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AGREEMENT
BETWEEN
THE CITY OF FOSTORIA
AND
OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
SERGEANTS AND CAPTAINS UNIT

Expires December 31, 2019

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ARTICLE 1
PURPOSE

THIS AGREEMENT is entered into between the City of Fostoria, Ohio (hereinafter referred to as the “City,” “Employer” or “Management”), and the Ohio Patrolmen’s Benevolent Association (hereinafter referred to as the O.P.B.A.), in recognition of the common interest in public service to the citizens and for the purpose of achieving better understanding between the parties as well as for the purpose of providing for the peaceful settlement of any differences which may arise between the parties.

ARTICLE 2
MANAGEMENT’S RIGHTS

Except to the extent expressly modified by a specific provision or provisions of this Agreement, the Management reserves and retains solely and exclusively all of its statutory and common law rights to manage the operation of the Division of Police of the City of Fostoria, Ohio, as such rights existed prior to the execution of this or any other previous agreement with the O.P.B.A. The sole and exclusive rights of the Management, which are not abridged by the Agreement, shall include, but are not limited to, its rights to determine the facts which are the basis of the Management decisions; to establish or continue policies, practices or procedures for the conduct of the Division of Police and its services to the citizens of Fostoria, and from time to time to change or abolish such practices or procedures; the right to determine and from time to time redetermine the number, locations, and relocation and types of its employees or to discontinue any performance by employees of the City of Fostoria within the Division to determine the number of hours per day or week any operation of the Division of Police may be called on; to select and determine the number and types of employees required; to assign such work to such employees in accordance with the requirements determined by Management authorities; to establish training programs and upgrading requirements for employees within the Division; to transfer, promote or demote employees for just cause, or to lay off, terminate or otherwise relieve employees from duty for lack of work or other legitimate reasons, to determine the facts of lack of work or other legitimate reasons; to continue, alter, make and enforce reasonable rules for the maintenance of discipline; to suspend, discharge, or otherwise discipline employees for just cause and otherwise to take such measures as the Management may determine to be necessary for the orderly and efficient operation of the Division of Police for the City of Fostoria, Ohio, provided, however, nothing herein shall prevent employees from presenting their grievances for an alleged violation of any Article or specific term of this Agreement.

ARTICLE 3
COOPERATION

Management and the O.P.B.A. shall use their best efforts to fulfill their responsibilities as public servants, to achieve better understanding between the Management and the employees represented by the O.P.B.A., to assure the proper and uninterrupted functions of the services of the City, and to promote mutual respect and fair dealing between the Management and employees represented by the O.P.B.A.

ARTICLE 4
RECOGNITION OF OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

Section 4.1. Bargaining Rights. Management hereby recognizes the Ohio Patrolmen's Benevolent Association as the sole and exclusive bargaining agent for all sworn personnel in the classification of Police Sergeant and Captain, inclusive.

Section 4.2. Bargaining Unit Exclusions. All employees whose classification is not listed in Section 1 above shall be excluded from the bargaining unit.

In addition, the following groups of employees are excluded from the bargaining unit:

- A. Those classes which, on the effective date of this Agreement, are represented by other recognized bargaining agents.
- B. Employees within their twelve (12) months probationary period.
- C. Temporary, seasonal and part-time employees.
- D. Management employees.
- E. Non-supervisory patrol officers.

Section 4.3. Non-discrimination. There shall be no discrimination, harassment, or pressure by the City or the O.P.B.A. against any employee on the basis of such employee's membership or non-membership in the Ohio Patrolmen's Benevolent Association. Additionally, both Management and the O.P.B.A., shall comply with all laws prohibiting discrimination based upon race, color, creed, national origin, religion, sex, political affiliation or disability which can be reasonably accommodated.

ARTICLE 5
OHIO PATROLMEN'S BENEVOLENT ASSOCIATION BUSINESS

Section 5.1. Stewards. The O.P.B.A. is authorized to select one (1) steward and one (1) alternate steward who may act as steward if the steward is absent or is the grievant and shall certify to Management the names of the steward and alternate. If a steward's name or alternate's name is not listed, he will not be granted time away from his job to conduct approved union business.

Section 5.2. Investigation. The steward, upon reasonable notice by him/her and authorization from the Chief or his/her designee, shall be allowed reasonable time off without loss of pay to investigate grievances, alleged grievances and attend disciplinary investigations and/or hearings. Permission to investigate and/or process such grievances will not be unreasonably denied.

Section 5.3. Advisors. Up to two (2) O.P.B.A. advisors may consult with employees in the assembly or meeting area designated by Management before the start of and at the completion of the day's work, and they shall be permitted access to work areas at all reasonable times only for the purpose of adjusting grievances, assisting in the settlement of disputes, and assisting in the settlement and for the purpose of carrying into effect the provisions and aims of this Agreement. This privilege is extended subject to the understanding that work assignments are not, in fact, interfered with.

Section 5.4. Negotiating Committee Member. Reasonable time off for a Negotiating Committee Member may be granted by the Chief during the negotiating period referenced in the Duration Article. Such time off shall not be unreasonably denied.

Section 5.5. No Loss or Gain. Any authorized activity under this Article shall be conducted on the basis of no loss or gain in regular daily pay as a result of such activity.

Section 5.6. Union Business. Upon forty-eight (48) hours written notice to the Chief (or designee), the O.P.B.A. Bargaining Committee Chairman (or designee) and one other, shall be granted up to two (2) duty days per year with pay to perform Union functions, plus one (1) additional day each without pay for a total of six (6) days, but without loss of benefits to attend O.P.B.A. functions. Said bargaining unit members shall be allowed to charge such leave to vacation, comp time or any other time which said employee may be entitled to. Employees may be from the same shift as long as no overtime liability is created by the absence of the bargaining unit employees, as foreseen at the time of the request for leave.

ARTICLE 6

SCOPE OF BARGAINING

As provided by Ohio Revised Code Section 4117.08, the O.P.B.A. has sole and exclusive bargaining rights on all matters relating to:

- A. Wages
- B. Hours
- C. Fringe Benefits
- D. Other terms and conditions of employment

ARTICLE 7

LAYOFF, DEMOTION, REDUCTION IN FORCE AND RECALL

Section 7.1. Bargaining unit employees may be laid off only for lack of work or lack of funds. Said layoff shall take effect only after being given seven (7) days prior written notice.

Section 7.2. In the event of a layoff situation, bargaining unit employees will be laid off in accordance with their seniority within rank (last hired, first laid off).

Section 7.3. A bargaining unit employee who is laid off shall be subject to recall for a period of three (3) years provided he/she is qualified to perform the job.

Section 7.4. A recall from layoff will be based upon seniority (last laid off, first recalled) within rank.

Section 7.5. Before any bargaining unit employee may be laid off, all sworn full-time employees with less departmental seniority will be first laid off.

Section 7.6. In the event of a reduction in force from the ranks of Sergeant and/or Captain, an affected employee may be returned to Patrolman status if the officer has sufficient departmental seniority.

ARTICLE 8 **DISCIPLINE**

Section 8.1. No employee shall be disciplined except for just cause. Probationary removals and probationary reductions shall not be considered discipline in accordance with Article 7.

Section 8.2. Except in instances where the employee is found guilty of serious misconduct, discipline will be applied in a corrective and progressive manner.

Section 8.3. As part of its investigation into alleged misconduct, Management may require a report from the employee or probationary employee within seventy-two (72) hours of Management's request. Written results of an official investigation shall be provided to the employee. The employee shall be provided discovery of material utilized to discipline him/her not more than ten (10) days subsequent to the completion of the investigation.

Section 8.4. Whenever Management determines that there may be cause for an employee to receive a verbal recorded reprimand or a written reprimand, that employee shall receive a copy of the reprimand.

