have the authority to compel the resolution of a grievance.

If a grievance remains unresolved at the end of the mediation session, the mediator will provide an advisory opinion about how the grievance is likely to be decided if it is presented at arbitration. This opinion is not binding and is inadmissible in the subsequent arbitration proceeding. In the event the grievance isn't resolved in two (2) weeks the matter may be submitted for arbitration.

Either party may within ten (10) working days of its receipt reject the advisory opinion of the mediator.

The dates, time and place of a mediation session will be determined by mutual agreement of the parties. Each party will designate a representative responsible for scheduling mediation sessions.

The parties mutually agree to discontinue the grievance mediation procedure in the event that a fee is charged for the service.

Section 7. Arbitration. If the grievance is not satisfactorily settled in Step 3, the Union may submit the grievance to final and binding arbitration by submitting notice to the Employer within thirty (30) calendar days of the receipt of the written answer at Step 3, and by submitting a request to the Federal Mediation and Conciliation Services (FMCS) for a list of seven (7) arbitrators, with a copy of such request delivered to the Employer. In the event the grievance is not referred to arbitration within the time limits prescribed, the grievance shall be considered resolved based upon the Step 3 answer. The Union has the sole right to decide whether to arbitrate, appeal, or settle any grievance.

Upon receipt of the list of seven (7) arbitrators, the parties shall meet to select an Arbitrator within thirty (30) calendar days from the date the list is received. The parties shall use the alternate strike method from the list of seven (7) arbitrators submitted to the parties by the FMCS.

Prior to striking arbitrators from the list, either party shall have the option to completely reject the list of names provided by the FMCS and request another list. Each party shall be limited to one (1) rejection. The party who rejects this list shall pay the cost of a replacement list. The party requesting the arbitration shall be the first to strike a name from the list, and then the other party shall strike a name and alternate in this manner until one name remains on the list. The remaining name shall be designated as the Arbitrator to hear the dispute in question. All procedures relative to the hearing shall be in accordance with the terms of this Agreement.

The Arbitrator shall hold the arbitration promptly and issue a decision within thirty (30) days of the hearing date. The Arbitrator shall limit the decision strictly to the interpretation, application or enforcement of those specific articles and/or sections of the Agreement in question. The Arbitrator's decision shall be consistent with the applicable law.

The Arbitrator shall not have the authority to add to, subtract from, modify, change or alter any provision of this Agreement, nor add to, subtract from or modify the language therein in arriving at the determination on any issue presented that is proper within the limitations expressed herein. The Arbitrator shall expressly confine the decision to the precise issues submitted for arbitration and shall have no authority to determine any other issues or to submit observation or declaration of opinion which are not directly essential in reaching a decision on the issue in question.

Except in the instance where the Employer has established a new classification, the

Arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement. In cases of discharge or of suspension, the Arbitrator shall have the authority to recommend modification of said discipline.

The question of arbitrability of a grievance may be raised by either party before the arbitration hearing of the grievance, on the grounds that the matter is non-arbitrable or beyond the Arbitrator's jurisdiction. The first question to be placed before the Arbitrator will be whether 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.

The decision of the Arbitrator shall be final and binding upon the Union, the employee and the Employer. Any cost involved in obtaining the original list of Arbitrators shall be shared equally by the parties. All costs directly related to the services of the Arbitrator shall be shared equally by the parties.

ARTICLE 10 JOINT LABOR MANAGEMENT COMMITTEE

Section 1. Joint Labor Management Committee. In the interest of sound labor relations, a joint committee shall be maintained or no less than four (4) nor more than six (6) members, half of whom shall be from the Employer and half of whom shall be from the Union, for the purpose of discussing subjects of mutual concern. Such committee shall be co-chaired by the Human Resources Department and the Union President. It shall be the express purpose of this committee to build and maintain a climate of mutual understanding and respect to the solution of the common problems. Such meetings shall not be open but minutes shall be maintained unless both parties agree otherwise. To provide for productive meetings, the parties agree that they may exchange topic agendas at least twenty-four (24) hours in advance of any Joint Labor Management Committee meeting. Employee members of the committee shall not lose pay for participation during normal hours of work.

It is hereby agreed by and between the City of Barberton (Employer) and AFSCME Ohio Council 8 and Local 265 (Union) that in full final settlement of the successor collective bargaining agreement, the following shall be implemented:

1. The parties shall clarify each Tentative Agreement, citing article, section and the actual agreed upon language.
2. The parties shall number and bind the individual signed Tentative Agreements, provided they include language and incorporate them by specific references on this list.
3. All Tentative Agreements must be attached to final the Tentative Agreement Form and all parties must sign agreement.

It is further agreed that both Employer and Union negotiating committees fully support and endorse this settlement and will actively recommend it to their respective constituencies.

ARTICLE 11
NO STRIKE, NO LOCKOUT CLAUSE

Section 1. Illegal Work Stoppages. The parties to this Agreement mutually recognize and agree that the services performed by employees covered by this Agreement, are services necessary to the public health, safety and welfare. Under no circumstances will the Union or its representative cause or permit its members to cause any employee to take part in any strike, sit-down, stay-in or slowdown in any other curtailment of work or restriction of services or interference with the operations of Employer.

Section 2. Union Responsibility. In the event of a work stoppage, or any other curtailment by the Union, its members, or employees covered hereunder during the term of this Agreement, the Union by its officers, agents and stewards, shall immediately declare in writing such work stoppage, or any other curtailment to be illegal and unauthorized, and instruct employees to stop said conduct and resume work immediately.

Section 3. Strike Discipline. The Employer shall have the right to discipline, up to and including discharge, any employee who participates in or gives leadership to any activity herein prohibited.

Section 4. No Lock Out. The Employer agrees that so long as the Union complies with the requirements of this Article it will not lock out employees, nor will it do anything to provoke interruptions of or prevent such continuity of performance by said employees as such is required for the normal operation of the Employer.

ARTICLE 12
DISCIPLINARY PROCEDURE

Section 1. Employees Covered By Procedure. This procedure shall apply to all non-probationary employees.

Section 2. Just Cause. Discipline shall be imposed only for just cause.

Section 3. Suspension Pending Investigation. An employee may be suspended with pay at any time during the disciplinary procedure at the sole discretion of the Employer.

Section 4. Notice Of Pending Disciplinary Action. The specific act(s) for which discipline is being considered and/or imposed shall be specified in writing in the notice of discipline to the employee. The notice shall contain a reference to dates, times and places if possible. Where the Employer seeks as a penalty the imposition of a suspension without pay, demotion, or termination, the notice of discipline served on the employee shall be accompanied by a written statement that includes:

- A. The date and time of the pre-disciplinary meeting;
- B. The employee has a right to object by filing a grievance within five (5) working days of

receipt of the notice of Pending Disciplinary Action;

C. The grievance procedure provides for a hearing by an independent Arbitrator as its final step; and

D. The employee is entitled to representation as provided in Section 12.5.

Section 5. Representation. An employee shall be entitled to representation by a Union representative at any time after the employee receives the Notice of Pending Disciplinary Action. In the event the employee declines Union representation, the Union has the right to be present.

Section 6. Employee's Response. If an employee receives the notice provided in Section 4, such employee shall have five (5) working days to respond to such allegations if the employee so chooses. The employee may waive this right to respond, in writing.

Section 7. Notice of Disciplinary Action. Upon the conclusion of the meeting, if the Employer believes that just cause exists, discipline shall be imposed. The affected employee shall be notified in writing of the discipline. The employee may file a grievance at Step 3 of the grievance procedure within five (5) working days following the day the employee receives the Notice of Disciplinary Action. Nothing contained herein shall prohibit the Employer and the employee from mutually agreeing to informally meet to attempt to resolve the issue during the five (5) day period described herein. A suspension without pay and/or termination of an employee shall only be imposed concurrent with or subsequent to the Employer's decision at Step 3 of the grievance procedure.

Section 8. Resignation. An employee may resign at any time following the receipt of the Notice of Pending Disciplinary Action provided in Section 4. Any such resignation will be processed in accordance with the Employer's rules and regulations, and the employee's employment shall be terminated.

Section 9. Failure to Appeal. Failure to file a Step 3 grievance within the above time limit shall be construed as an agreement to the disciplinary action by the affected employee and the Union. All subsequent appeal rights shall be deemed waived.

Section 10. Settlement. A disciplinary matter may be settled at any time. The terms of the settlement shall be agreed to in writing. An employee executing a settlement shall be notified of the right to representation as provided in Section 5. A settlement entered into by an employee shall be final and binding on all parties. The Union shall be notified of all settlements.

