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A COLLECTIVE BARGAINING AGREEMENT

between

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS
LOCAL 436**

and

THE CITY OF TALLMADGE, OHIO

Effective: January 1, 2019

Expires: December 31, 2021

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Table of Contents

Article

1. PREAMBLE.....	5
2. PURPOSE AND INTENT	5
3. RECOGNITION.....	5
4. MANAGEMENT RIGHTS.....	6
5. DUES DEDUCTION	7
6. NO STRIKE	7
7. NON-DISCRIMINATION.....	8
8. UNION SECURITY	8
9. UNION ACTIVITIES	9
10. ACCESS TO PREMISES	10
11. SHOP STEWARDS.....	10
12. BULLETIN BOARDS.....	11
13. PROBATIONARY PERIOD.....	11
14. SENIORITY	11
15. DISCIPLINE.....	12
16. LAY-OFF AND RECALL	13
17. SICK LEAVE	14
18. DISABILITY LEAVE.....	16
19. UNPAID LEAVES OF ABSENCE.....	17
20. MILITARY LEAVE.....	18
21. WORK WEEK.....	18
22. OVERTIME.....	19
23. WAGES	21
24. COMPENSATORY TIME	22
25. UNIFORM ALLOWANCE.....	22
26. VACATION.....	23
27. HOLIDAYS	24
28. SERVICE PAY/LONGEVITY	25
29. HEALTHCARE INSURANCE.....	25
30. SEPARATION OF EMPLOYMENT	27

31.	EMPLOYEE DEATH BENEFIT	27
32.	CONTRACTING OUT/SUBCONTRACTING	27
33.	REVIEW OF PERSONNEL FOLDER	28
34.	DANGEROUS CONDITIONS OF WORK	28
35.	DEFECTIVE EQUIPMENT.....	29
36.	RANDOM DRUG TESTING.....	29
37.	TRANSITIONAL WORK PROGRAM	30
38.	FMLA	30
39.	JURY DUTY	30
40.	TALLMADGE RECREATION CENTER.....	30
41.	CONFORMITY TO LAW.....	31
42.	TOTAL AGREEMENT.....	31
43.	OBLIGATION TO NEGOTIATE.....	31
44.	GENDER AND PLURAL	31
45.	HEADINGS	32
46.	LEGISLATIVE APPROVAL.....	32
47.	GRIEVANCE PROCEDURE.....	32
48.	ARBITRATION PROCEDURE.....	35
49.	DURATION.....	35
50.	FILLING VACANCIES WITHIN THE BARGAINING UNIT.....	35
51.	LABOR/MANAGEMENT COMMITTEE	36
52.	EXECUTION.....	37
	INDEX	38

1. PREAMBLE

1.01 This Agreement is entered into between the City of Tallmadge, hereinafter referred to as the “Employer,” and Teamsters Public Employees of Greater Cleveland and Vicinity (excluding corrections, law enforcement, and safety employees of Ohio), concerning Ohio County of Cuyahoga and Greater Cleveland area, Local 436, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, hereinafter referred to as the “Union.”

2. PURPOSE AND INTENT

2.01 In an effort to continue harmonious and cooperative relationships with its employees and to ensure the orderly and uninterrupted efficient operations of government, the Employer now desires to enter into an agreement reached through collective bargaining which will have as its purpose, among others, the following:

1. To recognize the legitimate interests of the employees of the Employer to participate through collective bargaining in employment;
2. To promote fair and reasonable working conditions of their employment;
3. To promote individual efficiency and service to the citizens of the City of Tallmadge;
4. To avoid interruption of interference with the efficient operation of the Employer’s business; and
5. To provide a basis for the adjustment of matters of mutual interest by means of amicable discussion.

3. RECOGNITION

3.01 The Employer hereby recognizes the Union as the sole and exclusive bargaining agent with respect to wages, hours, and other terms and conditions of employment, as provided by the State Employment Relations Act, for all full-time blue collar employees employed by the Service Department and occupying the positions of laborers, custodians, equipment operators, technician I, drivers, mechanics and garage helper, group leader, garage group leader, permanent part time general labors, excluding all part-time, seasonal, temporary and probationary employees. All other employees of the Employer are excluded from the Bargaining Unit. Said recognition shall continue for a term as provided by law.

4. MANAGEMENT RIGHTS

4.01 Not by way of limitation of the following, but only to indicate the type of matter or rights which belong to and are inherent to the Employer, the Employer retains the right to:

1. Hire, discharge, transfer, suspend and discipline employees;
2. Determine the number of persons required to be employed, laid off or discharged for just cause;
3. Determine the qualifications of the Employees covered by this Agreement;
4. Determine the starting and quitting time and the number of hours to be worked by its employees;
5. Make any and all reasonable rules and regulations;
6. Determine the work assignments of its employees;
7. Determine the basis for selection, retention and promotion of employees to or for positions not within the Bargaining Unit established by this Agreement;
8. Determine the type of equipment used and the sequence of work processes;
9. Determine the making of technological alterations of, or the revising of either process or equipment, or both;
10. Determine work standards and the quality and quantity of work to be produced;
11. Select and locate building and other facilities;
12. Establish, expand, transfer, and/or consolidate work processes and facilities;
13. Consolidate, merge, or otherwise transfer any and all of its facilities, property, processes or work with or to any other municipality or entity or effect or change in any respect the legal status, management responsibility of such property, facilities, processes or work;
14. Terminate or eliminate all or any part of its work or facilities.

4.02 For justifiable cause, the City may require an Employee to submit to psychological testing, drug or alcohol testing.¹

¹ Except by "rebuttable presumption" law.

4.03 In addition, the Union agrees that all of the functions, rights, powers, responsibilities and authority of the Employer in regard to the operation of its work and business and the direction of its work force which the Employer has not specifically abridged, deleted, granted or modified by the express specific exclusively those of the Employer and shall not be subject to the Grievance Procedure herein contained.

5. DUES DEDUCTION

5.01 During the term of this Agreement, the City of Tallmadge will deduct current Union dues for the Union members, and initiation fees and assessments levied by the Union provided that, at the time of such deduction, there is in the possession of the City a current, written and signed, authorization for the deduction of dues from the employee; all subject to State and Federal laws. Dues will be deducted equally once per month, from the first pay period each month.

5.02 The initiation fees, dues or assessments so deducted shall be in the amounts established by the Union from time to time in accordance with its Constitution and By-Laws. The Union shall certify to the Employer the amounts due and owing from the employees involved.

5.03 A check in the amount of the total dues withheld from the employees authorizing a dues deduction shall be tendered to the Union by the fifteenth of the month.

5.04 The Union shall indemnify and hold the City harmless against any all claims, demands, suits or other forms of liability that arise out of, or by reason of, action taken or not taken by the City for the purposes of complying with any of the provisions of this Article.

5.05 Any and all DRIVE contributions permitted by any Memorandums of Understanding to this Collective Bargaining Agreement entered into by the Employer and the Union shall be administered pursuant to this Article.

6. NO STRIKE

6.01 The Union hereby affirms and agrees that it will not, either directly or indirectly, call, sanction, encourage, finance or assist in any way, nor shall any employee instigate or participate, either directly or indirectly, in any strike, slowdown, walkout, work stoppage, or other concerted interference with or the withholding of services from the Employer.

6.02 In addition, the Union shall cooperate at all times with the Employer in the continuation of its operations and services and shall actively discourage and attempt to prevent any violation of this Article. If any violation of this Article occurs, the Union shall immediately notify all employees that the strike, slowdown, work stoppage, or other concerted interference with or the withholding of services from the Employer is prohibited, not sanctioned by the Union and order all employees to return to work immediately.

6.03 It is recognized by the parties that the Employer is responsible for and engaged in activities that are the basis of health and welfare of its citizens and that any violation of this Article would give rise to irreparable damage to the Employer and the public at large. Accordingly, it is understood and agreed that in the event of any violation of the Article, the Employer shall be entitled to seek and to obtain immediate injunctive relief, along with the Union indemnifying and holding the Employer harmless from any and all costs arising from the violation of this Article.