Section 8.5. Whenever Management determines that there may be cause for an employee to be suspended, reduced in rank or pay, or discharged, the employee shall be apprised of the alleged charge in writing, and a predisciplinary conference will be scheduled no sooner than forty-eight (48) hours from the time of notice, to give the employee an opportunity to offer an explanation of the alleged misconduct. The employee may elect to have a representative of the O.P.B.A. present at any such predisciplinary conference.

Disciplinary meetings will be held during the employee's regularly scheduled work hours except when the matter concerns third shift personnel. Disciplinary meetings involving third shift personnel will be scheduled at the conclusion of the employee's shift unless mutually agreed to by all concerned parties.

The Employer shall issue a report to the employee and the O.P.B.A. no later than five (5) workdays after the date of the hearing indicating whether there is cause to believe that the alleged conduct occurred, and recommending discipline, if any.

Section 8.6. The City agrees that all disciplinary procedures shall be carried out in private and in a businesslike manner. Any employee in disagreement with the action taken by the City may file a grievance in accordance with the grievance procedure contained in this Agreement. In cases of disciplinary actions involving suspensions, reductions or discharges, an employee may initiate a grievance at Step 3 of the grievance procedure contained herein.

Disciplinary action shall have force and effect in subsequent disciplinary actions according to the following schedule:

Verbal Warning	6 months
Written Warning	18 months
Suspension	24 months

Section 8.7. Personnel Files. The City will keep only one (1) personnel file on any bargaining unit employee. Each employee shall be allowed to review and copy the contents of his/her personnel file at all reasonable times. The respective employee may add memoranda clarifying and explaining alleged inaccuracies of any document in his/her file to the file. The Chief, his/her designee or the Safety-Service Director shall maintain the official employment files. Additionally, the personnel files are subject to review by a representative if prior written approval is submitted by the employee to the Chief. All items in an employee's file with regard to complaints and investigations will be clearly marked with respect to final disposition. The employee will be given a copy of each item placed in his/her personnel file.

Section 8.8. The Employer shall not introduce records of discipline more than two (2) years old in a disciplinary proceeding other than discharge. Personnel records will be maintained in the manner approved by the City of Fostoria Records Commission or in accordance with City policy.

Section 8.9. An employee has the right to the presence and advice of an O.P.B.A. representative at all disciplinary interrogations.

Section 8.10. Before an employee may be charged with a violation of the Rules and Regulations for a refusal to answer questions or participate in an investigation, he/she shall be advised that his/her refusal to answer such questions or participate in such investigation may be the basis of a charge.

Section 8.11. An employee will be informed as to the nature of any investigation of himself/herself prior to any questioning. If the employee being questioned is, at the time, a witness and not under investigation, he/she shall be so advised.

Section 8.12. All complaints which may involve disciplinary action of an employee shall be in writing and signed by the complainant. The Employer will furnish a copy of the complaint to the Union and the employee upon request. The Employer will produce any such complaints in toto

at any appropriate hearing, together with all evidence in its possession which applies to that complaint.

Section 8.13. The Chief of Police or his/her designee shall inform an employee against whom a complaint has been filed of the nature of the complaint and the outcome of any investigation within a reasonable time after completion of the investigation. To the extent practicable, investigations shall be completed within thirty (30) days of the date of filing of a complaint.

Section 8.14. Should the Employer wish to open a locked locker and/or drawer assigned to a member of the bargaining unit, the Employer shall first notify the employee and/or union representative and offer the employee and/or union representative the opportunity to witness the opening.

ARTICLE 9

WAGES

Section 9.1. Sergeants' Rates. Wage rates for Sergeants during the term of this Agreement shall be as follows:

- A. Any police officer who becomes a Sergeant after the effective date of this Agreement shall start at Step A of the Sergeant's progression schedule.
- B. A Sergeant who has completed Steps A and B of the Sergeant's service schedule shall be paid a regular hourly rate of at least twelve percent (12%) above the top hourly rate of the patrolman's base rate.
- C. Step A of the Sergeant's rate in its progression schedule shall be established as at least six percent (6%) above the top hourly rate of the patrolman's base rate.
- D. Step B of the Sergeant's rate shall be established as at least nine percent (9%) above the top hourly rate of the patrolman's base rate.
- E. The length of time required to be served as a Sergeant in each step of the Sergeant's progression schedule under this Agreement shall be as follows:

Step A – 12 months

Step B – 12 months

Step C – Top rate

Section 9.2. Captains' Rates. Wage rates for Captains during the term of this Agreement shall be as follows:

- A. Any Sergeant or patrol officer who becomes a Captain after the effective date of this Agreement shall start at Step A of the Captain's progressions schedule.

- B. A Captain who has completed Steps A and B of the Captain's service schedule shall be paid a regularly hourly rate of twelve percent (12%) above the top hourly rate of the Sergeant base rate.
- C. Step A of the Captain's rate shall be four percent (4%) above the top hourly rate of the Sergeant base rate.
- D. Step B of the Captain's rate shall be eight percent (8%) above the top hourly rate of the Sergeant base rate.
- E. The length of time required to be served as a Captain in the Captain's progression schedule shall be as follows:
 - Step A – 12 months
 - Step B – 12 months
 - Step C – Top rate

Section 9.3. Each newly appointed Sergeant or Captain shall serve a promotional probationary period not to exceed one hundred eighty (180) calendar days from the date of appointment. No probationary Sergeant or Captain may be removed or reduced, except for just cause or lack of work or other legitimate reasons. If a probationary Sergeant or Captain is reduced, he/she shall be returned to his/her former rank with no break in rank or department seniority.

ARTICLE 10

VOLUNTARY OVERTIME

Section 10.1. Voluntary Overtime. Overtime shall be voluntary and not required except in situations, which are deemed necessary by the Chief or his designee. Once an overtime assignment is accepted, it shall be considered part of an employee's normal and regular work assignment.

Section 10.2. Overtime Pay. Any employee working in excess of eight (8) hours on his/her assigned shift will be compensated at the rate of one and one-half (1½) times his base rate for the first two (2) hours and double time for continuously worked hours thereafter. Any employee working on his normal scheduled day off will be compensated at the rate of one and one-half (1½) times his base rate for the first eight (8) hours and double time for continuously worked hours thereafter. If an employee covered by this Agreement is injured on duty, he/she shall be paid time and one-half (1½) for up to two and one-half (2½) hours for treatment at a medical facility, if required, and shall supply the City with proof of treatment.

Section 10.3. Pyramiding. There shall be no pyramiding of premium pay for the same hours worked.

Section 10.4. Rotating Shifts. There shall be no overtime paid to employees who work more than eight (8) hours in a twenty-four (24) hour period while changing from one shift to another.

However, the City will implement shift changes effective when an employee returns from his/her regular days off.

Section 10.5. Call-in Pay. Call-in pay is defined as payment for work assigned by the Chief or his/her designees including mandatory schooling, seminars, and other required in-service training, or for court time as defined in Section 6 of this Article, and performed by an employee at a time disconnected from his normal and prescheduled hours of work.

Work done in this manner shall be compensated at the rate of one and on-half (1½) times the normal rate of pay with a minimum of four and one-half (4½) hours pay (three (3) hours at a pay rate of time and one-half) and shall be paid only during the time the employee is physically performing his assignment.

Section 10.6. Court Time. Whenever it is necessary for an off-duty officer to appear in court, or for pretrial conferences, for the prosecution of a criminal or civil case, such officer shall be compensated in accordance with the provisions of Section 5 of this Article. Any witness fees received as a result of court appearances in connection with City employment shall be turned over to the Chief within three (3) days of receipt of such fees. Any travel pay received when employee uses City supplied transportation will similarly be turned over to the Chief, in accordance with the above provision.