Section 11. Records of Discipline. Records of disciplinary action shall cease to have force and effect to be considered in future discipline matters according to the following schedule:

Instruction and Cautioning	Nine (9) Months
Written Warning	Twelve (12) Months

ARTICLE 13 OVERTIME

Section 1. Overtime. The Employer shall be solely responsible for determining whether it is appropriate for an employee to work overtime. Employees shall be paid one and one-half (1 ½) times their regular rate of pay for all hours worked in excess of eight (8) hours in a day.

Section 2. Sundays/Seventh Day.

- A. “Sunday” commences at 12:00 Midnight on Saturday and ends at 11:59 PM on Sunday. Employee's working overtime on a Sunday, whose normal work week does not include Sunday, shall receive two (2) times their regular rate of pay for each hour worked.
- B. “Seventh day” is the employee's regularly scheduled second consecutive day off and commences at their regular shift schedule on the second consecutive day off and ends twenty-four (24) hours later. Employee's whose normal workweek includes Sunday shall receive two (2) times their regular rate of pay for each hour worked on the seventh day.
- C. In the various twenty-four (24) operations, current shift designations for the seventh day shall continue.

Section 3. Call-In Pay. A call-in occurs when an employee is required to report back to work after termination of the employee's regular shift or when an employee is required to report to work prior to the scheduled time for the start of the employee's shift. Employee's called in to work shall be paid the applicable hourly rate of pay for a minimum of three (3) hours.

In the event that an employee is called in and leaves prior to the completion of the three (3) hour minimum and is called back into work during the same three (3) hour period of the original call-in, such employee shall be paid for the total hours worked or three (3) hours, whichever is greater. At no time shall an employee receive more than nine (9) hours of call-in pay, in any twenty-four (24) hour period, for three (3) call-ins.

Section 4. Equalization. Overtime shall be offered within the classification where the work is required. A record of overtime hours worked and/or refused shall be posted in each Department.

On each occasion, the opportunity to work overtime shall be offered to the employee within the classification within the Department who has the least amount of overtime to the employee's credit except in the case of an emergency. The employee may initially refuse the overtime. If the employee refuses the overtime or fails to work it, the hours will be recorded and be part of the employee's credited overtime hours, as if worked. The overtime will then be offered to the employee within the classification within the department with the next least amount of overtime hours. A “negative contact” shall be considered a refusal for purposes of this

Section. A “negative contact” is an attempt to contact an employee that results in any of the following: no answer at the employee's residence; reaching a recording machine or voice mail; or the employee being otherwise unavailable.

In the event sufficient employees do not accept the overtime assignment, the Employer shall direct available employees to work the overtime beginning with the least senior available employee within the classification within the Department. Such overtime, when worked, shall be recorded as overtime hours.

The Employer shall not be obligated to call an employee for overtime when the employee on said day(s) reported off on any authorized leave of absence.

It is recognized that it may be necessary for the Employer to assign an employee who has been working on a task to continue working beyond the end of the employee's regularly scheduled work hours for a period of two (2) hours or less. The Employer may do so without balancing said overtime hours under the provisions of this Section in order to promote efficiency of operation.

Section 5. Probationary, Casual, Seasonal, Part-time, Temporary or Intermittent Employees. Probationary, Casual, Seasonal, Part-time, Temporary or Intermittent employees shall not be called in or assigned overtime except when all full-time employees have been called and are unavailable.

Section 6. New Employees. New employees who are eligible for overtime, employees returning to the active payroll, or new employees transferring to a new department shall receive the average number of hours of all employees in their classification.

Section 7. Overtime Violations. If the Union believes that an overtime scheduling error has occurred, the Union shall bring the error to the attention of the supervisor in sufficient time to permit the supervisor to correct the error. If the supervisor disagrees that an error has been made, the Union may immediately file a grievance at Step 3.

If the supervisor agrees that an error has occurred, the supervisor shall immediately attempt to correct the error before the overtime in question is worked. If that is not possible due to difficulty in contacting the missed employee or the employee employed no longer being available to work overtime, then the supervisor shall schedule the missed employee for an equivalent amount of overtime before the end of the pay period following the pay period in which the overtime scheduling error occurred. If the supervisor fails to schedule such overtime within the time frame stated above, the Employer shall pay the employee for the overtime that was scheduled in error.

ARTICLE 14 WAIVER IN CASE OF EMERGENCY

Section 1. Declaration of Emergency. In cases of circumstances beyond the control of the Employer such as an act of God, riot, flood, civil disorder and other similar acts, but excluding

strikes and other similar work stoppage acts on the part of other employees of the Employer, the following conditions of this Agreement shall be automatically suspended without recourse from the Union, upon declaration of said emergency by the Mayor:

- A. Time limits for Employer replies on grievances;
- B. Limitations on distribution of work assignments; and/or,
- C. Limitations to distribution of overtime.

In addition, and notwithstanding other Articles of this Agreement, the Employer reserves the right, during any such emergency to assign employees to work without regard to their employment classification.

When there is a bona-fide immediate threat to the health, safety and welfare of the citizens of the City of Barberton, the Mayor, or the Department Head at the directions of the Mayor, shall require an employee to work until such time as the threat is reduced or eliminated. The determination of who shall work and the number of hours which shall be worked during a threat to the health, welfare and safety of the citizens of Barberton, is within the discretion of the Employer. Failure of an employee to report for work during an emergency may be cause for disciplinary action.

ARTICLE 15 UNION RIGHTS

Section 1. Union Duties. The Employer agrees that the elected officers of the Union and/or the Union's duly appointed representatives shall be granted time off from duty hours, when necessary and without loss of pay, for the purpose of fulfilling their Union representation duties, which shall be defined as necessary meetings with the Employer for matters which may require discussion and consultation by both parties. Such matters shall include negotiations, workers' compensation, pension, work rules, the resolution of possible grievances and any other meetings, which are mutually set by the Employer and the Union. However, under no conditions shall more than three (3) Union representatives be excused from the employee's regular shift at any one time and/or be paid for attending meetings in accordance with the above.

Section 2. Union Access. One (1) accredited Union representative may have access to the Employer's facilities at reasonable times during working hours to consult with up to three (3) Union staff representatives, provided prior notification is given to the Human Resources Department, who upon such notification shall so advise the Union representatives' immediate supervisor. A list of accredited Union staff representatives will be furnished to the Human Resources Department each year or as changed take place. The Union agrees that no official of the Union (employee or non-employee) shall unduly interfere with, interrupt or disrupt the normal work duties of other employees.

Section 3. Elections. Whenever a polling of Union members is necessary, the Union shall be permitted use of the Employer's facilities as necessary, along with the placing of materials to conduct same.

Section 4. Union Leave. The Union shall be granted a total of eighty-four (84) hours leave per calendar year for transacting Union business such as district, state or international meetings, conventions or seminars or the performance of a state or international held office or position. Union officers needing such leave shall notify the Human Resources Department at least five (5) working days in advance of the date requested and will submit a written request for same. The use/granting of such leave shall be subject to the operational needs of the department. Unused Union leave balances may be carried over from calendar year to calendar year, up to a maximum accumulation of one hundred forty-four (144) hours sole at the discretion of and upon the approval of the Human Resources Department. In no event, shall Union leave be granted for attendance at or preparation for social or fund-raising activities.

Section 5. Bulletin Board. The Employer shall furnish a locking bulletin board at the current locations for use by the Union and the Employer which may be used for the following notices: recreational and social affairs of the Union, Union meeting notices; Union nominations and elections; reports of the Union committees and/or officers; rulings of policies of the international Union or local Union; rulings or mandatory notices of SERB or other related state or federal entity; and/or, communications between the Employer and the Union. Notices of announcements shall not contain anything political nor anything reflecting upon the Employer or any of its employees, nor any labor organization among its employees. If the Employer finds this article being violated, the Employer shall request the Union to immediately remove such notices. If violations of this article continue, the Employer reserves the right to cancel the provisions of this section.

Section 6. Storage of Union Property. The Employer agrees to provide adequate storage space for Union records in an available area as requested by the Union President. Further, the Employer assumes no responsibility financial or otherwise for the security or safekeeping of such files or records.