6.04 It is further agreed that any violation of the above shall be automatic and sufficient grounds for immediate discharge or other disciplinary action as determined solely by the Employer, without the employee having any recourse to any grievance or appeal procedure herein contained.

7. NON-DISCRIMINATION

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

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

8. UNION SECURITY

8.01 Membership in the Union is not compulsory. Employees have the right to join, not join, maintain, or drop their membership in the Union as they see fit. Neither Party shall exert any pressure on or discriminate against an employee as regards such matters.

8.02 Membership in the Union is separate, apart and distinct from the assumption by one of his equal obligation to the extent that he receives equal benefits. The Union is required to represent all of the employees in the Bargaining Unit fairly and equally without regard to whether or not an employee is a member of the Union. The terms of this Agreement have been made for all employees in the Bargaining Unit and not only for members in the Local Union, and this Agreement has been executed by the Employer after it has satisfied itself that the Union is the choice of a majority of the employees in the Bargaining Unit.

8.03 If an employee chooses to have payments to the Union made by payroll deduction, a form approved by the City Director of Finance shall be completed, signed by the employee, and submitted to both the Union and the City Director of Finance. Any deductions authorized by the employee shall be deducted from the employee's biweekly pay and thereafter submitted to the Union.

8.04 Bargaining unit employees who voluntarily consent to be members of the Union shall be required to pay the Union dues, initiation fees and other fees required by the Union's Constitution and Bylaws to maintain membership in good standing.

8.05 Any bargaining unit employee who does not elect to become a member of the Union may voluntarily consent to pay the Union a contribution toward the administration of this agreement. No employee is required to contribute in this way but may choose to do so by consenting in writing. Should a bargaining unit employee not voluntarily consent to pay for membership in the Union or not voluntarily consent to pay the Union a contribution toward the administration of this agreement, the Union may charge the employee for representation services to the extent permitted by law.

8.06 A bargaining unit employee who consents to be a member of the Union or pay the Union a contribution toward the administration of this agreement may revoke this consent once per year upon written notice to both the Union and the City Director of Finance submitted in the month of December each year.

8.07 Personnel hired as "Part-Time" shall not be entitled to any benefits or entitlements contained within this contract except the rate of pay. All permanent part time employees shall also be entitled to the shoe allowance in section 25.03.

8.08 The Union hereby agrees to hold the City harmless from any and all liabilities or damages which may arise from the performance of its obligations under the Article and the Union shall indemnify the City for any such liabilities or damages that may arise.

8.09 The Union shall certify the rate at which dues and other fees are to be deducted to the City Director of Finance during January of each year.

9. UNION ACTIVITIES

9.01 **TIME OFF FOR UNION ACTIVITIES.** The Employer agrees to grant the necessary time off, without discrimination or loss of seniority rights and without pay, to any employee designated by the Union to attend a labor convention or to service in any capacity on other official Union business, provided five (5) days written notice is given to the Employer by the Union specifying the length of time off. The Union agrees that, in making its request for time off for Union activities, due consideration shall be given to the number of men affected in order that there shall be no disruption of the Employer's operations due to lack of available employees.

9.02 **NO DISCRIMINATION BECAUSE OF UNION ACTIVITIES.** Any employee member of the Union acting in any official capacity whatsoever shall not be discriminated against for his acts as such officer of the Union so long as such acts do not interfere with the conduct of the Employer's business, nor there be any discrimination against any employee because of Union membership or activities.

10. ACCESS TO PREMISES

10.01 Authorized agents of the Union shall have access to the Employer's establishment during working hours for the purpose of adjusting disputes, investigating working conditions, collections of dues, and ascertaining that the Agreement is being adhered to, provided, however, that there is no interruption of the Employer's working schedule.

10.02 The Employer agrees to allow reasonable use of its buildings and facilities for the purpose of holding Union meetings based upon obtaining prior approval and availability of space; but subject to some reasonable fee as may be charged others for similar activities.

11. SHOP STEWARDS

11.01 The Employer recognizes the right of the Union to designate Shop Stewards in number as determined by the Union but acting in absence of the Union Steward. The authority of Shop Stewards so designed by the Union shall be limited to, and shall not exceed the following duties and activities:

1. The investigation and presentation of grievances in accordance with the provisions of the Collective Bargaining Agreement;
2. The collection of dues when authorized by appropriate Union Action;
3. The transmissions of such messages and information, which shall originate with and are authorized by the Union or its officers, provided such messages and information have been reduced to writing.

11.02 Shop Stewards have no authority to take strike action, or any other action interrupting the Employer's business, except as authorized by official action of the Union. The Employer recognizes these limitations upon the authority of Shop Stewards shall not hold the Union liable for any unauthorized acts.

11.03 One Steward shall be permitted to investigate, present and process grievances on or off the property of the Employer. If investigation, presenting or processing grievances can only be done during such Steward's regular scheduled working hours, such Steward shall be granted time off his regular duties by his supervisor. Such time off, however, shall be reasonable so as to cause minimal interference with Employer's operation. If the time used by the Steward to investigate, present or process a grievance is during the regular schedule of work for such Steward; he shall receive his regular pay for the hours he is so occupied that are within his scheduled hours of work.

11.04 The Union shall notify the employer in writing and post the names of the Stewards on the bulletin board.

12. BULLETIN BOARDS

12.01 The Employer agrees to provide suitable space for and maintain a bulletin board in each work location. The union shall limit its use of the bulletin board to official Union business, such as meeting notices and Union bulletins.

12.02 Notices or postings shall not contain anything of a political or controversial nature or reflecting upon the City or any of its employees or officers. Copies of all material to be posted shall be provided to Employer at the time of posting.

13. PROBATIONARY PERIOD

13.01 The probationary period for all newly hired employees will be three hundred and sixty-five (365) days. Probationary Employees shall be paid \$1.00 less than regular rate for the period 1-90 days; thereafter they will receive \$.50 less than regular rate for the period 91-180 days; thereafter they shall be paid the regular rate. Employees shall not have seniority during probationary periods; however, upon completion of the probationary period, seniority shall start from the date of hire.

13.02 The Employer shall have the sole discretion to discipline or discharge probationary employees and any such action shall not be appealable through any grievance or arbitration procedure herein contained.

13.03 The promotional probationary period for all newly promoted employees shall be sixty (60) days. Seniority shall not be affected during this sixty-day period. The purpose of this probationary period is to allow the City an evaluation period to determine whether or not the person promoted is capable of performing all of the tasks required for the most recent promotion.

13.04 All probationary employees' probation periods may be extended by mutual agreement of the city and Union.

14. SENIORITY

14.01 Seniority shall be defined as an employee's uninterrupted length of continuous full-time employment with the Employer. A probationary employee shall have no seniority until he satisfactorily completes the probationary period, when at that time said probationary period shall be added to such employee's total length of continuous employment.

14.02 An employee's seniority shall be terminated when one or more of the following occur:

1. He resigns;
2. He is discharged for just cause;

3. He is laid off for a period exceeding twelve (12) months;
4. He retires;
5. He becomes unable to perform his job duties due to illness or injury and is unable to return to work upon the expiration of any leave applicable to him; and
6. He refuses a recall or fails to report to work within ten (10) work days from the date the Employer sends the employee a recall notice.

14.03 If two (2) or more employees are hired on the same date, the most senior employee shall be determined by the highest Civil Service test.

14.04 Seniority shall be brought up-to-date by the City as of the signing of this Agreement, and each January 1st thereafter, showing the employee's name, title, pay range/step, rate of pay, date of hire, department working in, in order of seniority, posted, and a copy forwarded to the president of Local 436 by January 15th of each year and as soon as possible after the signing of this Agreement. Any objection to the seniority list as posted, must be reported to the Employer within ten (10) days from the date posted or it shall stand as accepted.