Section 10.7. When an employee is on the midnight shift and is scheduled to appear in court or pretrial conferences for the prosecution of a criminal or civil case, within two (2) hours after his scheduled quitting time or by 10:00 a.m., it shall be considered a continuous shift.

Any appearance in a civil case must have arisen as a result of police activities.

Section 10.8. When an employee is called for standby duty by either the Chief of Police or designee, the employee shall receive one-half (½) time pay, with a minimum of four (4) hours per day pay at regular base rate in addition to regular hours actually worked. The employee will stay on standby with pay until notified otherwise by either the Chief or his/her designee.

Section 10.9 Officers who work overtime required by holdover shifts resulting from continuous duties, investigations, arrests, issuance of warrants or other special individual assignments shall work without regard to the equitable distribution of overtime as outlined. Such time shall be charged for overtime equalization purposes.

Overtime equalization:

- A.** Overtime shall be distributed as equitably as practical and shall be equalized on a continuous basis. The City shall maintain an Overtime Equalization List comprised of Patrol Officers (including SRO), Detectives, Sergeants and Captains in order to determine which officers shall be called into work. This list will be updated at the time of an Officer's acceptance of the overtime hours offered. All

overtime, whether it is for Patrol Officer (including SRO), Detective, Sergeant and/or Captain positions shall be offered from that list.

- B. All overtime assignments, except mandated hours, court time and grand jury, shall be counted on the list.
- C. The principles of “first precipitating event” is rendered null and void and shall not be applicable to overtime equalization.
- D. When an overtime opportunity becomes available, the Officer-In-Charge shall first notify the officer who has the least number of hours on the Overtime Equalization List. If hours are equal among officers, the opportunity shall be offered first to the officer with the higher rank and then offered to the officer with the highest in-rank seniority. The order of Rank priority is: 1) Captain, 2) Sergeant, 3) Patrol/SRO/Detective.

If an overtime block of two (2) hours or less becomes available at the beginning or end of a shift, the OIC shall fill such by first offering the block to officers scheduled either before or after the block. Such officers with the least number of overtime hours for the year shall be offered the block before such officers with more overtime hours.

The Employer shall maintain a Mandate (Forced) list comprised of Patrol Officers (including SRO), Detectives, Sergeants and Captains to be used for mandating overtime in the case that such overtime hours have been refused. The officers shall be listed in order of rank and seniority with rank superseding seniority. If overtime hours are refused by all the officers, the officer-in-charge shall mandate officers from said list who are working the shift preceding the one being filled starting with the least senior/lowest rank officer on a rotating basis, such that once the least senior/lowest rank officer has been mandated, he/she will not be mandated again until all the officers currently working that preceding shift have been mandated as many times as he/she in the calendar year. The Mandate List shall be reset on January 1 of each year.

- E. Officers shall only be charged on the Equalization List with overtime hours if they actually work overtime hours, except as provided in paragraph B, F & G herein.
- F. Employees on sick leave, injury leave or leave of absence in excess of thirty (30) days, upon return to work, shall be charged the average number of hours worked during the leave period.
- G. New employees added to the list shall be charged with the maximum number of hours. Probationary employees need not be placed on the list, but may be added,

at the sole discretion of the Chief. Probationary employees not added to the list shall not be offered overtime.

- H. All time on the Overtime Equalization List will be reduced to zero on January 1 of each year.
- I. Mistakes in offering overtime shall be corrected by offering the employee who was missed the next available opportunity.

Section 10.10. Compensatory Time. Compensatory time off in lieu of overtime pay shall be granted at the option of the employee. It shall be granted at the rate of overtime pay. Compensatory time may not be accumulated in excess of one hundred (100) hours and must be taken subject to the approval of the Police Chief of his/her designee. Employees must be granted compensatory time off anytime overtime liability is not created at the time of the compensatory time request regardless of whether another employee has been granted compensatory time or other approved paid leave of absence during the same time period. However, an employee may elect to carry over compensatory time to the following year, but can still not accumulate more than one hundred (100) hours total. When the employee is paid for compensatory time it shall be reconverted to overtime pay and paid to the employee on the first pay period in December. At the time of separation from service for whatever reason, an employee will be paid for any unused compensatory time at the applicable rate. In addition, a maximum of fifty (50) hours of accumulated but unused compensatory time may be turned in for pay with the first full pay period in June. Requests for pay out must be received prior to the last full week of May.

ARTICLE 11 **SICK LEAVE**

Section 11.1. Accrual and Usage. All employees shall accrue sick leave at the rate of four and six-tenths (4.6) hours for each completed eighty (80) hours of service in pay status. Sick leave shall be used for absence due to illness or injury of the employee or a member of the employee's immediate family, which requires the care of the employee, or exposure to contagious diseases which could be communicated to other employees. In addition, an employee may be granted up to two (2) days absence for paternity leave at the time of birth of offspring and subsequent convalescence of the employee's spouse. All accumulated sick time shall be posted on all bulletin boards by all departments. Employees who, after reporting for work, are then sent home on sick leave may be required when returning to duty, to sign a statement as set forth in the Ohio Revised Code, Section 124.38 to justify the use of sick leave.

Section 11.2. Employee's Responsibility. An employee who uses sick leave shall report that fact to the supervisor as soon as possible near the beginning of the employee's work shift. If an employee knows in advance that he/she plans to be on a long sick leave, it will not be necessary for him/her to call every day.

Section 11.3. Doctor's Certificate. In the event that an employee needs a physician's care while on sick leave, he/she shall provide the Employer with a doctor's statement. Any continuous

absence, which is in excess of two (2) days, may require the certification of the employee's attending physician. Where the Employer reasonably suspects abuse of sick leave, he may require proof of the reason for absence before sick leave benefits are paid.

Section 11.4. Miscellaneous. Any employee who has accumulated one hundred twenty (120) sick days shall be paid on the first pay period of December of each year a cash payment for one-half (1/2) of their unused annual accrual, but such payment shall not exceed seven and one-half (7½) days.

At the time of retirement or death of any employee covered by this Agreement, the employee shall receive pay for any accumulated sick leave up to one hundred thirty five (135) days.

An employee who dies shall be entitled to the benefit within as if he had retired on the date of death. The benefit shall be paid first to the spouse, and if there is no spouse, then to the estate.

An employee who is laid off or on unpaid disability leave will, upon reinstatement to service, be credited for any unused or unpaid sick leave existing at the time of his/her layoff or leave.

Any employee hired after January 1, 2005 is not covered by this section. Their benefits under this provision would be no greater than those granted under Ohio Revised Code Section 124.39.

Section 11.5. False Claims. Management reserves the right to withhold benefit payments to any employee who is guilty of submitting a false claim for benefits covered under this Article and may take disciplinary action, including discharge.

Section 11.6. Leave of Absence. A patrol officer with the approval of the Safety-Service Director or his/her designee, may take a leave of absence, without pay, not to exceed ninety (90) days for reasons other than sickness and accidents and for up to one (1) year for sickness and accidents during which time seniority will accumulate. Upon expiration of said leave, the officer will be expected to return to duty.

ARTICLE 12 **MATERNITY LEAVE**

Employees shall be granted maternity leaves, and at the option of the employee, may use accumulated sick leave and vacation time or take a leave without pay. After sick leave and vacation has been exhausted, the remainder of the leave shall be unpaid. Said leave shall begin when the employee is disabled from working as a result of pregnancy, and shall continue during the period of disability. When the employee is no longer disabled, the employee shall return to work without loss of seniority and to her former employment status.