Section 7. Union Leave without Pay. At the request of the Union, a leave of absence without pay may be granted at the discretion of the Human Resources Department to any employee for employment with the Union, Ohio Council 8 or the International AFSCME Union. Such leave shall be for a time certain and seniority shall continue in the department and classification at which time such leave is granted. In the event the employee chooses to return to employment prior to the time that the stated leave was granted, the Employer shall, upon written notice, re-establish employment to the employee to the next position vacancy available in which the employee is qualified. In the event no vacancies exist at the time of the notice, the employee shall be placed on recall as provided in this Agreement. Upon reinstatement the employee's service with the Employer shall be considered continuous for the purpose of all benefits and rights as provided in this Agreement.

ARTICLE 16 WAGE RATES AND COMPENSATION

Section 1. Hourly Rates

Effective December 1, 2003, bargaining unit members shall receives wages as provided in

Appendix D.

The parties agree the Employer shall have the option to hire Electrical Inspector(s) at Step 5, if necessary, based upon Labor Market supply for this position.

Section 2. Longevity Steps. Wages shall be paid in steps commensurate with continuous service with the Employer, advancing in step on anniversary date as set forth below. “Anniversary date” for the purpose of wage step increase is determined as the date of original employment with the Employer.

<u>Longevity</u>	<u>Step</u>
Hire through One (1) year completed	1
One (1) Year through Three (3) years completed	2
Four (4) Year through Six (6) years completed	3
Seven (7) Year through Nine (9) years completed	4
Ten (10) Years or more	5

Section 3. Pension Pickup/Pay Periods. Wages shall be paid bi-weekly, via direct deposit, every other Friday. When a holiday falls on a Friday, employees shall be paid on the preceding Thursday. When a pair of holidays falls on both Thursday and Friday, employees shall be paid on Wednesday. Such wage compensation shall include payments previously termed as “longevity” and shall include payments for pension pickup as currently payrolled for all employees.

Section 4. Shift Differential. The Employer shall pay forty-six cents (\$.46) per hour and above the regular assigned second shift employees, and fifty-one cents (\$.51) per hour over and above the regular hourly rate of all regular assigned third shift employees. The Employer shall pay seventy-six cents (\$.76) per hour to employees assigned to the Swing Shift.

**ARTICLE 17
HOURS OF WORK**

Section 1. Work Week and Work Day.

A. The standard work week and work day for all employees shall mean the normal working time for an employee to perform the regularly assigned duties as established by the appropriate authority of the Employer in order to meet the varying needs and requirements of the different departments, sections, units and divisions. The normal workday shall be eight (8) hours per day, and the normal workweek shall be forty (40) hours per week.

B. Four (4) day, Ten (10) hour Work Weeks.

The workweek will be Monday to Friday. Normal workday shall be ten (10) hours per day; normal workweek will be forty (40) hours per week. Days off will be determined by

seniority. Normal days off will be Friday, Saturday, and Sunday, or Saturday, Sunday or Monday. With mutual agreement between management and an employee, the employee may take a mid week day off in lieu of Monday or Friday.

In areas of limited employee coverage it may be necessary to implement a rotating midweek day off. If a midweek day off is necessary, it will rotate between all employees in the area. Example: There are three employees assigned to Income Tax. To allow proper coverage, one employee may have to take a day off other than Monday or Friday. The midweek day off would rotate between all three employees. In this case, every third week an employee would take a midweek day off.

Section 2. Extreme Weather.

- A. The Employer agrees that when the outside temperature falls below zero degrees or is above ninety-five degrees, as verified by the United States Wether Bureau at the Akron Canton Regional Airport, any employee who normally works outdoors shall be permitted a fifteen (15) minute break every hour. This does not refer to those times an employee is required to work outdoors during a bona fide emergency. At those times the Employer shall attempt, to the best of their ability, to give some type of break as needed.

Section 3. Hours of Work. The normal schedule of operations for Beautification, Paint, Parks, Signal, Street, Utilities-Collection, and Utilities-Distribution departments shall be one (1) shift of eight (8) hours of work per day and forty (40) hours per week beginning at 7:30 a.m. and ending at 4:00 pm. Where additional shifts are required, such shifts shall be scheduled in eight and one-half hour increments. Utilities-Water Treatment Plant and Utilities-Waste Water Treatment Plant shall consist of eight (8) hour shifts with beginning and ending times as determined by the Employer.

The normal schedule of operations for the Building, Engineering, Finance, Planning, Police and Utilities-Customer Service departments shall be eight (8) hours of work with between thirty (30) and sixty (60) minute lunch. Actual work times shall be established by the supervisor, in cooperation with the employees in the department between 7:30 a.m. and 5:00 p.m. to provide flexible work schedule in recognition of the needs of employees, while maintaining necessary service to the public. Reasonable courtesy time shall be afforded to employees for the purpose informal breaks.

Section 4. Ten Hour Day-Four Day Workweek. The Finance Department shall work a ten (10) hour day, four (4) day workweek with the approval of the Employer and the majority of the employees in that department. The ten (10) hour day, four-day week rule may apply to all departments that find it feasible, with the approval of th Employer and a majority of the employees.

Section 5. Lunch Period.

- A. Employees shall receive a thirty (30) minute unpaid lunch during each day that such employee is at work for at least eight (8) hours. City vehicles or equipment shall not be

used by employees during their lunch periods unless such use is specifically approved by the appropriate supervisor. There shall also be a ten (10) minute paid rest period in the first half of the workday, and a ten (10) minute paid rest period in the last half of the workday. Reasonable courtesy time shall be afforded to employees for the purposes of cleaning up.

B. Four (4) Day, Ten (10) Hour Workweek

Employees shall receive a forty-five (45) minute lunch period between the hours of 7:00 a.m. and 6:00 p.m.

ARTICLE 18 TRAVEL, COURT AND CAR ALLOWANCE

Section 1. Travel. Employees who are scheduled to appear in court, travel to another work location, or attend training at some location other than the employee's normal work location shall be compensated for travel time if such travel is in excess of fifteen (15) miles and such travel occurs outside of the employee's normal work hours.

Section 2. Court. Employees who are required to appear in a court or an administrative agency on their regularly scheduled day off, on behalf of the Employer, shall be paid one and one-half (1 ½) times the employee's regular hourly rate of pay for a minimum of two (2) hours. An employee who is required to appear at a proceeding in the morning and a different proceeding in the afternoon shall be paid one and one-half (1 1/2) times the employee's regular hourly rate of pay for a minimum of four (4) hours. Court time shall not be paid to employees attending such proceedings during the employee's normal work hours.

Section 3. Car Allowance. The Employer shall pay a car allowance of whatever the maximum allowable under Internal Revenue Service regulations per mile for an employee who is required to use their personal car for the employee's business. Daily report forms are required and payments shall be made quarterly. Employees receiving a car allowance shall be required to provide, on a quarterly basis, the Finance Director with proof of automobile liability insurance in the amount of \$100,000/\$300,000 Bodily Injury and \$100,000/Property Damage. Failure to provide such quarterly proof shall result in no car allowance being paid. No car allowance shall be given except for such periods of time as the employee's vehicle was actually used for the Employer's business.

ARTICLE 19 OUT OF CLASSIFICATION PAY

Section 1. Out of Classification Pay. When an employee is required to perform work in a higher classification such employee shall be paid at the rate and appropriate step for the higher classification for all hours worked out of classification. Example: If a Laborer Step 4 works out of class for a Crew Chief Step 3, the employee working out of class shall be paid Crew Chief Step 4. Such compensation shall be paid as soon as possible.

Section 2. Assignment. It is understood that the Employer reserves the right to make, or not

to make, such out of classification assignments as is necessary and that need, not vacancy, determines when such assignments are to be made. The parties agree that the procedure for assigning employees out of classification shall be in accordance with seniority as defined in this Agreement, provided, such senior employee is the most qualified employee available for the work needed, as determined by the Employer.

If the Employer continues to work employees out of their classification in the same vacant position for more than sixty (60) consecutive days, other than authorized leave, the Employer shall meet with the Union to determine a reasonable solution to deal with such vacancy.

ARTICLE 20 HOLIDAYS

Section 1. Designated Holidays. Employees shall be granted holidays with pay for the following:

1. January 1st (New Year Day).
2. Third Monday in January (Martin Luther King Birthday).
3. Third Monday in February (President's Day).
4. Friday before Easter (Good Friday).
5. Last Monday in May (Memorial Day).
6. July 4th (Independence Day).
7. First Monday in September (Labor Day).
8. November 11th (Veterans' Day).
9. Fourth Thursday in November (Thanksgiving Day).
10. Fourth Friday in November.
11. December 24th (Christmas Eve).
12. December 25th (Christmas Day).