14.05 The departmental seniority list established in 14.04, above, shall be the governing factor for vacation preference.

15. DISCIPLINE

15.01 An employee who is suspended, demoted or discharged shall be given written notice regarding the reason(s) for the disciplinary action within five (5) working days after the Employer has knowledge of the conduct for which an employee is being disciplined. In the case of suspension or discharge, the employee has the right to confer with a representative of the Union. The Employee and the Union will be given at least five (5) calendar days prior notice, of any disciplinary suspension or discharge.

15.02 Disciplinary action taken by the Employer shall only be for just cause, and administered in a non-discriminatory manner.

15.03 Discipline shall normally be applied in a progressive manner; i.e., oral reprimand reduced to writing, written reprimand, suspension or termination. However, should the severity of an employee's conduct or disciplinary record so warrant, an employee may be subject to suspension or discharge.

15.04 The City shall serve the Union Steward or his designee a copy of any disciplinary action taken against any employee immediately after such action.

15.05 Records of disciplinary action, whether written or verbal not resulting in time off, which are more than (1) year old, may not be referred to in subsequent disciplinary matters if both the following criteria are met:

1. There has been no occurrence of a similar type incident within the past one (1) year period; and
2. The Law Director has given written approval after determination that such subsequent non-referral will not adversely impact the City's legal position in any pending or subsequent court action.

15.06 Suspension records remain in the employee's file for a period of two (2) years providing there are no further violations. However, in the event an employee is suspended for any period of time, the employee may file a grievance within seven (7) working days from written notice of suspension and invoke the Grievance Procedure as provided herein.

16. LAY-OFF AND RECALL

16.01 Where, because of economy, consolidation or abolishment of functions, curtailment of activities or otherwise, the Employer determines it necessary to reduce the size of its work force, such reduction shall be made in accordance with the provisions set forth.

16.02 Employees shall be laid off according to their seniority within the Bargaining Unit with the least senior being laid off first, providing that all students, temporary, part-time, seasonal and probationary employees within the Bargaining Unit are laid off first in the above respective order. Employees looking to bump must first bump into a vacant position before they may cause displacement of another employee. Any employee bumping into a different position must demonstrate, within the thirty (30) day period following the displacement, the necessary skill and ability required in the position into which the employee bumps.

16.03 Employee(s) who are displaced may (bump) another employee with lesser seniority within the Bargaining Unit.

16.04 Employee(s) who are displaced (bumped) by a more senior employee, shall be able to displace (bump) another employee with lesser seniority pursuant to the provisions of Section 16.03 above.

16.05 At the end of the displacing (bumping) process, the employee who is displaced (bumped) and unable or chooses not to displace another employee pursuant to the above provisions shall be laid off.

16.06 Recalls shall be in the inverse order of lay-off and a laid off employee shall retain his right to recall for twelve (12) months from the date of his lay-off. Notice of recall

shall be sent to the employee's address listed on the Employer's records and shall be sent by certified mail, return receipt. An employee who refuses recall or does not report to work within ten (10) calendar days from the date the employee receives the recall notice, shall be considered to have resigned his position and forfeits all rights to employment.

16.07 Employees scheduled for lay-off shall be given a minimum of one (1) pay period advance notice of lay-off.

17. SICK LEAVE

17.01 Sick leave shall be defined as an absence with pay necessitated by:

1. Illness or injury to the employee;
2. Exposure by the employee to a contagious disease communicable to other employees;
3. Pregnancy of the employee;
4. Serious illness, injury or death in the employee's immediate family; and/or
5. Death of any individual well known to the Employee, in which case the Employee shall not utilize more than one day's chargeable sick leave.
6. Examination of the employee, for health-related purposes including but not limited to medical, psychological, dental, or optical examination, by an appropriate licensed practitioner.

17.02 All employees shall earn sick leave at the rate of four and six-tenths (4.6) hours for every eighty (80) hours in pay status and may accumulate such sick leave to an unlimited amount, provided no employee can earn or accrue more than one hundred twenty (120) hours in any calendar year.

17.03 An employee who is to be absent on sick leave shall notify the Employer of such absence and reason therefore at least one-half hour before the start of his work shift each day he is to be absent. Nothing in this section precludes anyone from calling in earlier and leaving a message on voicemail.

17.04 If an employee calls off sick for an entire shift, the employee shall not be eligible for overtime until the next work day unless explicitly authorized by, and at the sole discretion of, a supervisor.

17.05 Before an absence may be charged against accumulated sick leave, the Employer may require such proof of illness, injury or death as may be satisfactory to him, or may require the employee to be examined by a physician designated by the Employer and paid by the Employer. In any event, an employee absent for more than four (4) days of work

must supply a physician's report to be eligible for paid sick leave, unless waived by the Director of Public Service.

17.06 If an employee fails to submit adequate proof of illness, injury or death upon request, or in the event that upon such proof as is submitted or upon the report of medical examination, the Employer, at his sole discretion, finds that it is not satisfactory evidence of illness, injury or death sufficient to justify the employee's absence, such leave may, at the Employer's sole discretion, be considered an unauthorized leave and shall be without pay.

17.07 Any abuse or patterned use of sick leave shall be just and sufficient cause for disciplinary action.

17.08 The Employer may require an employee who has been absent due to personal illness or injury, prior to and as a condition of his return to duty, to be examined by a physician designated and paid by the Employer, to establish that he is not disabled from the performance of his duties and that his return to duty will not jeopardize the health and safety of other employees.

17.09 When the use of sick leave is due to illness or injury in the immediate family, "immediate family" shall be defined to only include the employee's spouse, parents, children, and dependents actually residing with the employee. When the use of sick leave is due to death in the immediate family "immediate family" shall be defined to only include the employee's spouse, parents, child, brother, sister, in-laws, grandchildren and grandparents.

17.10 Upon severance of employment with the City of Tallmadge any full-time employee who receives retirement benefits from OPERS by reason of age and length of service or disability shall be entitled to remuneration in cash for one-half of any unused sick leave accumulated by such employee while an employee of the City of Tallmadge, (Sick leave transferred from another employer shall not be utilized for these calculations) not to exceed one thousand two hundred (1,200) hours of such sick leave and such election shall be deemed to eliminate all sick leave credit accrued by such employee at that time.

1. The employee may elect in writing to be paid in cash for up to four hundred (400) hours annually during the last three (3) years prior to retirement from City employment. The eligible employee must notify the Director of Service and the Director of Finance of this election at least thirty (30) days prior to the first distribution. The election is irrevocable, meaning that once the employee indicates his/her anticipated retirement date, that retirement date cannot be altered without the approval of the City of Tallmadge and all hours paid under this provision shall be deducted from the payment for accrued sick leave as provided under this contract. The final payment shall exhaust the sick leave buyout credit. Any remaining sick leave credit may be used until the employee's retirement date at which time all remaining sick leave credit is exhausted.

2. Any employee having less than three (3) years until retirement at the time of the enactment of the pre-retirement sick leave payment benefit may elect to receive up to six hundred (600) hours paid of accrued sick leave in each of the last two (2) years preceding retirement subject to the provisions of Paragraph 1 above.

17.11 If payment of sick leave credits is made, the Director of Finance of the City shall, within thirty (30) days of such retirement, ten (10) or more year termination or decease, compute the number of unused sick leave hours and pay such employee or to such "Sick Leave Beneficiary" if such employee be deceased, such sum as shall be the result of such computation, charging such sum to the same account of the annual appropriation from which said employee has been paid their regular stipend. Only sick leave earned at the City of Tallmadge shall be utilized for these calculations. (Sick leave transferred from another employer after 1/1/10, shall not be utilized for these calculations)

17.12 All cash payments for sick leave earned at the City of Tallmadge (Sick leave transferred from another employer shall not be utilized for these calculations) shall be computed upon one-half (0.5) of the value of such sick leave credits.