ARTICLE 13
INJURY / DISEASE LEAVE

Section 13.1. Service Connected Injury/Disease. In the event an employee is injured or contracts a disease while performing the employee's duties, the employee shall receive full pay for one hundred thirty-five (135) calendar days, or a longer period of time as the Employer may allow, from the date of the injury as filed with the Ohio Bureau of Workers' Compensation (OBWC). The Employer shall provide an injured employee all necessary forms, materials and appropriate phone numbers pertaining to filing claims with the Ohio Bureau of Workers' Compensation. Application for such leave shall be filed with the Employer and the appropriate claim filed with OBWC. At the time of application of such leave, the employee shall sign an agreement to assign or return all monies received from the OBWC as wage replacement for the same period of time during which the employee received full pay in lieu of wage replacement from OBWC. The Employer will only pay regular and holiday pay during the leave.

An employee making application for such leave shall sign an authorization to release to the Employer all medical information regarding the occupational injury in the possession of the employee's treating physicians and treatment facilities for which the injury leave is requested and shall also agree to be examined by a licensed medical practitioner selected and paid for by the Employer, if the Employer deems necessary.

An employee claiming an occupational injury shall immediately file an accident report when the injury is incurred, seek medical attention and shall file an injury claim with the OBWC as soon as practicable after the injury. The Employer may request a hearing before the OBWC to determine the claim's validity.

An employee who has exhausted paid injury leave as described above may elect to use sick leave and vacation leave in lieu of receiving wage replacement income from OBWC.

An employee on an approved sick or injury leave may, with the doctor's permission and at the Employer's discretion, be required to work, or be assigned other duties or limited duties, during the period of disability. The employee shall receive their regular rate of compensation for any hours worked. During such temporary reassignment, the Employer shall review every thirty (30) days whether the continuation of such limited duties is possible and shall give the employee at least seven (7) days' notice of the discontinuation of such limited duties.

Section 13.2. Sick Leave Reinstatement. Should any employee use any of his/her accumulated sick leave from the time of the injury/disease to the date of the allowance by the Industrial Commission, such sick leave attributed to the allowed service connected injury/disease will be reinstated to the employee's credit and the same charged to injury/disease leave subject to the maximums provided in Section 1 above.

Section 13.3. False Claim. The Management reserves the right to withhold benefit payments and take disciplinary action up to and including discharge against any employee who is guilty of

submitting a false claim for benefits covered in the Article or for working for another employer while on injury/disease leave.

ARTICLE 14 **FUNERAL LEAVE**

Section 14.1. A regular full-time employee who is absent from work due to a death in the employee's immediate family shall be eligible for the following:

- A. Father, mother, stepparents, spouse, sons, daughters, stepsons, stepdaughters, brothers, sisters, stepbrothers, stepsisters, grandmother, grandfather, the spouse's mother, father, grandmother, and grandfather, shall be eligible for up to three (3) work days leave of absence with no loss in pay.
- B. Grandchildren, daughter-in-law, son-in-law, sister-in-law, brother-in-law of the employee and the spouse's brothers and sisters, shall be eligible for up to two (2) days off with no loss in pay to attend the funeral of same.
- C. Upon approval of the immediate supervisor based on need, an employee may use one (1) day of unused vacation, or one (1) day of unused compensatory time off, or unused personal holiday or take a day off without pay to attend the funeral of an aunt or uncle.

Section 14.2. An employee on vacation or sick leave who becomes eligible for funeral leave may apply to have funeral leave substitute for vacation or sick leave. The employee must show proof of attendance at the funeral in order to be eligible. Any vacation time substituted shall not be counted toward the forty (40) hours cap under Article 17, Section 5.

Section 14.3. In the event an employee attends a funeral more than one hundred fifty (150) miles from Fostoria, same shall receive one (1) additional funeral leave day with no loss in pay, above the aforementioned funeral leave herein.

Section 14.4. Any employee who is requested to be a pallbearer at any funeral shall be granted one (1) day of funeral leave with no loss in pay.

Section 14.5. Any employee absent, pursuant to Section 1(B), Section 3, and Section 4 of this Article shall provide Employer with verification of attendance.

ARTICLE 15 **INSURANCE**

Section 15.1. Coverage. The City shall provide employees with the following life, hospitalization, medical, surgical, and dental insurance during the term of this Agreement.

- A. Group life insurance in the amount of twenty-five thousand dollars (\$25,000) each year of this Agreement. However, employees shall have the option of buying additional group life insurance (term) in increments of five thousand dollars (\$5,000) up to a total of fifteen thousand dollars (\$15,000), if possible.
- B. Hospital, surgical, prescription drug and major medical insurance for the employee and his/her family as in effect as of the effective date of this Agreement.
- C. The City shall provide to the members the same optical benefits as provided to the non-Union employees of the City.
- D. The City shall provide to members of the bargaining unit the same dental benefit, at the same cost (if any) provided to non-bargaining unit employees of the City.

Section 15.2. Coordination of Benefits. All benefits herein described shall be subject to coordination of benefits in accordance with the provision of any master agreement between an insurance carrier and the City or between the group insurance provided by any other carrier under which an employee is eligible for coverage.

Section 15.3. Subrogation. If any employee or member covered by the provisions of this Article incurs medical expenses in connection with the treatment of an illness or injury caused by the negligence or wrongful act of a third party, the City, its insurance carrier or its assignee, shall be subrogated to all the covered member's rights or recovery against said third party to the extent of any and all payments made hereunder with respect to such illness or injury, and said member or his/her appropriate agent shall execute all papers and take all action necessary and proper to secure to the insurance carrier or its assignee rights or subrogation.

Section 15.4. The City retains its rights to change insurance carriers or to have its insurance provided by a third party administrator provided that such change shall result in coverage that is substantially similar to that in effect on the effective date of this Agreement.

Section 15.5. The City shall pay ninety percent (90%) of the amount determined to fund the plan for each employee's hospitalization and the employee shall contribute the sum of ten percent (10%) of the cost with the employee's share to be withheld from the employee's check. Effective January 1, 2019, the City shall pay eighty-five percent (85%) of the premium cost and the employee shall pay fifteen percent (15%) of such cost.

ARTICLE 16 **HOLIDAYS**

Section 16.1. Designated Days. In addition to his/her vacation, the following paid holidays shall be granted to all employees. To obtain payment for these holidays, an employee must work the day before or the day after a paid holiday, unless his/her absence is due to a justifiable cause. At the employee's option, each holiday shall be paid as eight (8) hours of pay or eight (8) hours of compensatory time to be taken at a time mutually agreed upon.

New Year's Day	Veteran's Day
Martin Luther King Day	Thanksgiving Day
Good Friday	Friday following Thanksgiving
Easter Sunday	Christmas Eve
Memorial Day	Christmas Day
Independence Day	New Year's Eve
Labor Day	Employee's Birthday
Two (2) Personal Leave Days	

Section 16.2. Holidays Worked. In addition to the above, should any employee be required to work on a holiday, he/she shall be paid at regular rate for regular hours or double time rate for overtime hours).

Section 16.3. Holidays During Vacation. When one of the above holidays falls within an eligible employee's approved vacation period and he/she is absent from work during this regularly scheduled work week because of such vacation, he/she shall not be charged a vacation day for such holiday. Days may be taken as individual days notwithstanding Article 17, Section 5.

Section 16.4. Holidays/compensatory time will either be approved or denied within twenty-four (24) hours of submittal. Approval or denial will be based upon manpower availability as foreseen upon the day of submittal. As long as no overtime liability will be incurred as foreseen at the time of the request, the properly requested holiday/compensatory time off must be granted, despite the fact that another employee may also be scheduled off on holiday/compensatory time and/or any other type of approved paid leave of absence during that same time period.

ARTICLE 17
VACATIONS

Section 17.1. Vacation. Employees will be granted time off for vacations during the year following the employee's anniversary date subject to manning requirements and based upon the following schedule:

<u>Length of Service</u>	<u>Vacation Credit</u>
After 1 year	2 weeks (80 hours)
After 8 years	3 weeks (120 hours)
After 12 years	4 weeks (160 hours)
After 18 years	5 weeks (200 hours)
After 25 years	6 weeks (240 hours)

Employees currently receiving the "plus 2 days" of vacation after 5, 10, 15, and 20 years of service will continue to receive these "plus 2 days" until they reach their next level, 8, 12, 18, and 25 years of service, at which time they will only receive the days listed on the new schedule.