Section 2. Holiday Defined. Any holiday set forth in Section 20.1 begins at 12:00 Midnight on the actual date of the holiday and ends at 11:59 PM the same date. The current shift designations for holidays in Utilities-Water Treatment Plant, Utilities-Waste Water Treatment Plant and Parks-Fitness Center shall continue. If a holiday falls on a Saturday, the holiday will be celebrated on Friday and if it falls on Sunday, the holiday will be celebrated on a Monday.

Section 3. Holiday Compensation.

- A. Employees who are normally scheduled to work holidays and actually work a holiday due to their normal work schedule, shall be paid one and one half (1 ½) times their regular rate of pay in addition to their normal wages.
- B. Employees called in to work or held-over on a holiday shall be paid two (2) times their regular rate of pay in addition to their holiday pay.
- C. For the purpose of computing overtime, a holiday for which an employee receives holiday

pay shall not be counted as hours worked.

- D. Full-time employees shall not be entitled to receive holiday pay unless they work or are on approved, paid leave the last scheduled working day before the holiday and the first scheduled working day after the holiday. Sick leave must be approved by the Human Resources Department or it shall be forfeited and the holiday pay shall also be forfeited.
- E. Plant Operators. If the holiday falls on a plant operator's scheduled day off, the plant operator will receive holiday pay for eight (8) hours at the regular rate of pay or the employee may schedule another day off if such scheduling does not result in overtime.
- F. Part-time Employees. Part-time employees shall be entitled to holiday pay for the number of hours they are scheduled to work on the holiday.

**ARTICLE 21
VACATION**

Section 1. Vacation Eligibility. Full-time employees shall be entitled to vacation after they have completed twelve (12) months of service. Such employees shall then receive vacation according to the following schedule and in accordance with Section 21.2 of this Agreement:

One Year through Four Years Service completed.	10 days
Five Years through Nine Years Service completed.	15 days
Ten Years through Fourteen Years Service completed	20 days
Fifteen Years through Nineteen Years Service completed.	25 days
Twenty Years Service and Over completed.	30 days

Section 2. Vacation Rules. Vacation may only be scheduled in four (4) hour increments, except in Clerical where they may be scheduled in one (1) hour increments upon approval of the Supervisor.

- A. Credit shall be given for all service rendered during probation, provided the employee, immediately after probation, becomes an employee eligible to receive vacation. For the four (4) day, ten (10) hour workweek, a days work vacation is a ten (10) hour day.
- B. Vacation shall not be cumulative, except as provided in Section 21.3, and shall be taken during the year earned or forfeited. In no event shall an employee be permitted to use in excess of seven (7) weeks of vacation in any calendar year.
- C. Vacation shall be scheduled by the Department Head or supervisor so that the department shall at all times be adequately staffed. Scheduling of vacation shall be done so as to hold overtime hours to a minimum. Vacations shall be selected by employees according to seniority and vacation shall not be scheduled except at the individual employee's discretion and shall not be involuntarily scheduled. Vacations may be taken one or more days at a time. The employee must request vacation three (3) days in advance of requested vacation time. Said notice may be waived by the Department Head or

supervisor if such leave does not interfere with the operations of the shift or department.

- D. In the event it becomes necessary, due to an unforeseen depletion in staffing caused by accident or illness, cancellation of vacations shall occur in order of reverse seniority unless someone voluntarily cancels vacation who is not the least senior employee. Vacations that are cancelled may be rescheduled or carried over into the subsequent year in addition to that as provided in Section 21.3.
- E. When an injury, illness or death in the immediate family occurs verified by the Human Resources Department, on or before a scheduled vacation period, in which case the injury, illness or death in the immediate family, the vacation may be rescheduled at a later date convenient to both parties.
- F. An employee may be paid vacation pay in advance of scheduled vacations, provided that the employee gives no less than two (2) weeks written advance notice to the Finance Department.

Section 3. Vacation Carryover. Employees may carry over a maximum of five (5) vacation days from one year to the next.

Section 4. Vacation Payout Upon Death, Resignation, Layoff. In the case of death of an employee during employment, unused vacation pay shall be paid to the employee's spouse, next of kin, or if no survivors then to the employee's estate. If an employee resigns or is laid off, all vacation due up to and including the date of resignation or layoff shall be paid upon separation from employment.

Section 5. Vacation Bank. Employees with at least fifteen (15) years of service may “bank” one (1) week of vacation leave per year up to a maximum accumulation of fifteen (15) weeks to be paid upon retirement.

Section 6. Ohio Revised Code. This Article is intended to modify Ohio Revised Code 9.44 except for credit for prior service.

ARTICLE 22 UNIFORMS

Section 1. Uniform Allowance. Each employee in the Paint, Signal, Parks, Water Distribution and Street Departments shall be reimbursed up to four hundred dollars (\$400.00) for uniforms upon submission of detailed receipts.

Those employees including Maintenance Mechanics in the Utilities-Collection, Utilities-Customer Service and Utilities-Waste Water Treatment Plant departments shall have uniforms supplied and laundered.

ARTICLE 23
EDUCATION, LICENSURE AND CONTINUING EDUCATION

Section 1. Educational Benefits. The Employer will reimburse the entire cost of necessary charges for admission fees, textbooks, and tuition to any full-time employee who, upon being granted prior approval as provided herein, successfully completes a course in an employment related field of study in a two year, four year, or graduate program at an accredited institution. Such reimbursement shall be contingent upon employee receiving a grade of “C” or better. Approval is based upon the discretion of the Human Resources Department who may approve attendance to courses if requested by the employee in writing. Such request shall state clearly: 1) the employee's desires and extent of curriculum; 2) established benefits to the Employer for allowing same; and 3) some statement of assurance that the employee will in fact extend such skills to the Employer in the future without obligation to higher compensation. Such discretion of the Human Resources Department shall not be subject to the grievance procedure contained herein.

Section 2. Required Documentation for Payment. Upon approval as provided in Section 1, an employee claiming this benefits must submit evidence to the Employer that the charges and textbooks were required for a course in one of the above approved programs. In addition a paid receipt shall also be submitted showing payment in full for the charges, and evidence that the employee has successfully completed the course for which the charges were required. The Employer shall not reimburse the employee for charges for which the employee is entitled to reimbursement from any other entity.

Section 3. Maintenance of Licensure. Maintenance of licensure is the sole responsibility and expense of the employee except as provided specifically herein.

Any employee who is required by virtue of the employee's classification, or law to maintain a State of Ohio or federally issued certificate to perform the employee's duties shall maintain such license except that the cost of actual licensing fees, re-certification fees and testing fees for a state held certificate shall be paid by the Employer. In addition, time off with pay shall be granted to take such license tests if such occurs during normal working hours. In the event an employee fails to maintain or attain such required licensing the employee may either exercise bumping rights or take voluntary layoff as provided in this Agreement.

Any position which requires that the employee obtain a license, pass an examination, or any other type of certification, such certification shall be obtained as soon as practicable. However, if the employee fails to obtain such certification within two (2) years from date of appointment, the employee shall be returned to his/her previous position. If under extenuated conditions, after discussion between the Union and the Employer, the employee may be granted additional time to obtain the license. (Refer to 7.9 for displacement procedure).

Section 4. Continuing Education. When a license/certification requires continuing education, it is the sole responsibility of the employee to obtain the continuing education as required by the law.

The Employer shall pay all associated costs of continuing education, including overtime , if applicable. However, the Employer has the sole discretion in determining which particular classes the employee shall attend.

**ARTICLE 24
LIFE INSURANCE**

Section 1. Death Benefit. Full-time employees shall be covered by a fifty thousand dollar (\$50,000) life insurance benefit with twenty-six thousand dollar (\$26,000) Accidental Death and Dismemberment coverage as provided in the AFSCME Care Plan Life Insurance II policy, that is fully paid by the Employer.

Section 2. Eligibility. An employee is eligible for life insurance after thirty (30) days service. If the employee does not apply for group insurance within thirty (30) days , the insurance company may require a physical examination. When an employee retires, such employee will continue to be covered at the Employer's expense. Upon retirement or seventy(70) year of age, whichever comes sooner, the employee’s death benefit is reduced to twelve thousand five hundred dollars (\$12,500.00). An employee who leaves employment with the Employer by discharge or layoff can continue the insurance policy directly with the insurance company as an individual, but will have to pay a rate set by the insurance company and must convert the policy within thirty (30) days from the employee's last day of service with the Employer.