17.13 Any employee otherwise qualified to receive a sick leave severance benefit who dies shall have the benefit to which he/she is entitled paid to his/her designated beneficiaries, or, where no beneficiary has been designated, to his/her estate.

17.14 Employees shall be granted paid time off, not deductible for sick leave, not to exceed three (3) working days for each death in the immediate family of the employee, as defined herein. Additionally, where necessary, an employee may use two (2) additional days chargeable to sick leave for such death. An employee may elect to take one (1) day funeral leave due to the death of an individual other than a member of their immediate family. This time shall be charged to the employee's sick leave.

17.15 The parties incorporate the mandatory provisions of the Family Medical Leave Act by reference. It is further agreed that FMLA entitlements shall be used concurrently with existing leave entitlements. Seniority shall accumulate during a FMLA. leave and existing life insurance shall be maintained.

18. DISABILITY LEAVE

18.01 When an employee is injured in the line of duty while actually working for the Employer, he shall be eligible for paid leave, in the amount equal to his base wage, not to exceed thirty (30) calendar days from the injury date, providing that within the thirty (30) calendar days he files for Workers' Compensation and signs a waiver assigning to the Employer those sums of money he would ordinarily receive as weekly compensation as determined by law for that number of weeks he receives benefits under this Article. Such leave shall commence after the employee utilizes his sick leave for the first five (5) work days. Sick leave will be reimbursed to the extent of Workers' Compensation benefits received by the Employer.

18.02 If the employee has filed for Workers' Compensation and at the end of this thirty (30) calendar day period, and the employee is still disabled, the leave may be extended for an additional period not to exceed eleven (11) months, during which the employee will be compensated at one hundred (100) percent of the employee's weekly base pay. The employee may also elect to use accumulated sick leave while disabled.

18.03 The employer shall have the right to require the employee to have a physical exam by a physician's certification that the Employee is unable to return to work due to the injury as condition precedent to the employee receiving benefits under this Article. The designated physician's opinion shall govern whether the Employer shall extend the period of leave. Refusal of an employee to submit to the required physical exam shall be just cause for termination.

18.04 In the event that the City of Tallmadge should purchase disability income insurance, each employee shall execute an assignment of benefits to the City of Tallmadge to the extent of any compensation received by the employees set forth herein, above.

19. UNPAID LEAVES OF ABSENCE

19.01 An employee who has completed ninety (90) days of continuous service with the Employer may be granted a leave of absence without pay because of injury, illness, education purposes, employment by the Union, or other personal reasons, including maternity leave. The decision to grant the leave or the length of the period will be at the discretion of the Employer with due consideration given to the reasons and evidence presented by the employee to the Employer.

19.02 All leaves of absence (and any extension thereof) must be applied for and granted in writing on forms provided by the Employer (with a copy to the employee). Except in cases of emergency, the leave request shall be filed with the employee's Department Head not later than two (2) weeks prior to the date on which the leave is to start. Along with the request for the leave, he shall supply any and all available documentation in support of said leave. This documentation shall consist of medical proof of disability in cases where the leave is for medical purposes and the specific reason for the leave when the leave is for other purposes. An employee will be notified in writing five (5) working days from the date the application was made of the approval or disapproval of the leave of absence request for ten (10) working days or less. For a leave request in excess of (10) working days, the employee will be notified within two (2) weeks from the date the application was made of the approval or disapproval of the leave. An employee who is granted such a leave shall not accrue any benefits during this absence, including seniority.

19.03 Leaves of absence will not be granted for the employee to seek employment with another employer, nor shall any employee work for another employer during the time

period he is on leave. Any employee who works for another employer while on leave shall have his leave canceled immediately and shall be subject to disciplinary action.

19.04 When an employee returns to work after a leave of absence, he will be assigned to the position which he formerly occupied or to a similar position if his former position no longer exists at the applicable rate of pay, provided the employee is able to perform work.

19.05 An employee may, upon request, return to work prior to the expiration of any leave of absence, provided that such early return is agreed to by the Employer.

19.06 Employees absent from work without authorization or approval shall be considered on an unauthorized leave. An unauthorized leave for a period of more than three (3), eight (8) hours consecutive working days may, at the Employer's discretion, be considered an automatic resignation and subject the employee to other disciplinary action.

19.07 In the event that a Bargaining Unit member who becomes unable to perform his job duties due to illness or injury unrelated to work does not return to work within ninety (90) days after the expiration of any and all benefits which he is entitled to utilize, that Bargaining Unit member will, at the Employer's discretion, be considered an automatic resignation and subject to termination. In the event that the terminated Bargaining Unit member can demonstrate that he is physically able to perform all duties required of him within one (1) year after termination, he will be offered any suitable employment opportunity which the Employer has within the Bargaining Unit, at a level equal to or lower than the position he was terminated from.

20. MILITARY LEAVE

20.01 The Employer will accord the employees all rights existing under its policy concerning Military Service Leave. The Employees will be subject to all provisions of this policy and will be required to conduct themselves in accordance with all policy requirements. In the event that the policy is determined to be in conflict with state or federal law, the conflicting state or federal provision shall control.

20.02 In the event the Employer modifies this policy during the term of this Agreement, the Employees and the Union will be notified of the modification(s) thirty (30) calendar days prior to the implementation of the modification.

21. WORK WEEK

21.01 The standard work week shall commence at 12:01 a.m. Sunday and end at 12:00 midnight the following Saturday; except that:

1. An employee's work week shall normally be scheduled between 12:01 a.m. Monday and end at 12:00 midnight the following Friday.

2. The Employer and the Union agree to alter the standard work week or work day for up to ninety (90) days each year to schedule employees for other than the established day time shift. The afternoon, nighttime and/or weekend shift (s) shall be posted for five (5) work days prior to Employee (s) being assigned to the shifts.
 - A. Employees who may desire to work the afternoon or nighttime or weekend shifts must submit a written request not later than the end of the fifth work day of the posting period. The shift assignment shall be given to the more/most senior qualified employee who has requested it. If no Employee requests to be assigned, then the least senior employee (s) shall be assigned.
 - B. The decision to cancel afternoon, nighttime, or weekend shift (s) is solely at the Employer's discretion and any such decisions are not subject to the parties' grievance/arbitration procedures.

21.02 Forty (40) hours per week shall be the standard work week. It may be accrued through working either a 5- day x 8 hours per day schedule, or, by working 4- ten-hour days. In either case, the schedule shall be run from Monday through Friday. The city shall provide the union with 7 days' notice of its intent to utilize a 4 x 10-hour schedule.

21.03 Eight (8) hours per day shall be the standard work day, however, the city may schedule the work assignments over 4 ten-hour schedules. When the 10-hour schedule is utilized, there will be no payment of time and one-half hourly rate for hours worked in excess of 8, unless the time worked is in excess of 10 hours.

21.04 Members of the Bargaining Unit shall be granted a period of time no less than thirty (30) minutes and no longer than sixty (60) minutes for lunch. The length of and time of taking such lunch time shall be determined by the Supervisor of the Department or the Director of Public Service. The employee shall receive no pay during such period, nor shall such time be used to compute hours worked for any purpose. Lunch periods may be taken at the end of the work day with supervision approval.

1. However, if the employee works regular scheduled hours at any time during Saturday or Sunday or works a regular scheduled shift starting anytime between 4:00 p.m. and 4:00 a.m. on any day of the week; such employee shall receive thirty (30) minutes for lunch for which he will be paid his regular pay.

22. OVERTIME

22.01 "Overtime" is work performed outside of an employee's assigned standard work day or work week as defined in Article 21 of this agreement. Overtime shall be compensated at the rate of one and a half (1.5) times the employee's normal hourly rate of pay.

22.02 Sunday. Except when working winter second (night) shift during an employee's standard work week, any work performed by an eligible employee on a Sunday shall

receive a minimum of three (3) hours pay at a rate of two (2) times the employee's normal hourly rate of pay.