Section 17.2. Scheduling of Vacation. The vacation year is defined as January 1st through December 31st. Each member of the bargaining unit shall express his/her first and second choice vacation preference to his/her department head by April 1st of each year. All bargaining unit members who apply for vacation leave by this date shall have their vacations scheduled by seniority preference. All other vacation leave shall be subject to a first-come, first-served basis. Every effort shall be made to schedule requested days consistent with the manpower need of the department. As long as no overtime liability will be incurred by the City as foreseen at the time of the request, vacation leave must be granted, despite the fact that another employee may also be scheduled off on vacation and/or some other type of approved paid leave of absence during the same time period. Any employee who voluntarily bids onto a different shift after previously submitting vacation requests that have already been approved, who desires to maintain his previously scheduled vacation, may only do so if his entire year's complement of vacation requests were all submitted during the initial bidding process.

Section 17.3. Non-prescheduled Vacations. An employee requesting non-prescheduled vacation must submit his/her request to Management at least five (5) workdays prior to commencement of such leave except in cases of an emergency. This provision may be waived at the discretion of the appropriate supervisor or his/her designee. Employees may carry over up to two (2) weeks of vacation from the current calendar year to the next calendar year.

Section 17.4. Advancement. Any employee desiring vacation pay advancement must submit his/her request to the Auditor within the week preceding the scheduled vacation. The advancement may be picked up by the employee at the Auditor's Office on the employee's last scheduled work day prior to the start of his/her scheduled vacation.

Section 17.5. Vacation Day Option. An employee may, subject to approval by Management, use up ten (10) vacation days per year one (1) day at a time. If vacation days are used one (1) day at a time they shall be treated as holidays for purposes of scheduling.

Section 17.6. Retirement Pay for Unused Vacation and Holidays. An employee who retires from the Department shall be paid for all unused accumulated vacations, holidays and personal leave days. The number of weeks of vacation eligibility involved shall be as of the employee's last anniversary date.

In addition to unused accumulated vacation as of the employee's last anniversary date, an employee who retires prior to his/her next anniversary date is also entitled to vacation earned from his/her last anniversary date to the date of retirement at the rate of one (1) week worked equals 1/52 of the vacation days credited under Section 1 above.

An employee is also entitled to holiday pay for holidays worked under Article 16, Section 1, Holidays, when the employee has been paid regular time for working the holiday, but has not taken compensatory time off under said Section.

An employee who retires is also entitled to personal leave days earned and unused under Article 16, Holidays, Section 1, at the rate of one (1) month worked, equals one-twelfth (1/12) of the

personal leave days earned and unused from the preceding anniversary date to the date of retirement.

ARTICLE 18
P.F.D.P.F. PICKUP

Effective on the date of the contract, or thereafter when legally permissible, the Employer shall designate each employee's mandatory contributions to the Police and Firemen's Disability and Pension Fund as "picked up" by the Employer as contemplated by Internal Revenue Service rulings 77-464 and 81-36, although they shall continue to be designated as employee contributions as permitted by Attorney General Opinion 82-097, in order that the amount of the employee's income reported by the Employer as subject to Federal and Ohio income tax shall be the employee's total gross income reduced by the then-current percentage amount of the employee's mandatory Police and Firemen's Disability and Pension Fund contribution which has been designated as "picked up" by the Employer shall be included in computing final average earning, provided that no employee's total earnings is increased by such "pick up," nor is the Employer's total contribution to the Police and Firemen's Disability and Pension Fund increased thereby.

- A. The pick-up percentage shall apply uniformly to all members of the bargaining unit as a condition of employment. The pick-up shall apply to all compensation thereafter.
- B. The parties agree that should the rules and regulations of the IRS, or retirement system change making this procedure unworkable, the parties agree to return, without penalty, to the former method of employee/Employer contributions.
- C. Payment for sick leave, personal leave, and severance, including unemployment and workers' compensation, shall be based on the employee's daily gross pay prior to reduction of basis (e.g., gross pay divided by the number of days scheduled to work).
- D. Such earnings reductions shall not result in any earnings which may be less than any minimum required under state law, a prorated reduction shall result with the employee contributing that portion which falls below such minimum as may be required by state law.
- E. It is to be understood by the parties that it is the responsibility of each individual employee to make any necessary adjustments in any other tax sheltered annuities he/she has in order to be in compliance with IRS law and regulations.
- F. The Employer is not liable, nor will it be held responsible, for any related legal, IRS, SERS, or any other agencies' penalties or decisions concerning this plan, now or in the future.

- G. The Union, and its members, both severally and individually, agree to indemnify and hold the Employer harmless against any and all claims and actions that shall arise out of or by reason of any action taken by the Employer in compliance with the provisions of this Article.

ARTICLE 19
LONGEVITY

Section 19.1. Schedule. In addition to the wages specified herein, each employee covered by the terms of this Agreement and hired prior to 1-1-2014 shall be entitled to receive additional payment in accordance with the following schedule on regular hours paid up to two thousand eighty (2,080) hours per year:

<u>Schedule</u>	<u>Longevity Bonus</u>
After 5 years of service	2% of base salary
After 10 years of service	4% of base salary
After 15 years of service	6% of base salary
After 20 years of service	8% of base salary

Section 19.2. Longevity shall be added to the employee's base hourly rate for the purpose of determining the employee's total overtime compensation.

Section 19.3. Bargaining unit employees hired after January 1, 2014 shall not be eligible to receive longevity pay.

Section 19.4. Anniversary Date. The years of service period shall be determined by starting with the beginning of the employee's employment with the City.

ARTICLE 20
GRIEVANCE PROCEDURE

Section 20.1. General. There shall be an earnest, honest effort to settle disputes and controversies promptly. The procedures of this Article shall serve as a means of settlement of all grievances.

Section 20.2. Grievance Defined. A grievance is a complaint that Management has violated the terms of this Agreement or that Management has improperly disciplined or discharged an employee covered by this Agreement.

Section 20.3. Procedure.

- A. The aggrieved employee shall first discuss his complaint with his immediate supervisor, with a representative present, and attempt to resolve the dispute.

- B. Step 1. In the event the dispute is not resolved in accordance with the above paragraph, the aggrieved employee shall deliver his grievance in triplicate, signed and in writing to the Chief within seven (7) calendar days after the employee has knowledge of, or should have knowledge of, the incident upon which the alleged grievance is based. In no case, however, shall a grievance be filed more than thirty (30) calendar days after the occurrence complained of or employee's knowledge of occurrence. He/she shall investigate the grievance and, if necessary, schedule a joint grievance meeting within seven (7) calendar days after receipt of the grievance. The Chief shall reply to the steward and the grievant in writing within seven (7) calendar days after completion of the grievance meeting or receipt of the grievance, whichever is later. If the answer of the Chief is not satisfactory to the grievant, the grievance may be appealed to Step 2.

Step 2. If the written notice of intent to invoke the second step of the grievance procedure is not received by the Safety-Service Director within five (5) calendar days after receipt of the Step 1 answer, it shall be considered to be satisfactorily resolved.

In the event the grievance is appealed from Step 1, the grievance, along with all correspondence, shall be submitted to the Safety-Service Director and the Mayor. They shall investigate the grievance, and if necessary, schedule a joint grievance meeting within seven (7) calendar days after receipt of the grievance by the Safety-Service Director and the Mayor. The Safety-Service Director shall reply to the Ohio Patrolmen's Benevolent Association and the grievant in writing within seven (7) calendar days after completion of the grievance meeting or receipt of the grievance, whichever is later. If the answer of the Safety-Service Director is not satisfactory to the Ohio Patrolmen's Benevolent Association, the grievance may be appealed to Step 3. If the written notice of intent to invoke the third step of the grievance procedure is not received by the Mayor within seven (7) calendar days after receipt of the Step 2 answer, it shall be considered to be satisfactorily resolved.