Section 3. Part-time Employees. No part-time employee shall be afforded life insurance.

**ARTICLE 25
MEDICAL INSURANCE**

The Union accepts the Medical Insurance Option 2, that includes the spousal waiver option that was presented by the Employer on November 25, 2009 and is listed below.

Medical Insurance - Spousal Waiver: If an employees spouse has medical coverage available to them from their Employer, said coverage must be used as the primary coverage for that spouse with the City of Barberton Health Care used only as secondary coverage. The birthday rule shall not apply for coverage of dependent children.

Per Pay Contributions		Network	Non-Network
\$15.00 Single	Deductible	\$200/\$400	\$600/\$1,200
\$25.00 Family	Coinsurance	80%	70%
Spousal waiver must be implemented	Max OOP	\$500/\$1,000	\$1,000/\$2,000
	ER	80%	80%
	Rx Retail	\$7/\$25/\$40	N/A
	Rx Mail	\$14/\$50/\$80	N/A

Section 1. Coverage and Premium. Upon the first day of the month following the completion of one (1) month of service, hospitalization medical coverage shall apply to full-time employees, their legal spouse, and eligible dependents. Effective June 1, 2007 Bargaining Unit employees shall contribute, via payroll deduction, twenty-five dollars (\$25.00) per pay period for family coverage and fifteen dollars (\$15.00) per pay period for single coverage. The Employer agrees to establish a Section 125 plan in order to make said deductions pre-tax. The current plan and coverage shall be continued for the duration of this Agreement.

Section 2. Administration. The Union acknowledges the Employer's right to seek and secure insurance carriers that most efficiently provide economical service. The Employer reserves the right to contract for cost cutting services either with the primary carrier or with an independent organization. These cost containment measures are, but not limited to: 1) mandatory second opinions; 2) thorough claims review; and/or, 3) pre-admission screening and testing.

Section 3. Changes in Coverage. The Employer reserves the right to adopt a plan of self-insurance/self-administered coverage. The Employer will give reasonable notice of changes in the name of the carrier either in writing or through the broadcast of benefit material. Should the Employer propose to change coverage or plans, it shall open negotiations with the Union on the issue.

Section 4. Retiree Coverage. The Employer shall provide all current and future retirees, their legal spouse and eligible dependents of the bargaining unit reimbursement for any health insurance deductibles paid by the retiree as the result of coverage as provided by the Public Employees Retirement System (PERS) health insurance provider. Said reimbursement, regardless of the amount of deductible imposed by the PERS health care provider, shall not exceed in any calendar year five hundred dollars (\$500) for single coverage, or seven hundred fifty (\$750) for family coverage. The retiree shall provide the Finance Director with the necessary documentation as provided by the PERS' insurance carrier indicating the amount of deductible incurred and paid. In addition, the Employer shall reimburse current retired members or their surviving spouses and eligible dependents, that amount to cover the cost of their contribution for purchase of spouse/dependent coverage through the PERS health care provider, up to a maximum of \$80.00 per month for spouses pre-Medicare, \$40.00 per month for spouses under Medicare and \$40.00 per month for dependents for the duration of this Agreement.

Section 5. Ohio AFSCME Care Plan. The Employer agrees to contribute to the Ohio AFSCME Care Plan for the purpose of providing Life Insurance II (\$17.00), Vision I (\$6.75), Hearing (\$.50), Prescription Card (\$150.00), Dental 2-A (\$34.00), and Legal (\$5.00), benefits to full-time employees in accordance with the rules and regulations of the Care Plan and all applicable federal and state laws.

Effective **January 1, 2010**, those contributions shall increase to **\$213.25** per month. Newly hired employees shall become eligible to enroll in to the Ohio AFSCME Care Plan during the first month after successfully completing the probationary period as provided under this Agreement.

Section 6. Surviving Spouse Coverage. The costs of continuing hospitalization insurance for the surviving legal spouse and eligible dependents of a deceased active employee shall be paid by the Employer. This benefit will cease upon remarriage or cohabitation of the spouse; the attainment of eligibility for other health care insurance, including federal and state programs; or attainment of the date of eligibility for retirement that the deceased would have enjoyed but for the employee's death.

ARTICLE 26 PROFESSIONAL LIABILITY

Section 1. Suit. No department regulation shall prohibit an employee from bringing suit arising out of the employee's authorized duties as an employee of the Employer.

ARTICLE 27 LEAVES OF ABSENCE

Section 1. Sick Leave. This section is intended to modify Ohio Revised Code 124.38-.384 except for credit for prior service.

Section 2. Accrual. All bargaining unit employees shall earn sick leave at the rate of four and six tenths (4.6) hours for every eighty (80) hours worked or compensated, and shall accumulate without limit. For the four (4) day, ten (10) hour workweek, a days sick leave is a ten (10) hour day.

Section 3. Definition. Sick leave may be used by an employee for only the following reasons:

- A. Illness, injury or pregnancy-related condition of the employee;
- B. Exposure of the employee to a contagious disease which could be communicated to and jeopardize the health of other employees;
- C. Examination of the employee, including medical, psychological, dental or optical examination;
- D. Illness, injury or pregnancy-related condition of a member of the employee's immediate family where the employee's presence is reasonably necessary for the health and welfare of the employee or affected family member;
- E. Examination, including medical, psychological, dental or optical examination of a member of the employee's immediate family member where the employee's presence is reasonably necessary.

Section 4. Sick Leave Use. An employee who is absent on sick leave shall report such absence to the employee's supervisor. Such report shall occur as soon as possible but in no event later than one-half hour before the start of the employee's shift absent extenuating circumstances.

The employee shall state the employee's name, reason for absence, expected length of absence and a phone number where the employee may be reached. An employee who becomes sick during working hours shall report such illness to their supervisor who shall either release the employee on leave or refer the employee to the office of the Human Resources Department. Before any absence may be charged against accumulated sick leave, the Human Resources Department may require proof of illness or injury.

Section 5. Abuse and Discipline. Any abuse of sick leave or the patterned use of such leave shall be sufficient cause for discipline. The Human Resources Department may:

- A. Require the employee to be examined by a physician designated, scheduled, and paid for by the Employer, or;
- B. Require a report from the employee's personal physician to be eligible for paid sick leave.

If, upon direction of the Human Resources Department:

- A. The employee fails to submit written proof of illness injury or death; or,
- B. The employee fails to submit to a medical examination at the cost of the Employer; or
- C. Documentation or proof as is submitted at attained through examination is insufficient to justify the employee's absence;

such leave may be considered an unauthorized leave and discipline imposed. Falsification of either a written signed statement or a physician certificate shall be grounds for disciplinary action.

Section 6. Return to Work Examination. The Human Resources Department may require an employee who has been absent due to personal illness or injury for more than three (3) consecutive days or more than five (5) days in a four (4) week period, prior to and as a condition of the employee's return to duty, to be examined by a physician designated and paid for by the Employer. Such examination shall be to establish that the employee is able to perform the normal duties of the employee's job and that the employee's return to duty will not jeopardize the employee's health and safety or the health and safety of other employees. If the employee disputes the result of such examination, the employee may obtain a second opinion from a physician of the employee's own choosing paid for by the employee. If a dispute still exists due to conflicting medical opinions, a third examination shall be conducted by a physician mutually selected and paid for by the Employer and employee.

Section 7. Immediate Family. When the use of sick leave is due to illness or injury in the immediate family, "immediate family" shall be defined as the employee's spouse, children, stepchildren, grandchildren, parents, or foster children.

Section 8. Sick Leave Incentive.

Employees who have:

- A. A minimum of fifteen (15) days of accumulated sick leave as of the first pay of December, and
- B. Have not had a deduction of sick leave in the preceding twelve (12) calendar months, may at the employee's option, sell back to the Employer two (2) days of accumulated sick leave and be compensated for sixteen (16) hours of pay at the employee's regular hourly rate.

Those employees who have:

- A. A minimum of fifteen (15) days of accumulated sick leave as of the first pay of December, and
- B. Sick leave deductions do not exceed one (!) day for the twelve (12) calendar months preceding, may, at their option sell back (1) day of accumulated leave and be compensated for eight (8) hours of pay at the employee's regular hourly rate.

Pay out shall occur in the last per period of the calendar year and, the Finance Director shall deduct the amount of sick leave sold back from the account of the employee. The Finance Director may require the employee to complete such form or request to facilitate proper payment and deduction as required.