22.03 Holiday. Any work performed by an eligible employee on a Holiday as described in Section 27.03 shall receive a minimum of three (3) hours pay at a rate of two (2) times the employee's normal hourly rate of pay.

22.04 Emergency Call-In. Any employee called-in for unscheduled work outside his or her standard work day shall receive a minimum of three (3) hours pay at a rate of one and half (1.5) times the employee's normal rate of pay, except on Sunday where an eligible employee shall receive a minimum of three (3) hours pay at a rate of two (2) times the employee's normal hourly rate of pay. This section does not apply to employees who are scheduled to work past the end of their standard work shift on overtime.

22.05 Saturday. Any employee scheduled to work on Saturday shall be paid overtime for any time worked.

22.06 An employee using eight (8) hours of sick leave (one day) is ineligible for overtime until he or she has reported back to work on the next scheduled standard work day. A supervisor may, at their sole discretion, specifically authorize an employee to work overtime under this section. Being called-in for overtime by a supervisor is implied authorization to work overtime.

22.07 When it becomes necessary to work overtime, the Employer agrees to attempt to distribute overtime on an equal basis with consideration being given to those persons in a seniority status.

22.08 Overtime for garage and water employees shall be offered on a voluntary rotating basis. If no employee agrees to work after one time through the entire roster for department requiring overtime, then the employer will call in employees on a reverse seniority basis and the employees must work. The intent of this section is to provide a means by which the City may, when no one will volunteer and if the need arises, force employees to perform required duties—Water and Garage Departments and lowest seniority first.

22.09 Road Department overtime will be called by seniority on a continuous rotating basis per shift assigned.

1. Road Department overtime (excluding winter shifts): If no employee agrees to work after one time through the entire Street Department roster, the employees from the other two (2) departments shall be asked to work (Garage first, then Water/Sewer). If none agree voluntarily, then the employer will call Street Department employees on a reverse seniority basis and the employees must work. The intent of this section is to provide a means by which the City may, when no one will volunteer and if the need arises, force employees, lowest seniority first, to perform required duties.

2. Road Department overtime (winter shifts): If no employee agrees to work after one time through the entire shift roster, then the employer will call in employees on a reverse seniority basis and the employees must work. The intent of this section is to provide a means by which the City may, when no one will volunteer and if the need arises, force employees to perform required duties—Street Department and lowest seniority first.

22.10 In the event that the entire department requiring overtime had been notified and additional manpower is still needed, management may notify other departments of the need for additional staffing and shall reserve the right to utilize staffing from outside the department.

22.11 Beginning January 1, 2020, if an employee has accepted at least fifty (50) percent of the overtime offered to him or her within the twelve (12) months immediately prior to when the overtime is earned, the employee may request in writing to be granted comp time in lieu of overtime pay.

23. WAGES

23.01 As of the effective date of this contract, employees in the following pay grades shall be compensated at the following hourly rates:

<u>Pay Grade</u>	(2.0%) <u>1/1/2019</u>	(2.5%) <u>1/1/2020</u>	(2.5%) <u>1/1/2021</u>
General Laborer	\$17.78	\$18.22	\$18.68
Technician I	\$23.21	\$23.79	\$24.38
Mechanic Helper	\$23.35	\$23.93	\$24.53
Equipment Operator	\$26.62	\$27.29	\$27.97
Garage Mechanic	\$26.62	\$27.29	\$27.97
Garage Group Leader	\$29.23	\$29.96	\$30.71
Traffic Technician	\$27.81	\$28.51	\$29.22

23.02 If any other city union or city employee group receives a salary increase of greater than 3.5% during any of the above contract years, the above percentage increases shall be increased to said greater increase percentage.

23.03 When employees perform work “out of pay grade” (defined as an employee with a lower job pay grade performs a task of a higher job pay grade – ie. A General Laborer

performs a Technician I level job skill, that lower job pay grade level will receive compensation at the same rate the individual at the higher level would have received for performing that same task. The duration of time the higher rate is paid shall be rounded up to the next highest hour for the actual time spent performing the task/operating the equipment. The employee must possess the knowledge, skills and abilities to perform that particular task.

23.04 The personnel who occupy the position of Garage Mechanic shall receive three hundred twenty-five (\$325.00) annually as a tool allowance, which shall be paid by the Director of Finance upon receiving the appropriate receipts of purchase from the employee during the course of the contract year.

23.05 Except for the Garage Group Leader, any employee who is issued any communication device (e.g., cell phone, pager, etc.) for the purpose of responding to authorized call-outs, shall be compensated at the rate of \$125 per week or, if less than a week, a pro-rated period of time. The supervisor shall attempt to recognize individual preferences but shall have the final authority to pick who shall carry the device(s), including individuals outside the water and sewer department.

23.06 Any employee who works the second (night) shift during the altered (winter) work week described in 21.01(2) herein shall receive an increase in pay of \$3.00 per hour while working this shift.

24. COMPENSATORY TIME

24.01 The granting of compensatory time off shall not be unreasonably denied.

24.02 On December 1 of each year any employee who has unused accumulated compensatory time off as of December 1 of each year shall be paid by the Director of Finance at his/her normal rate of pay for that accumulated compensatory time. Such payment shall be made within thirty (30) days of December 1. The outstanding balance of compensatory time on December 2 will be zero (0) hours.

24.03 At any point in time prior to December 1, if the member exceeds one hundred sixty (160) hours of accrued compensatory time, the member shall be paid by the Director of Finance at his/her normal rate of pay in effect at the time such compensatory time was earned for such prior unused accumulated time off in excess of one hundred sixty (160) hours. No employee may accumulate more than one hundred sixty (160) hours of compensatory time.

25. UNIFORM ALLOWANCE

25.01 The Employer agrees that if any employee is required to wear any kind of uniform or safety equipment as a condition of his continued employment, such uniform or safety equipment shall be furnished and maintained by the Employer free of charge, at the standard required by the Employer, and he shall receive five (5) uniform changes per

week. In addition, all members of the Bargaining Unit shall receive one (1) complete rain suit and summer T-shirts (3 per year) which shall be replaced as normal wear and tear dictates.

25.02 The Employer shall provide work gloves for employees, which, when worn out, shall be replaced by the Employer, upon presentation of the worn-out pair.

25.03 The Employer shall pay each employee (full time and permanent part time) two hundred and fifty (\$250) dollars annually for the purchase of winter clothing and the purchase or repair of steel toe safety work shoes. A check shall be issued every year at the second pay of January that will be part of the regular paycheck.

1. Outer garments of winter clothing (e.g., coats, long sleeve shirts, hoodies, etc.) must meet the latest edition of ANSI/ISEA 107 Conspicuity Class 3 standards for reflective clothing.
2. Safety shoes must include a safety toe and comply with the most current versions of the following standards: ASTM F-2412 (Standard Test Methods for Foot Protection), ASTM F-2413 (Standard Specification for Performance Requirements for Protective Footwear), and ANSI Z41 (American National Standard for Personal Protection – Protective Footwear).

26. VACATION

26.01 The vacation schedule for all regular full-time employees shall be as follows:

1. Upon completion of 1 year service – 10 work days.
2. Upon completion of 5 years service – 15 work days.
3. Upon completion of 10 years service – 20 work days.
4. Upon completion of 15 years service – 25 work days.

26.02 Entitlement to vacations under Article 26 shall be determined as of the employee's anniversary date each year.

26.03 Within the Street Department four (4) employees; within the Water and Sewer Department two (2) employees and within the Garage Department two (2) employees may be permitted to take vacation off at the same time upon thirty (30) day written notice to and approval of the Employer, if such can be accommodated by the work schedule. Such requests shall not be unreasonably denied.

26.04 Vacation and compensatory time for the next year shall be selected on the basis of seniority between Dec. 2 and January 31 of the prior year. Employees shall be notified on or before February 28th whether or not their vacation selections are approved.

26.05 If vacation and compensatory time is not scheduled at that time, it shall be approved on a first come, first served basis, subject to scheduling considerations. Such requests shall not be unreasonably denied.