Step 3. In the event the grievance is appealed from Step 2 within five (5) calendar days following receipt of the Ohio Patrolmen's Benevolent Association intent to invoke the arbitration procedure, a joint letter requesting the Federal Mediation & Conciliation Service (FMCS) to submit the names of five (5) arbitrators will be signed and mailed. Upon receipt of such names and within ten (10) calendar days thereafter, the Ohio Patrolmen's Benevolent Association and the Management shall alternately cross off one (1) name until one (1) name remains, that person being selected as the arbitrator. A coin flip shall determine the order of proceeding the cross-off procedure.

- C. All decisions of the arbitrator shall be final and binding upon all parties participating. He shall have no power to add to, subtract from, change, modify, or amend any of the provisions of this Agreement and he shall decide the issues

presented on the basis of the reliable, substantial and preponderance of the evidence in the record of the proceedings and the express terms of this Agreement.

- D. Employees who are called by either party as witnesses and who give non-repetitive testimony shall lose no pay for the time spent at an arbitration hearing if it is during regular working hours. Off-duty employees called by Management as witnesses shall receive overtime payment pursuant to the provision of Article 9. The arbitrator will be paid in the following manner.

The party that loses the arbitration shall pay one hundred percent (100%) of the arbitrator's fee. Any additional cost, such as transcripts of the hearing, the use of legal counsel, etc., shall be borne by the individual party that makes use of such service.

- E. Only the Ohio Patrolmen's Benevolent Association acting through its president may authorize an appeal to arbitration. If Management fails to answer any grievance within the prescribed limits, the grievance shall be automatically referred to the next higher step in this Article. The time limits imposed in the Article may be extended at any step by the written consent of the parties. Any step herein may be waived by the mutual written consent of the parties.

When the last day of response for a grievance falls on the receiving parties' day off, for vacation, weekends, or holidays, the time limit will be automatically extended to the next work day of the receiving party.

ARTICLE 21

SHIFT DIFFERENTIAL AND ASSIGNMENT

Section 21.1. During the first two (2) weeks in December of each year and during the first two (2) weeks in April, and during the first two (2) weeks in August, employees shall bid shifts by seniority. The schedule shall be implemented on the first Sunday after January 1st and the first Sunday after May 1st, and the first Sunday after September 1st, respectively each year. The shift shall include five (5) work days, Sundays through Saturdays. Captains' days off shall be Friday/Saturday, Saturday/Sunday or Sunday/Monday. Sergeants' days off shall be Friday/Saturday, Saturday/Sunday or Sunday/Monday. Days off within each rank shall be bid by seniority. Should a vacancy exist, shifts shall be rebid when a new employee is trained and ready for shift work.

Section 21.2. The second shift differential shall be (\$0.35) per hour and the third shift differential shall be (\$0.45) per hour. Employees may trade shifts on a temporary basis, with the approval of the Chief of Police or his/her designee, and such trades shall not affect the shift bidding process.

ARTICLE 22
EDUCATION INCENTIVE

Section 22.1. For each ten (10) hours of college credit earned by attending an accredited college or university, a non-probationary employee shall receive 1.5 cents/hour in addition to his/her base rate to a maximum of fifteen cents (\$0.15) per hour.

Section 22.2. Non-probationary employees shall be entitled to the following Education Incentive:

Associate degree in law enforcement:	\$0.20 per hour
Bachelor's degree in law enforcement:	\$0.27 per hour
Graduate degree related to law enforcement, or law degree:	\$0.30 per hour

Section 22.3. Incentive payments shall be for a calendar year, based upon showing proof of credit hours or degree from a recognized and accredited university or college, by November 1st in the prior year. Once approved, an employee shall not be required to resubmit proof, and the incentive shall be approved from year to year. In the event of a dispute as to the validity of a degree, or the accreditation of a college or university, the Mayor's decision shall be final, subject only to a grievance that his/her decision is arbitrary or capricious.

Section 22.4. Command officers will be permitted to trade shifts voluntarily so that one (1) or both may take college courses related to law enforcement upon two (2) weeks' notice to the Captain of the shifts involved.

ARTICLE 23
EQUIPMENT AND UNIFORMS

Section 23.1. Equipment. Management shall furnish and/or replace all firearms, handcuffs, mace, ammunition, badge and leather goods necessary to the employees in the performance of their duties.

Section 23.2. Uniforms. Management shall furnish and/or replace all required uniforms, if any. Management shall provide a uniform allowance of seven hundred fifty dollars (\$750) per year for each officer in order to furnish, replace and maintain required uniforms. Where the Employer orders a new uniform item to be part of the official uniform, and such new item renders old uniform items obsolete within one (1) year of the date of the order, or where the required new item is an additional uniform item, the Employer shall furnish the new item without charge to the uniform allowance. Payments shall be on an annual basis for January 1st through December 31st. Requisitions must be submitted by December 1st of each year.

Section 23.3. Personal Property. Management shall replace or repair all personal property of the employee commonly worn or used while working which is damaged in the line of duty up to a maximum of one hundred fifty dollars (\$150) per officer per incident, so long as such damage is not due to the employee's negligence.

Section 23.4. Standards. The Chief or his/her designee, with the approval of the Safety-Service Director, will determine the minimum uniform and plain clothes requirements.

Section 23.5. In case of promotions, the City will reimburse Sergeants and Captains for the original costs of required change in uniforms and accessories.

If an employee is placed into the Detective Bureau, an additional three hundred fifty dollars (\$350) for clothing will be granted along with the regular uniform allowance. This will be paid only once.

Necessary SWAT uniform and equipment items, as determined by the Chief, shall be provided at no cost to the employee so assigned.

Section 23.6. Exercise Equipment. The City shall furnish and maintain all present exercise equipment. The Employees Relations Committee will meet and discuss the need for additional or new exercise equipment.

Section 23.7. Practice Ammunition. The City will supply to each command officer no more than two hundred (200) rounds of practice ammunition each calendar quarter. This will be for duty weapons only. The employee must, at the end of each calendar quarter, turn in his/her unfired or fired ammunition which is approximately equivalent to the last quarter's issue to receive his next allowance. This will be turned into the range officer. Upon request, additional ammunition may be supplied for practice purposes upon approval of the Chief. Each Sergeant or Captain will be required to qualify with firearms in accordance with the Regulations of the Fostoria police department no more than four (4) times per year.

ARTICLE 24 BULLETIN BOARDS

Management will provide a bulletin board of sufficient size for the O.P.B.A.'s use in the police station for use by the O.P.B.A., provided the bulletin board is not used for posting material which is political, religious, derogatory, or critical of the City, of its elected or appointed personnel. Such bulletin board may be used by the O.P.B.A. for posting notices as approved by the O.P.B.A. president and the Chief. Notices may include: notices of O.P.B.A. elections; notices of O.P.B.A. meetings; notices of appointments and results of elections, and notices of Union recreational and social affairs.

ARTICLE 25 SAVINGS CLAUSE

Section 25.1. This Agreement is subject to all existing and applicable state laws, Civil Service Rules and Regulations, City Ordinances and Resolutions; provided that should any change be made in any State law, Civil Service Rules and Regulations and City Ordinances which would be

applicable and contrary to any provision contained herein, such provisions herein contained shall automatically be terminated.