Section 9. Personal Leave. All full-time employees shall be eligible for two (2) personal days during the first year of their employment after completing their probationary period and every January 1, thereafter without deduction of any other accrued leaves. Personal days shall be scheduled three (3) days in advance and must be approved by a supervisor. Approval shall not be unreasonably withheld and shall be predicated solely upon the operational needs of the department. For the four (4) day, ten (10) hour workweek, a days personal leave is a ten (10) hour day.

Section 10. Funeral Leave. Full-time employees shall receive paid funeral leave up to a maximum of three (3) days for the death of an employee's: spouse, parents (including step parents), children (including step or foster children), grandparents, grandchildren, siblings, mother-in-law, father-in-law, son-in-law, daughter-in-law. The maximum leave to be taken for the death of a brother-in-law, or sister-in-law, shall be one (1) day. For purpose of this section only, an employee may use personal leave and vacation time for additional days without the necessity of a three (3) day notice.

In order for an employee to be eligible for funeral leave, the employee must have been scheduled for work on the date or dates for which leave is requested. The funeral leave shall include the date of death and/or the date of the funeral, provided if either said dates occur on the employee's scheduled day off, such leave shall be taken on the scheduled days of work

immediately following said dates. If more than one (1) day is claimed, the days claimed must be continuous, provided that the scheduled day off does not contribute to a break in continuity. The Human Resources Department may authorize the use of sick leave for an out of state funeral; or time off without pay, for the employee to attend the funeral of a close friend or relative not defined above.

Section 11. Jury Duty. Full-time employees shall receive paid jury duty leave if such jury duty occurs during the employee's normal working hours. Any compensation for jury duty need not be remitted to the Employer. Where there is less than one (1) hour of work time remaining on an employee's scheduled work day, the employee need not report back to work when released from jury duty.

Section 12. Subpoena. Full-time employees shall receive paid leave if subpoenaed to appear, during the employee's normal work hours, before any court, commission, board or other legally constituted body authorized by law to compel the attendance of witnesses, where the employee is not a party to the action. Any compensation or reimbursement for court attendance compelled by subpoena, when such duty is performed during an employee's normal working hours, need not be remitted to the Employer.

Section 13. Family and Medical Leave. In accordance with the federal Family and Medical Leave Act, any leave taken by an eligible employee, whether paid or unpaid, for the following reasons, shall be applied against the employees' entitlement to twelve (12) weeks of leave during the twelve (12) month period commencing January 1 of each year.

- A. The birth or adoption/foster care of a child;
- B. To care for a child within one (1) year of a child's birth or placement;
- C. To care for the employee's spouse, son, daughter, or parent with a serious health condition; or,
- D. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

Employees shall not lose seniority during FMLA leave. An employee requesting FMLA leave must provide the Employer with a written certification by a physician on a form provided by the Employer. An employee returning to work after FMLA leave for the employee's serious health condition or pregnancy must provide the Employer with a written certification by a physician that the employee is able to return to work.

Section 14. Military Leave. A full-time employee who is a member of any United States Military Reserve or National Guard unit and is required to engage in annual training exercises, shall receive the employee's regular wages for up to four (4) weeks per year. Additional time may be granted subject to prior approval by the Department of Human Resources. If such leave is granted, the Employer shall only be obligated to pay the difference between the employee's military pay and the employee's regular pay. The City shall continue medical benefits for any of

the employee's dependents for six (6) months if the employee is called to active duty.

This section is intended to modify Ohio Revised Code 124.29.

ARTICLE 28 INJURY LEAVE

Section 1. Injury Benefit. Employees who are injured or incapacitated in the scope and performance of their duties or work and are entitled to workers' compensation insurance, shall be entitled to the employee's regular rate of compensation without reduction in sick leave status, if and only if said injury or incapacitation is reported to management prior to the completion of the employee's shift or at the first available opportunity. Said injury shall be readily ascertainable and of such a nature to prevent the employee from engaging in the duties of their employment. Said employee shall receive benefits as stated above for a three (3) month period computed on a calendar month basis. Said period shall begin on the date of injury. Said employee shall provide medical certification of the disablement before entitlement.

Section 2. Benefit Period. Upon the exhaustion of the three (3) month period above, the employee shall have the option to use accrued sick leave or of relying solely upon workers' compensation weekly benefits. Should the employee elect to use sick leave, days used shall be reinstated upon return to duty. Should the employee retire under the disability provisions of the PERS, such sick days shall be reinstated for the purposes of severance as provided in this agreement. Should an employee rely solely upon worker's compensation weekly benefits, or upon the exhaustion of any accrued sick leave, the employee's continuous service and seniority shall continue. In either case, when an employee receives workers' compensation and sick leave pay, the weekly wage paid by workers' compensation shall be paid back by the employee to the Employer.

Section 3. Workers' Compensation. On-duty injuries shall be handled in accordance with the present rules and regulations set up under the Ohio workers' compensation laws and provisions of the PERS. All employees who are injured or who are involved in an accident during the course of their employment shall file an accident report on a form furnished by the Employer. No matter how slight the incident, all such injuries should be reported to the employee's immediate supervisor and any necessary medical attention shall be arranged by the Employer. The Employer shall provide assistance to employees in completing all necessary forms when requested with copies of accident and physician reports attached.

Section 4. Workers' Compensation Representation. If an employee or the employee's designated representative is scheduled to work on a date when (1) a workers' compensation hearing or appeal is scheduled to be heard, or (2) the employee's presence is required before the Bureau of Workers' Compensation or Industrial Commission for the filing or processing of any claim needed to satisfy a time limit as prescribed by law, and the employee is unable to change either the date of such hearing or time limit, the employee or the employee's representative shall be released from duty to perform same without loss of pay, provided a reasonable effort to reschedule such action off-duty has been made. This provisions shall not include any appeal filed by the employee or the employee's representative in a court of law beyond the Ohio

**ARTICLE 29
SEVERANCE BENEFIT**

Section 1. Severance. Full-time employees shall be granted severance pay upon retirement. “Retirement”, as used in this section, is defined as: a break in service with the Employer; the employees has met the criteria of the PERS for retirement; and, the employee is eligible to receive retirement benefits at the time of the break in service. The amount of allowable days of severance pay shall be computed as follows: one and eight tenths (1.8) days per completed year of service with the City of Barberton shall be granted, plus the employee's accumulated sick leave maximum at the time of retirement. In no event shall more than sixty (60) days of accumulated sick time be allowed in computed severance pay of an employee. The total of these two (2) figures represents the total amount of days that an employee is entitled to for the purpose of computing severance pay. The maximum number of days that may be granted to an employee, as severance pay, shall not exceed one hundred and five (105) calendar days. The rate of pay shall equal Plant Operator III, Step 5.

The total dollar amount of severance pay shall be computed by using the following equation at retirement:

(Severance Days + Sick Leave Days)**
x Eight (8) hours

= Total Hours Payable
x Plant Operator III

= Total Severance Payable

** Maximum Total Days Payable Not to Exceed One Hundred and Five (105)

EXAMPLE: Employee “A” is entitled to one hundred and five (105) days for purposes of computing severance pay. $(105 \times 8) \times (\$19.89) = \$16,707$.

Section 2. Severance At Death. In case of the death of an employee, which death occurs during that employee's tenure, the employee's spouse, or if no spouse, the employee's estate, shall receive an amount of money equal to that amount which the employee would have received had the employee retired on the date of said employee's death, and had the employee retired under PERS. Said amount of money shall be computed in the same manner as severance pay is computed for an employee retiring under a recognized retirement system. All limitations that would apply to an employee eligible for severance pay will be applicable in determining the amount to be paid to the employee's surviving spouse or to the employee's estate should there be no surviving spouse.

Section 3. One-Time Benefit. Severance pay shall be allowed to the same employee only once. Should an employee retire and receive severance pay, and then be re-employed by the Employer, that employee shall not again be eligible for another severance pay when that

employee retires. Further, the re-employed employee's spouse or estate shall not be entitled to any amount of money as provided in this article should that employee die while employed by the Employer. Severance pay shall not be granted to an employee that is fired or that voluntarily terminates employment with the Employer.

Section 4. Severance Payment Due Date. Severance pay shall be paid by the Finance Director on the date that the employee's retirement becomes effective, provided that the employee notifies the Finance Director at least ten (10) days prior to that date.

ARTICLE 30 SCOPE OF EMPLOYMENT

Section 1. Job Descriptions. New job descriptions shall be developed by the Employer and the Union.