26.06 Each eligible employee shall be allowed to carry over to the next immediate year earned vacation time to a maximum of ten (10) days. The employee may also choose to be paid in lieu of vacation carry-over. Such payments shall be made in the month of January of each year following the year earned.

27. HOLIDAYS

27.01 An employee who has been a regular employee of the City for more than thirty (30) calendar days shall be entitled to the following eight holidays and their associated benefits:

- New Year's Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving Day
- Christmas Day

27.02 In the event that an eligible employee works on any day designated as a holiday, the employee shall be paid at double (2.0) the employee's regular rate of pay. In addition, the employee shall receive the employee's regular holiday pay. At the employee's option, compensatory time may be earned in lieu of holiday pay subject to other rules affecting compensatory time.

27.03 In the event an eligible employee does not work on any day designated as a holiday, the employee shall be paid the employee's regular rate of pay.

27.04 An employee who has been a regular employee of the City for more than (1) year shall be entitled to designate five (5) personal days per calendar year.

1. Employees will be permitted to take a personal day upon a five (5) day written notice to and approval of the employer, if such can be accommodated by the work schedule. Such requests shall not be unreasonably withheld.
2. All personal days must be taken in the calendar year earned. No personal days shall be carried over to another calendar year.
3. No personal day balance shall be paid upon separation from the City.

28. SERVICE PAY/LONGEVITY

28.01 All full-time regular employees shall be entitled to remuneration in addition to that otherwise provided in the following amounts after completion of service with the City for the following periods of time:

1. For five (5) years of service when completed, the sum of seventeen cents (\$0.173) per hour.
2. For ten (10) years of service when completed, the additional sum of seventeen cents (\$0.173) per hour.
3. For fifteen (15) years of service when completed, the additional sum of seventeen cents (\$0.173) per hour.
4. For twenty (20) years of service when completed, the additional sum of seventeen cents (\$0.173) per hour.
5. For twenty-five (25) years of service when completed, the additional sum of seventeen cents (\$0.173) per hour.

Employees hired after July 1, 2000 will receive an initial twenty (20) cent increase over their starting wage. Whenever an employee works out of grade, or, are promoted (within this union), the \$0.20 increase shall be added into the new hourly rate. However, they shall never receive another longevity-based rate increase throughout their careers with the city.

28.02 Service Pay/Longevity payments contained in the above schedule will be included in the employee's biweekly base pay.

28.03 In the event an employee's service pay/longevity increases during the year for which he/she is being paid, he/she will receive pro-rated credit for the higher rate for the biweekly period in which, by his/her anniversary date, he/she is entitled to the higher rate.

29. HEALTHCARE INSURANCE

29.01 Coverage and Employee Costs

1. Employees covered by this agreement will receive the same medical insurance coverage and wellness incentive program as is provided to non-bargaining employees of the City. The employer shall expressly reserve the right to change insurance carriers and coverage.
 - a. Employees shall contribute seventeen (17) percent of the total cost of the employee's medical insurance premiums for the fiscal year.

- i. If at any time during the duration of this agreement any other City Union contributes at a rate other than the rate indicated in 29.01(1)(a) herein, the contribution rate in 29.01(1)(a) shall be revised to the percentage paid by the other City Union, whether higher or lower, for the remainder of the term of this agreement.
 - b. Employee contributions shall be made through bi-weekly payroll deductions.
 - c. An employee may opt out of medical insurance coverage provided by the City in any fiscal year in exchange for compensation of \$1,300 payable by the City in equal, bi-weekly installments.
2. Employees covered by this agreement will receive the same dental insurance coverage as is provided to non-bargaining employees of the City. The City will pay one hundred (100) percent of the premiums for dental coverage under the City's plan.
3. Employees covered by this agreement will receive the same vision insurance coverage as is provided to non-bargaining employees of the City. The City will pay one hundred (100) percent of the premiums for vision coverage under the City's plan.

29.02 Health Care and Wellness Committee

1. The Union agrees to participate in a Health Care and Wellness Committee for purposes of meeting at mutually agreed times and regularly reviewing health care insurance usage, health care needs, studying cost containment programs and options for health plan coverage (medical, dental, vision and prescription), and subject to what follows, discussing and in some cases directing changes to the City's health care plans and benefit levels.
2. With the exception of the Member of Council, members of the Health Care and Wellness Committee must be covered by the City's medical insurance.
3. The Health Care and Wellness Committee will be composed of a total of thirteen (13) members as follows:
 - a. Two (2) representatives from, and selected by, each of the City's fulltime unions (i.e., IAFF, FOP, Teamsters),
 - b. Two (2) representatives of the Administration selected by the Mayor,
 - c. The Law Director or designee,
 - d. The Finance Director or designee,
 - e. One (1) non-supervisory employee of the City selected by the non-bargaining employees and who is not a member of any bargaining unit,

- f. One (1) supervisory employee of the City selected by the non-bargaining employees and who is not a member of any bargaining unit, and
 - g. One (1) member of City Council selected by City Council.
- 4. The City will provide release time for mutually agreed upon scheduled meetings, meaning that if one or both of the Union's representatives were scheduled to work during a meeting, the City will compensate the employees as if they had been working at their scheduled assignments.
 - 5. The Health Care and Wellness Committee shall approve by-laws/ground rules.
 - 6. The Health Care and Wellness Committee may implement health care insurance cost containment measures at any time, including plan design changes or other changes, with the unanimous approval of all non-abstaining members of the Health Care and Wellness Committee present at a meeting where quorum is attained (as quorum is defined in the committee's by-laws/ground rules).
 - 7. Based on estimates from the City's consultant or health care insurance broker, if the City's health care insurance costs for the following year are projected to increase by 10% or more as compared to the City's most recent year's costs, and the Health Care and Wellness Committee does not unanimously approve (in the manner described above), by November 1, cost containment measures to limit health care insurance cost increases below 10% for the following year, the Mayor shall unilaterally select cost containment measure(s).

30. SEPARATION OF EMPLOYMENT

30.01 Upon leaving the employ of the Employer for whatever reason, such employees shall be paid all forms of remuneration to which he/she may be lawfully entitled. Payment of the same to the employee shall be paid at the next regular payday following that in the week of termination of such employment.

31. EMPLOYEE DEATH BENEFIT

31.01 Upon the death of a member employee, and, notification by their spouse, the city will pay up to 50% (maximum of 1200 hours /2) of their remaining accrued sick time bank earned at the City of Tallmadge (not sick leave transferred from another employer after 1/1/10), all compensatory time and all other holidays and vacation time owed to the deceased employee; to the surviving spouse. This is a benefit in addition to any life insurance provided by the city to its employees.

32. CONTRACTING OUT/SUBCONTRACTING

32.01 The Employer reserves the right to contract out or subcontract work which requires a degree of specialization not present in the Bargaining Unit, or is of such a

nature that, in the Employer's sole discretion, performance by Bargaining Unit members is not practical, or when employees do not accept or respond to requests for overtime.

32.02 Such contracting out or subcontracting shall not be done for the sole purpose of reducing the employee work week, hourly rates of pay, or to erode job classification.

32.03 The Employer agrees to notify the Union in the event that this Article is utilized.

33. REVIEW OF PERSONNEL FOLDER

33.01 Members of the Bargaining Unit shall be allowed to review their personnel folders at any reasonable time upon request. If a member, upon examining his personnel folder, has reason to believe that there are inaccuracies in those documents to which he has access; the member may write a memorandum to the Employer explaining the alleged inaccuracy. If, upon investigation, the Employer sustains such allegation, they shall do one of the following:

1. The member's memorandum may be attached to the material in question, and filed with it and the Employer shall note thereon their occurrence; or
2. The Employer may remove the inaccurate material from the personnel folder if they feel that its inaccuracies warrant such removal; or
3. The Employer may remove and destroy the material in the presence of the employee and the Union.