Section 25.2. Should any Article, Section or portion of this Agreement be held unlawful and unenforceable by any court, legislative or administrative tribunal of competent jurisdiction, then such decision or legislation shall apply only to that specific Article, Section or portion of the Agreement. The parties will meet and discuss the abrogated provision. The remainder of the Agreement shall remain in full force and effect.

Section 25.3. Prior to any change in this Contract made in accordance with Section 1, the City shall notify the Ohio Patrolmen's Benevolent Association of the change and give the Lodge the opportunity to bargain collectively with the City on such changes.

ARTICLE 26 **NO STRIKE – NO LOCKOUT**

Section 26.1. Strike Prohibition. The services performed by the employees included in this Agreement are essential to the public health, safety, and welfare. There shall be no interruption of the work for any cause whatsoever, nor shall there be any work slowdown or other interference with public services.

Section 26.2. Notice. In the event any employee covered hereunder is engaged in any violation of Section 1 above, the O.P.B.A. shall, upon notification by Management, immediately order such employee or employees to resume normal work activities and certify same to Management.

Section 26.3. No Lockout. The Management shall engage in no lockout of employees in the bargaining unit.

ARTICLE 27 **AGENCY SHOP AND DUES DEDUCTION**

Section 27.1. Fair Share Fee and Payroll Dues Deduction. It is hereby agreed between the City and Ohio Patrolmen's Benevolent Association that as a condition of employment, and after a period of sixty (60) days immediately after employment or the effective date of this Agreement, all employees in the bargaining unit shall either become a dues-paying member of the Ohio Patrolmen's Benevolent Association, or remit a fair share fee in an amount as determined and certified by the O.P.B.A. to meet the requirements of current and subsequent applicable requirements of law, all on the basis of automatic dues deduction. Each month the City shall send the dues amount deducted from the pay of members and fair share fee payers to the Ohio Patrolmen's Benevolent Association, 10 Beech Street, Berea, Ohio 44017 or such other address as set by the O.P.B.A. from time to time.

Section 27.2. The Union agrees to indemnify and hold the City harmless against any and all liability, including, but not limited to, such items as wages, damages, awards, fines, court costs

and attorney fees, which may arise by reason of, or result from, the operation of this Section of this Agreement.

ARTICLE 28
EMPLOYEE RELATIONS COMMITTEE

In the interest of sound labor relations, a joint committee of two (2) members, from the Ohio Patrolmen's Benevolent Association and two (2) from the City, will convene from time to time as may be called by either party, for the purpose of discussing subjects of mutual concern. It shall be the express purpose of this Committee to build and maintain a climate of mutual understanding and respect in the solution of common problems. Either Management or the Ohio Patrolmen's Benevolent Association may request that a representative participate in a scheduled Employee Relations Committee meeting.

Ohio Patrolmen's Benevolent Association committee members shall be selected so that normal policing activities are not unreasonably interfered with. Additionally, attendance at any such Committee meetings shall be conducted on the basis of no loss or gain in regular daily pay as a result of attendance hereunder.

ARTICLE 29
NO SMOKING / TOBACCO USE

Smoking or any other use of tobacco products inside the Police Division building, in Police Division vehicles, while in uniform or in any other facility where it is prohibited/restricted under a collective bargaining agreement between the city and any other bargaining unit will not be permitted.

ARTICLE 30
DRUG AND ALCOHOL TESTING

The City and Union have agreed upon a Drug and Alcohol Testing Policy and Procedure, which is appended hereto as Appendix A and incorporated herein.

ARTICLE 31
DURATION OF AGREEMENT

This Agreement shall be effective upon signing and shall remain in effect through December 31, 2019 and shall continue thereafter for successive periods of twelve (12) months, unless either party to this Agreement on or before sixty (60) days prior to the expiration of any such period, notifies the other party, in writing, of its intention to terminate this Agreement. Within ten (10) days after receipt of such notice, a conference shall be held at a time mutually agreeable to the parties.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have set their hands, this _____ day of _____, 2018.

FOR THE CITY OF FOSTORIA:

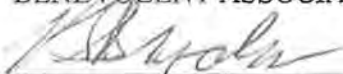


Eric Keckler, Mayor



Deb Hellman, Safety-Service Director

FOR OHIO PATROLMEN'S
BENEVOLENT ASSOCIATION:

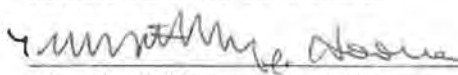


Director


Alternate Director

Committee Member

APPROVED AS TO FORM:



Timothy J. Hoover, Law Director



Joseph M. Hegedus,
OBPA Representative

APPENDIX A
DRUG AND ALCOHOL TESTING POLICY AND PROCEDURE

A. Purpose. It is the policy of the City of Fostoria that all employees be free of substance and alcohol abuse at work. Consequently, the use of illegal drugs by employees is prohibited. Further, employees who use and/or are under the influence of alcohol at work shall be deemed to have engaged in prohibited conduct. The overall goal of this policy is to ensure a drug and alcohol free work place and to reduce accidents, injuries, and fatalities.

B. Types of Tests. Pursuant to regulations promulgated by the United States Department of Transportation (USDOT), the Safety-Service Director has implemented six (6) circumstances for drug and/or alcohol tests: (1) preemployment, (2) post-accident, (3) random, (4) reasonable suspicion, (5) return to duty, and (6) follow-up testing.

1. Preemployment Testing. All applicants applying for positions with the City of Fostoria, must submit to urine drug testing during his/her preemployment physical. An applicant is not required to submit to urine drug tests if the Safety-Service Director can verify that the applicant has participated in a valid drug testing program within the preceding thirty (30) days while participating in that program was either tested within the past six (6) months or participated in a random selection program for the previous twelve (12) months.

The Safety-Service Director must also verify that no prior Employer of the applicant has records indicating a violation of any USDOT rule pertaining to controlled substance abuse.

2. Post-accident Tests. Drivers who are involved in an OH-1 reportable accident while operating a city vehicle while performing city business shall notify their supervisor as soon as possible after the accident. Upon receiving such notification, the Supervisor may require the employee to undergo a drug and alcohol test immediately following the notification.

Drivers' Responsibility. A driver, subject to a post-accident test, must remain available for testing. A driver must submit to an alcohol test within eight (8) hours following the accident, and shall not consume any alcohol for eight (8) hours following the accident. Likewise, a driver must submit to a drug test within thirty-two (32) hours following the accident. A driver who leaves the scene before the test is administered or who does not make him/herself readily available shall be deemed to have refused to be tested and such refusal shall be treated as a .04 positive test.

3. Random Testing. The random selection process shall be administered through the office of the Safety-Service Director. The Director shall maintain a current list of all employees. The random selection system shall provide an equal chance for each employee to be selected each time random selection occurs. Random selections shall be spread throughout the year. Fostoria Community Hospital or other agencies designated by the Safety-Service Director will test a minimum of fifty percent (50%) of the CDL drivers in each calendar year for drug testing purposes, and ten percent (10%) of the CDL drivers for alcohol testing. An equal number of non-

CDL drivers shall be selected from within the City workforces for each calendar year. Random selection, by its very nature, may result in some employees being selected in successive selections or more than once during a calendar year. Alternatively, some employees may not be selected during a calendar year.

If an employee is selected at random, for either a drug or alcohol test, the Safety-Service Director will notify the employee's immediate supervisor who will notify the employee. Once notified, the employee must proceed directly to the Fostoria Community Hospital and comply with all directions given at the collection site.

4. Reasonable Suspicion. Employees will be required to submit to an alcohol and/or drug test when a trained supervisor has reasonable suspicion that the employee has engaged in prohibited conduct as set forth in Section F of this policy. Reasonable suspicion will be based upon observations concerning the appearance, behavior, speech or body odor of the employee.

This section authorizes reasonable suspicion testing if the observations are made during, just preceding, or immediately after the work day.