Section 2. Contracting Out. The Employer reserves the right to contract or subcontract out projects which require a high degree to specialization that bargaining unit classifications either do not perform or are not qualified to perform. The employees current workweek shall not be shortened or curtailed and the employees rate of pay shall not be affected by such contracting out. The Employer shall not use this section to erode bargaining unit work. The Employer and the Union agree that new operations which require the expenditure of tax dollars and which provide a service to the citizens of the Employer are potentially within the scope of the Agreement. In the event of the creation of new services or jobs, it is agreed that the Employer and the Union shall work together to insure that the vital and auxiliary services traditionally within the scope of the bargaining unit shall be performed by bargaining unit employees. No current contract between the Employer and a third party performing work for the Employer shall be jeopardized by this section. The Employer agrees that no jobs now being performed by bargaining unit employees shall be transferred by contract or subcontract to any other body or corporation with which the Employer has a contractual or cooperative relationship.

Section 3. Welfare/Court Appointed Workers. Welfare/Court appointed workers may continue to perform services in Parks and Beautification departments as long as such performance does not result in the elimination of bargaining unit classifications.

Section 4. Temporary Employees. The Employer shall have the right to use temporary, non-bargaining unit employees on a project or task basis where such project or task is anticipated to be of limited duration. It is understood that the use of temporary employees shall not deprive bargaining unit employees of overtime opportunities and shall not erode the bargaining unit.

ARTICLE 31 SAFETY

Section 1. Safety Program. Safety is a mutual concern to the Employer and the Union. The Union will cooperate with the Employer in encouraging employees to observe all safety rules and practices necessary to maintain a safe and healthy workplace. A Safety Committee shall be established consisting of members designated by the Employer and members from the Union.

The Employer shall make every reasonable effort to comply with federal, state, or local safety and health laws, rules and regulations.

Section 2. Equipment/Personal Protection. The Employer agrees to maintain its equipment in safe, reliable, working order and to provide periodic and regular inspection of same. If the Employer requires personal protective equipment beyond that currently provided by the Employer, the Employer agrees to provide said equipment at no cost to the employee and the employee agrees to properly use such equipment. First aid kits shall be made available in all work areas and easily accessible to all work sites. All Employer vehicles shall carry first aid kits in their cabs or other accessible locations.

Section 3. Unsafe Conditions/Reporting. Employees shall promptly report any unsafe conditions to their supervisors. If the employee is unsatisfied with the supervisors response or reply thereto, the employee shall report such condition to the Human Resources Department.

ARTICLE 32 NEW JOB CLASSIFICATIONS

Section 1. Whenever the Employer creates a new job classification it shall notify the Union of such action. Such notification shall state the job classification title, whether or not the classification is to be included/excluded from the bargaining unit, a description of the duties for such classification, and the initial wage rate/schedule for such classification.

Section 2. The parties shall meet to determine the inclusion or exclusion of such classification within the bargaining unit. **Should the parties agree that the new classification is to be included in the bargaining unit, both the Employer and the Union shall file a joint petition to amend the bargaining unit with the State Employment Relations Board (SERB). The Union shall have the right, within thirty (30) calendar days from receipt of notice from the Employer, to file a notice to negotiate concerning the initial wage rate/schedule established by the Employer.**

Section 3. Should the parties disagree on the inclusion/exclusion of the new classification in the bargaining unit, the Union or Employer may petition to clarify the bargaining unit with the State Employment Relations Board (SERB). If SERB determines that the new classification is to be included in the bargaining unit, the Union may file a notice to negotiate concerning the initial wage rate or schedule established by the Employer within thirty (30) calendar days of that determination.

Section 4. If negotiations are initiated and the parties are unable to reach agreement, the issue may be submitted to SERB for resolution in accordance with R.C. 4117.

ARTICLE 33
DURATION

STATE EMPLOYMENT
RELATIONS BOARD

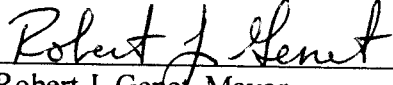
2010 MAR 15 P 12:41


Section 1. Term. Agreement between the City of Barberton and the American Federation of State, County and Municipal Employees, Local 265, and Ohio Council 8, AFL-CIO, effective upon ratification and expiring one (1) year after the ratification date, unless either party serves written notice, not less than sixty (60) days prior to the termination date, to modify or re-negotiate this Agreement.

Section 2. Successor and Execution. The parties hereto agree that during the negotiations which led to this Agreement, that each had the opportunity to submit proposals on any subject not prohibited by law, and that the agreements reached by the parties are contained in this Agreement. Accordingly, and any previous agreements, either oral or written are hereby canceled. The Covenants and Agreements herein contained shall bind and ensure the benefits thereof to the parties, their representatives, successors, and assigns. This Agreement shall be binding upon the successors and assigns of the parties hereto and no provisions, terms or obligations herein contained shall be affected, modified, altered or changed in any respect by consolidation, merger, sale, transfer or assignment of either party hereto, or affected, modified, altered or changed in any respect by any change of any kind in the legal status, ownership or management of either party.

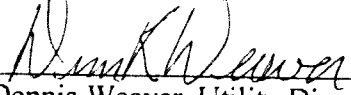
IN WITNESS WHEREOF, the City of Barberton has cause this Agreement to be executed by it's Mayor and Director Public Service; and the Union, Ohio Council 8 and local 265 of the American Federation of State, County and Municipal Employees (AFSCME) AFL-CIO, which has caused this Agreement to be executed by it's President and AFSCME Representative this 25 day of FEB, 2010, in the City of Barberton, Ohio.

FOR THE EMPLOYER

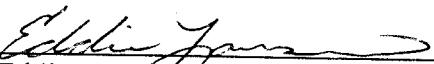

Robert J. Gere, Mayor
City of Barberton



Elwood Palmer, Director of Public Ser.

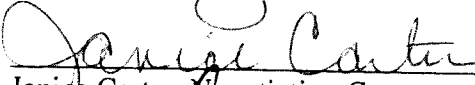

Raymond Todd, Service Director, HR

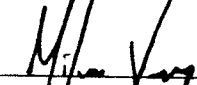

Dennis Weaver, Utility Director

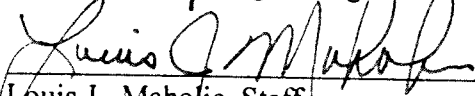
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Eddie Lawson, President
AFSCME Local 265


Todd Fry, Chapter Chairperson


Janice Carter, Negotiating Comm.


Michael Venay, Negotiating Comm.


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Representative, Ohio Council 8



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Robert L. Thompson
Regional Director

March 9, 2010

John A. Lyall
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Harold Mitchell
First Vice President

Eric Clemons
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Athens
John Dillon, II
Mary A. Snow

Cincinnati
Emily M. Moore
Randal F. Moore

Cleveland
Pamela D. Brown
Julie M. Albers

Columbus
Douglas C. Moore
Leslie A. Patterson

Dayton
Ruth Ritchie
Kenneth Sulfridge

Toledo
Sandra L. Coutcher
Thomas Kosek, Jr.

Youngstown
Pamela S. Shelton
Michael Niro

Trustees

Kimberly N. Gaines
Peg N. McClain
Helen S. Youngblood

Ms. Tammy Johnson
Research Department
State Employment Relations Board
65 East State Street, 12th Floor
Columbus, Ohio 43215-4213

Re: **Case No. 09-MED-10-1111**
AFSCME, Ohio Council 8, Local 265 and City of Barberton

Dear Ms. Johnson,

Per the email sent to you on this day, please find enclosed a copy of the signature page to attach to the contract for the above mentioned subject matter. Please call me if you have any questions.

Thank you for your cooperation in this matter.