33.02 It is agreed that supervisory and administrative personnel may only divulge any material in any personnel folder in accordance with applicable State and Federal law.

33.03 The Union will in no way hinder or interfere with any State or Federal regulations regarding an employee's folder. However, the Union may view an employee's personnel folder upon a written authorization from said employee to the Employer's Director of Public Service, authorizing the viewing of same.

34. DANGEROUS CONDITIONS OF WORK

34.01 Under no circumstance will an employee be required or assigned when such is known to the Employer to engage in any activity involving dangerous conditions of work or danger to person or property or in violation of any applicable statute or court order, or in violation of a government regulation relating to safety of person or equipment. Any employee involved in any accident shall immediately report said accident and any physical injury sustained. When required by his Employer, the employee, before starting his next shift, shall make out an accident report in writing on forms furnished by the Employer and shall turn in all available names and addresses of witnesses to the accident.

34.02 Safety and Health. The Employer and the Union agree that the safety and health of all employees are matters of the highest importance and each will cooperate in an effort to prevent injury.

34.03 The Union agrees that careful observance of safe working practices and Employer safety rules is a primary duty of all employees. The Employer agrees that there will be uniform enforcement of such rules against employees; said rules shall be enforced without discrimination. Violation of Employer safety rules subjects the offending employee to disciplinary action.

35. DEFECTIVE EQUIPMENT

35.01 The Employer shall not knowingly require employees to take out on the streets or highways any vehicle that is not in safe operating condition or equipped with the safety appliances prescribed by law. All equipment which is refused because not mechanically sound or properly equipped, shall be appropriately tagged so that it cannot be used by other drivers until the maintenance department has adjusted the complaint. After equipment is repaired, the Employer shall place on such equipment an "OK" in a conspicuous place, so the driver can see the same.

34.02 Employees shall immediately, or at the end of their shift, report all defects of equipment. Such reports shall be made on a suitable form furnished by the Employer and shall be made in multiple copies, one copy retained by the employee. The Employer shall not ask or require any employee to take out equipment that has been reported by any other employee as being in an unsafe operating condition until same has been approved as being safe by the mechanical department.

34.03 When the occasion arises where an employee gives written report on forms in use by the Employer of a vehicle being in an unsafe working or operating condition and receives no consideration from the Employer, he shall take the matter up with the officers of the Union who will take the matter up with the Employer.

36. RANDOM DRUG TESTING

36.01 The Employer will accord the employees all rights existing under its policy concerning Drug and Alcohol Testing. The Employees will be subject to all provisions of this policy and will be required to conduct themselves in accordance with all policy requirements. In the event that the policy is determined to be in conflict with state or federal law, the conflicting state or federal provision shall control.

36.02 In the event the Employer modifies this policy during the term of this Agreement, the Employees and the Union will be notified of the modification(s) thirty (30) calendar days prior to the implementation of the modification.

37. TRANSITIONAL WORK PROGRAM

37.01 The Employer will accord the employees all rights existing under its policy concerning its Transitional Work Program. The Employees will be subject to all provisions of this policy and will be required to conduct themselves in accordance with all policy requirements. In the event that the policy is determined to be in conflict with state or federal law, the conflicting state or federal provision shall control.

37.02 In the event the Employer modifies this policy during the term of this Agreement, the Employees and the Union will be notified of the modification(s) thirty (30) calendar days prior to the implementation of the modification.

38. FMLA

38.01 The Employer will accord the employees all rights existing under its policy concerning Family Medical Leave. The Employees will be subject to all provisions of this policy and will be required to conduct themselves in accordance with all policy requirements. In the event that the policy is determined to be in conflict with state or federal law, the conflicting state or federal provision shall control.

38.02 In the event the Employer modifies this policy during the term of this Agreement, the Employees and the Union will be notified of the modification(s) thirty (30) calendar days prior to the implementation of the modification.

38.03 According to the Federal FMLA law, after twelve (12) weeks, an employee's position is not guaranteed. Another position may be offered, if available.

39. JURY DUTY

39.01 The full-time personnel who shall be called to serve on a municipal, county, federal or grand jury or to be examined at specified time as a juror shall be granted the time necessary to serve on such jury or to attend such examination. All such time shall be considered jury duty and shall not be charged to such employee's vacation or sick leave. The City of Tallmadge shall reimburse the employee for any differential between his normal rate of pay and the compensation received for such jury duty. All employees are to report back to work when service ends or when service ends early.

40. TALLMADGE RECREATION CENTER

40.01 All employees, legally dependent (as defined by the City's medical insurance eligibility requirements) immediate family members of employees are eligible for annual membership at the Tallmadge Recreation Center at one-half the rate of City residents.

41. CONFORMITY TO LAW

41.01 This Agreement shall be subject to and subordinated to any applicable present and future Federal or State laws. The invalidity of any provision (s) of this Agreement by reason of any such existing or future law shall not affect the validity of the surviving provisions.

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

41.03 In the event any portion of this Agreement is found invalid, pursuant to Section 41.02 above, the parties shall meet within sixty (60) days to negotiate a valid alternative.

42. TOTAL AGREEMENT

42.01 The Agreement represents the entire agreement between the Employer and the Union and unless specifically and expressly set forth in the express written provisions of this Agreement, all rules, regulations, benefits and practices previously and presently in effect may be modified or discontinued at the sole discretion of the Employer, without any such modification(s) or discontinuance(s) being subject to any grievance or appeal procedure herein contained.

43. OBLIGATION TO NEGOTIATE

43.01 The Employer and the Union acknowledge that during negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining 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.

43.02 Therefore, for the life of this Agreement, the Employer and the Union each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain/negotiate collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they bargained/negotiated and signed this Agreement.

44. GENDER AND PLURAL

44.01 Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular, and words whether

in the masculine, feminine or neuter 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.

45. HEADINGS

45.01 It is understood and agreed that the use of headings before articles or section if for convenience only and that no heading shall be used in the interpretation of said article or section nor affect any interpretation of any article of section.

46. LEGISLATIVE APPROVAL

46.01 It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds, therefore, shall not become effective until the appropriate legislative body has given its approval.

47. GRIEVANCE PROCEDURE

47.01 Every employee shall have the right to present his grievance in accordance with the procedures provided herein, free from any interference, coercion, restraint, discrimination or reprisal and shall have the right to be represented by a person of his own choosing at all stages of the Grievance Procedure. It is the intent and purpose of the parties to this Agreement that all grievances shall be settled, if possible, at the lowest step of this procedure.

47.02 For the purpose of this procedure, the below listed terms are defined as follows:

1. *Grievance* – A dispute or controversy arising from the alleged misapplication or misinterpretation of only the specific and express written provisions of this Agreement.
2. *Aggrieved Party* – Any employee or group of employees within the Bargaining Unit actually filing a grievance.
3. *Party of Interest* – Any employee who is not the aggrieved Party.
4. *Days* – A “day” as used in this procedure shall mean calendar days, excluding Saturdays, Sundays or Holidays as provided for in this Agreement.