A written record shall be made of the observations leading to a reasonable suspicion test, and signed by the supervisor who made the observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

5. Return to Duty Testing. Before an employee returns to duty after engaging in conduct prohibited by this policy, the employee shall undergo a return-to-duty alcohol and/or drug test with a result indicating an alcohol concentration of less than 0.02 and/or a drug test with a verified negative result.

6. Follow-up Testing. Each employee identified as needing assistance in resolving problems associated with alcohol misuse or drug use shall be subject to unannounced follow-up alcohol and/or drug tests following the employee's return to duty (see Section E). The number and frequency of such follow-up testing shall be as directed by the substance abuse professional (SAP) and consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. The employee may be directed to undergo return-to-duty and follow-up testing for both alcohol and drugs, if the SAP determines that return-to-duty and follow-up testing for both alcohol and drugs, is necessary.

C. Refusal to Test. Refusal to submit a pre-employment drug test will be grounds for refusal to hire/promote applicants. Refusal to submit to a post-accident testing, random testing, return to duty testing, reasonable suspicion testing, or follow-up testing, shall be considered a positive drug test and/or a positive alcohol test of .04% blood alcohol concentration. Such refusal shall result in disciplinary action up to and including termination.

D. Testing Procedures.

1. Drug Tests. Drug testing will be performed through urinalysis and screened in accordance with the requirements of the Ohio Bureau of Workers' Compensation program with the City of Fostoria.

An employee must present picture identification at Fostoria Community Hospital. Urine specimens will be submitted to a Department of Health and Human Services (DBES) certified laboratory for testing.

All urinalysis tests for drugs will use the "split sample" method of collection. The employee's urine sample will be split into two specimen bottles. One will contain the primary specimen and the other the split specimen. The split specimen will be preserved under stringent laboratory conditions. Whenever an employee receives notification of a positive drug test, the employee may request that the split sample be tested in a different DHHS certified laboratory. This request must be made within seventy-two (72) hours after the employee received notification of the positive drug test.

All laboratory results will be reported by the laboratory to the Medical Review Officer (MRO) designated by the Safety-Service Director. Before reporting a positive test result to the Safety-Service Director, the MRO will attempt to contact the employee to discuss the test result. If the MRO is unable to contact the employee directly, the MRO will contact the Safety-Service Director's Confidential Contact, designated in advance by the Director, who shall in turn contact the employee and direct the employee to contact the MRO immediately. In the MRO's sole discretion, a determination will be made as to whether a result is positive or negative.

Pursuant to USDOT regulations, individual test results for applicants and employees will be released to the Safety-Service Director and will be kept strictly confidential unless consent for the release of the test results has been obtained.

2. Alcohol Tests. An employee must present picture identification at Fostoria Community Hospital or the designated test center. Alcohol tests will be performed using an evidential breath testing device. The employee shall follow all instructions given by the breath alcohol technician. In the event that an employee, on the basis of the evidential breath test, has a blood-alcohol content of .02 to .03999, the employee shall be removed from duty, without pay, for twenty-four (24) hours or until their next scheduled on-duty time, after completion of the twenty-four (24) hour out of service period, whichever is longer. The employee will be subject to disciplinary action. A test result of .04 or over will result in disciplinary action up to and including termination. All alcohol tests shall be performed just prior to, during, or just after performing safety sensitive functions. An employee testing .02 or above must immediately contact the Safety-Service Director and inform him of the test result. An employee testing .02 or above shall not operate a City vehicle.

E. Substance Abuse Evaluation. An employee who engages in prohibited conduct shall be provided with the name, address and telephone number of a Substance Abuse Professional

(SAP). If the employee desires to become re-qualified, the employee must be evaluated by a SAP and submit to any treatment prescribed by the SAP. Following evaluation and treatment, in order to become re-qualified the employee must submit to and successfully complete a return-to-duty test (see Section B 5). Such employee is also subject to follow-up testing (see Section B 6).

F. Prohibited Conduct.

1. The following shall be considered “prohibited conduct” for purposes of this policy:

- No employee shall report for duty or remain on duty while having an alcohol concentration of .02 or greater.

Due to the nature of the work performed by the City, some employees are subject to call-in during adverse weather or emergency conditions. In order to protect public safety when weather conditions are such that it is possible that the employee could be called to work, employees should remain in work-ready condition.

- No employee shall be on duty or operate a commercial motor vehicle while the employee possesses alcohol.
- No employee shall perform safety-sensitive functions within four (4) hours after using alcohol.
- No employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident test, whichever occurs first.
- No employee shall refuse to submit to post-accident, a random, a reasonable suspicion, return-to-duty, or a follow-up alcohol or drug test.
- No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee’s ability to operate a motor vehicle.
- No employee shall use, possess, manufacture, distribute, consume, sell or store (including in a desk, locker, motor vehicle or other repository) controlled substances, drug paraphernalia, or alcohol on City property, while conducting City business in supplied vehicle or during working hours.
- No employee shall switch, alter or commit any misconduct pertaining to

breath or urine samples.

- No employee shall refuse to sign the:
 - a. Certificate of Receipts
 - b. Substance Abuse Testing Consent Form
 - c. Laboratory's Chain of Custody Form
 - d. Rehabilitation Agreement
 - e. Post-Accident Hospital Authorization Form

G. Supervisory Training. Those supervisors who are responsible for determining reasonable suspicion shall receive training on alcohol misuse and training on drug use. The training shall include the physical behavior, speech and performance indicators of probable alcohol misuse and use of drugs.

H. Authorization for Previous Test Records. Federal Regulations require that the Safety-Service Director obtain certain drug testing records from potential employee's employers within the previous two (2) years. As a condition of employment, the driver shall provide the Safety-Service Director with a written authorization form for all previous employers within the past two (2) years to release the following drug and alcohol testing records, as are required under federal regulations:

1. Alcohol test over .04 within previous two (2) years.
2. Positive drug tests within previous two (2) years.
3. Refusals to be tested within previous two (2) years.
4. If a prior positive drug or alcohol test contained in such records, the Safety-Service Director must also receive substance abuse professional evaluations and evidence of treatment.

I. Financial Responsibilities.

1. The City of Fostoria will be responsible for the following:
 - Random selection program costs
 - DOT urine drug screen collection and testing for pre-employment, post-accident random and reasonable suspicion tests costs
 - DOT alcohol breathalyzer test for post-accident, random and reasonable suspicion test costs
 - Costs of confirmatory test performed on a split urine sample when there is

a “positive” result of the first sample

- Medical Review Officer referral costs

2. The employee will be responsible for the following:

- Deductible and Co-Pay requirements of current Medical Care Plan.

J. Discipline. Discipline will generally follow a progressive sequence. The Safety-Service Director has the discretion to apply discipline up to and including termination. Discipline administered pursuant to this policy is subject to the grievance and arbitration procedure of the collective bargaining agreement. Prohibited Conduct Violations: if not specifically addressed by the above, will be handled at the discretion of the Safety-Service Director.

K. Voluntary Participation in a Dependency Program. An employee experiencing problems resulting from drug or alcohol abuse or dependency is encouraged to seek counseling on a voluntary basis. The Safety-Service Director will cooperate by granting family leave to which he/she may be entitled. Counseling will be kept confidential and will have no influence upon performance appraisal. Job performance alone will be the basis of all performance appraisals.

An employee who has completed voluntary participation in a dependency program shall follow return to duty and follow-up testing procedures.

Employees testing positive for drug or alcohol use after having completed a rehabilitation program, shall be discharged.

**ACKNOWLEDGEMENT RECEIPT
DRUG AND ALCOHOL TESTING POLICY**

I, _____ acknowledge receipt of the City of Fostoria Drug and Alcohol Testing Policy. I have read and understand the policy and will contact my supervisor with any questions I may have.

Signed: _____

Date _____