Sincerely,

Barbara McMasters
Office Secretary
Ohio Council 8

/bm
cc-file
attachment



APPENDIX "A"
COST SAVING DAYS (CSD)

The Union accepts the Employer's proposal that each employee be required to take seven (7) cost saving days (56 hours) during the calendar year March 1, 2010 to December 31, 2010 under the following terms:

1. Employees shall have their bi-weekly pay reduced by 2.545 hours for each of the twenty-two pay dates in calendar year 2010. In exchange for the 2010 reduction in pay, employees shall receive an allocation of fifty-six (56) hours of CSD leave. Said leave shall be used by the bargaining unit employees between March 1, 2010 and December 31, 2010.
2. CSD leave shall be taken at such time as the employee and supervisor mutually agreed upon. Employees' CSD leave requests are approved or denied based upon operational needs. All CSD leave must be requested and authorized on a form designated by the Employer and returned to the employee within three (3) work days.
3. CSD leave shall be granted in increments of one (1) hour.
4. CSD leave assigned for a certain calendar year as set forth above must be used during the calendar year and the dates specified above. CSD leave cannot be carried over from one calendar year into the next calendar year by an employee, and if not used by the employee shall be forfeited. In the event of such forfeiture, the reductions in pay set forth above shall continue to be applied to that employee at the same rate of pay as if he or she used all CSD leave.
5. Employees shall continue to accrue sick and vacation accruals based on their ordinary hours worked (80 hours per pay for full-time employees), and those accruals shall not be reduced or diminished as a result of CSD leave. Additionally, service credit and entitlement to insurance benefits shall not be reduced or impacted by CSD leave.
6. CSD leave taken during a pay period shall be included as hours actually worked and as active pay status for purposes of overtime or comp time.
7. An employee shall not lose holiday pay for a holiday if he or she elects to take CSD leave on a day immediately preceding or following a holiday.
8. Any employee hired from outside shall be required to use a pro-rated portion of the CSD leave and commensurate reduction in pay for the balance of March 1, 2010 through December 31, 2010.
9. Employees who separate employment for any reason prior to the end of calendar year 2010, shall have their final pay reduced by any CSD leave used by the employee that

exceed the number of hours deducted from the employee's pay through the date of separation for that calendar year.

10. CSD leave shall run concurrent with FMLA leave. Employees must use any CSD leave that they are able to schedule as the first days of any approved FMLA unpaid leave of absence.
11. Any employee that has reached the maximum accumulation of vacation time set forth in Article 21, Vacation, shall be able to carry over into calendar year 2011 an additional amount of vacation time equal to fifty percent (50%) of the total CSD time required of that employee for calendar year 2010, in excess of the maximum vacation accumulation amount. Said employee must use the additional vacation accrual prior to December 31, 2012, and will forfeit any additional accumulation on December 31, 2012. While permitted to accrue the additional vacation time, as set forth herein, in the event said employee separates employment with the City prior to exhaustion of the additional accrued vacation time, he or she shall not be paid for the additional accrued vacation time, and the maximum payout for accrued vacation time shall remain the number of hours set forth in Article 21, Vacation.

APPENDIX “B”
MEMORANDUM OF UNDERSTANDING.

_____The Employer agrees that there will not be layoffs of any AFSCME bargaining unit member covered by the terms of this Agreement thru June 1, 2010.

APPENDIX “C”
MEMORANDUM OF UNDERSTANDING

_____The Employer agrees that should seasonal workers be employed during the term of this Agreement the number of seasonal workers shall not exceed the number that were employed in 2009.

APPENDIX "D"

**AFSCME WAGE TABLES
Effective December 1, 2008**

Effective December 1, 2008	Step 1	Step 2	Step 3	Step 4	Step 5
Account Clerk	\$14.35	\$15.01	\$15.68	\$16.34	\$17.01
Account Clerk Sr.	\$16.24	\$17.08	\$17.92	\$18.76	\$19.57
Auto Mechanic	\$17.99	\$18.65	\$19.34	\$20.01	\$20.67
Auto Mechanic Sr.	\$19.57	\$20.19	\$20.79	\$21.41	\$22.00
Auto Mechanic Master	\$21.07	\$21.67	\$22.26	\$22.86	\$23.48
Clerk	\$13.99	\$14.46	\$14.94	\$15.44	\$15.92
Clerk Sr.	\$15.80	\$16.42	\$17.09	\$17.71	\$18.33
Clerk Administrative	\$16.24	\$17.08	\$17.92	\$18.76	\$19.57
Electrician	\$18.54	\$19.35	\$20.16	\$20.98	\$21.80
Electrician Sr.	\$19.89	\$20.65	\$21.43	\$22.20	\$22.97
Electrician Master	\$21.45	\$22.06	\$22.69	\$23.30	\$23.89
Electrical Inspector	\$23.70	\$24.38	\$24.99	\$25.68	\$26.33
Equipment Operator I	\$17.55	\$17.94	\$18.33	\$18.74	\$19.10
Equipment Operator II	\$18.53	\$18.90	\$19.26	\$19.65	\$20.03
Equipment Operator III	\$19.18	\$19.75	\$20.30	\$20.86	\$21.40
Group Leader	\$19.57	\$20.14	\$20.71	\$21.25	\$21.82
Group Leader Sr.	\$20.99	\$21.80	\$22.60	\$23.42	\$24.24
Handyman	\$17.48	\$18.12	\$18.77	\$19.41	\$20.03
Handyman Sr.	\$19.05	\$19.79	\$20.53	\$21.28	\$22.01

Effective December 1, 2008	Step 1	Step 2	Step 3	Step 4	Step 5
Inspector (Building)	\$19.57	\$20.14	\$20.71	\$21.25	\$21.82
Inspector Sr. (Building)	\$20.99	\$21.80	\$22.60	\$23.42	\$24.24
Inspector-Property Maintenance	\$18.53	\$18.90	\$19.26	\$19.65	\$20.03
Inspector PM Technician	\$20.28	\$21.08	\$21.87	\$22.66	\$23.45
Laborer	\$14.50	\$15.01	\$15.52	\$16.04	\$16.54
Laborer Sr.	\$16.96	\$17.46	\$17.95	\$18.46	\$18.94
Maintenance Mechanic Trainee	\$17.48	\$18.11	\$18.77	\$19.41	\$20.03
Maintenance Mechanic	\$17.99	\$18.65	\$19.34	\$20.01	\$20.67
Maintenance Mechanic Sr.	\$19.57	\$20.19	\$20.79	\$21.41	\$22.00
Maintenance Mechanic Master	\$21.07	\$21.67	\$22.26	\$22.86	\$23.48
Painter	\$16.80	\$17.56	\$18.31	\$19.07	\$19.82
Painter Sr.	\$18.34	\$18.93	\$19.51	\$20.10	\$20.67
Plant Operator I	\$19.52	\$20.28	\$21.02	\$21.76	\$22.50
Plant Operator II	\$21.40	\$21.87	\$22.32	\$22.79	\$23.26
Plant Operator III	\$22.22	\$22.70	\$23.16	\$23.65	\$24.12
Plant Operator Master	\$23.12	\$23.74	\$24.38	\$24.99	\$25.61
Plant Technician	\$17.48	\$18.11	\$18.77	\$19.41	\$20.03
Plant Technician Sr.	\$19.52	\$20.28	\$21.02	\$21.76	\$22.50
Signal Man Trainee	\$17.48	\$18.11	\$18.77	\$19.41	\$20.03
Signal Man Technician	\$19.57	\$20.14	\$20.71	\$21.25	\$21.82
Signal Man Senior	\$20.99	\$21.80	\$22.60	\$23.42	\$24.24
Service Worker	\$16.58	\$17.19	\$17.76	\$18.36	\$18.94
Service Worker Sr.	\$18.04	\$18.54	\$19.05	\$19.54	\$20.03

Effective December 1, 2008	Step 1	Step 2	Step 3	Step 4	Step 5
Strategic Planner	\$20.99	\$21.80	\$22.60	\$23.42	\$24.24
Systems Operator	\$19.53	\$20.48	\$21.40	\$22.32	\$23.26
Systems Operator Senior	\$22.22	\$22.70	\$23.16	\$23.65	\$24.12
Systems Operator Master	\$23.12	\$23.74	\$24.38	\$24.99	\$25.61
Technician	\$18.53	\$19.19	\$19.90	\$20.55	\$21.22
Technician Sr.	\$20.28	\$21.08	\$21.87	\$22.66	\$23.45
PT Activities Coordinator	\$11.63	\$12.18	\$12.75	\$13.32	\$13.88
PT Animal Control	\$10.30	\$10.91	\$11.52	\$12.12	\$12.72
PT Custodian	\$8.48	\$9.09	\$9.69	\$10.29	\$10.91
PT Elevator Operator	\$8.48	\$9.09	\$9.69	\$10.29	\$10.91
PT Laborer	\$8.48	\$9.09	\$9.69	\$10.29	\$10.91
PT Lifeguard	\$8.48	\$9.09	\$9.69	\$10.29	\$10.91
PT Specialist	\$9.69	\$10.30	\$10.91	\$11.52	\$12.12
PT WSI	\$9.09	\$9.69	\$10.29	\$10.91	\$11.52