47.03 The following procedures shall include:

1. Except at Step 1, all grievances shall include:
 - A. The name, and signature of the aggrieved Party;

- B. The identity of the provisions of this Agreement involved in the grievance;
 - C. The time and place where the alleged events or conditions constituting the grievance took place;
 - D. The identity of the Party responsible for causing the said grievance, if known to the aggrieved Party; and,
 - E. A general statement of the nature of the grievance and redress sought by the aggrieved Party.
2. Except at Step 1, all decisions shall be rendered in writing at each step of the grievance procedure. Each decision shall be transmitted to the aggrieved Party and his representative, if any.
 3. If a grievance affects a group of employees working in different locations, with different principals, or associated with an employer-wide controversy, it may be submitted at Step 3.
 4. The drafting of grievances shall be conducted only during non-working hours. An “Aggrieved Party” must sign the grievance.
 5. Nothing contained herein shall be construed as limiting the right of any employee having a grievance to discuss the matter informally with any appropriate member of the administration and having said matter informally adjusted without the intervention of the Union, provided that the adjustment is not inconsistent with the terms of this Agreement. In the event that any grievance is adjusted without a formal determination, pursuant to this procedure, while such adjustment shall be binding upon the aggrieved Party and create a precedent or ruling binding upon the Employer in future proceedings.
 6. The aggrieved Party may choose whomever he wished to represent him at any step of the grievance procedure.
 7. The existence of this Grievance Procedure, hereby established, shall not be deemed to require any employee to pursue the remedies herein provided and shall not impair or limit the right of any employee to pursue any other remedies available under law, except that any employee who pursues any other available remedy other than provided by this procedure, shall automatically have waived and forfeited any remedies provided by this procedure.
 8. The time limits provided herein will be strictly adhered to and any grievance not filed initially or appealed within the specified time limits will be deemed waived and void. If the Employer fails to reply within the specified time limit, the grievance shall be deemed denied and shall automatically move to the next step.

The time limits specified for either Party may be extended only by written mutual agreement.

9. This procedure shall not be used for the purpose of adding to, subtracting from, or altering in any way, any of the provisions of this Agreement.

STEP 1:

An employee who believes he may have a grievance shall, within five (5) days of the occurrence of the facts giving rise to the grievance, provide a written request for an informal meeting with the Assistant Superintendent for the purpose of discussing the possible grievance. If requested, the Assistant Superintendent will schedule an informal meeting with the Employee and his representative within three (3) working days of the date of the notice by the Employee. The Assistant Superintendent, employee and the employee's representative, if requested, shall meet to discuss the issues in dispute with the objective of resolving the matter informally.

STEP 2:

If the dispute is not resolved informally at Step 1, it shall be reduced to writing by the aggrieved Party and/or his representative, if any, and presented as a grievance to the aggrieved Party's Superintendent within five (5) days of the informal meeting or notification of the supervisor's decision at Step 1, whichever is later, but not later than seven (7) days from the date of the original meeting. If the finding of the Assistant Superintendent is unsatisfactory to the aggrieved, the matter shall be referred to the Superintendent. He shall give his answer in writing to the aggrieved Party, and the aggrieved Party's representative, if any, within five (5) days of the receipt of the written grievance.

STEP 3:

If the aggrieved Party is not satisfied with the written decision at the conclusion of Step 2, a written appeal of the decision may be filed with the Mayor within five (5) days from the date of the rendering of the decision in Step 2. Copies of the written decision shall be submitted with the appeal. The Mayor shall convene a meeting within ten (10) days of the receipt of the appeal. The meeting will be held with the aggrieved Party, his/her representative, if any, and any other party necessary to provide the required information for the rendering of a proper decision. The Mayor shall issue a written decision to the employee, with a copy to the Employee's representative, if any, within fifteen (15) days from the date of the meeting. The Arbitration Procedure (Article 48) will apply after all steps in the Grievance Procedure (Article 47) have been exhausted.

48. ARBITRATION PROCEDURE

48.01 **SELECTION:** The parties shall have five (5) working days to select an arbitrator by mutual agreement. If such agreement is not reached, a joint request shall be made to the Federal Mediation and Conciliation Service (FMCS) to submit a panel of five (5) arbitrators to both parties. The parties shall meet within five (5) working days of receipt of said list for the purpose of selecting the arbitrator by alternately striking names from the list until one (1) name remains. The last remaining name shall be the arbitrator.

48.02 **HEARING TIME:** The arbitrator shall schedule a hearing within thirty (30) days at a time and place convenient to the parties.

48.03 **JURISDICTION:** The arbitrator shall be expressly limited to the meaning, intent, or application of the provisions of this Agreement. He shall have no power to add to, detract from, or alter in any way the provisions of this Agreement.

48.04 **BINDING BOTH PARTIES:** The decision of the arbitrator shall be in writing and binding on both parties.

48.05 **FEES AND EXPENSES:** The fees and expenses of the arbitrator and the cost of the hearing room, if any, shall be borne by the Party losing the grievance. All other expenses shall be borne by the Party incurring them. Neither Party shall be responsible for any of the expenses incurred by the other Party.

48.06 Working days shall be defined as days that the Tallmadge City Hall is normally opened to the public.

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

49. DURATION

49.01 This Agreement shall become effective at 12:01 a.m. on Jan. 1, 2019 and shall replace any existing Agreement, and shall continue in full force and effect, along with any amendments made and annexed hereto, until midnight, December 31, 2021.

50. FILLING VACANCIES WITHIN THE BARGAINING UNIT

50.01 The Employer reserves the right to determine when and if a vacancy occurs. If the employer has determined that a vacancy has occurred within the Bargaining Unit, members of the Bargaining Unit shall be provided first opportunity to bid on the position based upon experience first, and then seniority, provided the employee satisfies all minimum requirements established by the employer. If no members of the Bargaining

Unit apply for the vacancy, the Employer may fill the position at its discretion according to prevailing law.

50.02 All employees within the Bargaining Unit who transfer between departments shall initially serve a probationary period of sixty (60) days.

51. LABOR/MANAGEMENT COMMITTEE

51.01 A Labor/Management Committee consisting of up to three (3) individuals who represent the Union and up to three (3) who represent the City will be established. This Committee will meet once every six months or as necessary to discuss items of concern to employees or the employer. Each team will submit a proposed agenda at least seven (7) days prior to the meeting. Each meeting will have an agenda agreed upon by both parties.

51.02 The names of those representatives for the Union will be submitted to the City no less than seven (7) days prior to each meeting.

51.03 All proposed agenda items will be submitted by both parties in writing to the other no less than seven (7) days prior to each meeting. Only issues not subject to collective bargaining shall be included in the agenda.

51.04 Employees participating in Labor/Management Committee meetings shall receive no compensation solely for participating in the meeting(s). In the event that Labor/Management Committee meetings are scheduled when an employee meeting-participant is scheduled to work, he/she shall receive no diminution in pay. In the event that Labor/Management Committee meeting are scheduled when an employee meeting participant is not scheduled to work, he/she shall receive no compensation for his/her attendance.

52. EXECUTION

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed this 15th day of February 2019.

FOR THE UNION:

John M. Fortisquez
President

Jennisa M. Kashi
Secretary Treasurer

FOR THE CITY:

David H. King

[Signature]

APPROVED AS TO FORM:

[Signature]
DIRECTOR OF LAW

INDEX

- absent, 14, 15, 18
- abuse, 15
- accident, 28
- accrued, 15, 16, 19, 22, 27
- accumulated sick leave, 14, 17
- adequate proof, 15
- aggrieved party, 32, 33, 34
- allegation, 28
- anniversary date, 23, 25
- another employer, 15, 16, 17, 27
- Arbitration, 34, 35
- arbitrator, 35
- Bargaining Unit, 5, 6, 8, 13, 18, 19, 23, 27, 28, 32, 35, 36
- base wage, 16
- beneficiaries, 16
- beneficiary, 16
- benefit, 16, 26, 27
- broker, 27
- bulletin board, 10, 11
- bump, 13
- calendar days, 12, 14, 16, 18, 24, 29, 30, 32
- certification, 17
- City Council, 27
- Civil Service, 12
- Class 3, 23
- communication device, 22
- comp time, 21
- compensatory time, 22, 23, 24, 27
- conduct, 9, 12, 18, 29, 30
- consent, 9
- Constitution and Bylaws, 9
- consultant, 27
- continuous service, 17
- contract out, 27
- contribute, 9, 25
- contributions, 7, 26
- cost containment, 26, 27
- coverage, 25, 26
- death, 14, 15, 16, 27
- deceased, 16, 27
- deduction, 7, 8
- dental, 14, 26
- Department Head, 17
- Director of Finance, 8, 9, 15, 16, 22
- Director of Public Service, 15, 19, 28
- disability, 15, 17
- disabled, 15, 17
- discharge, 6, 8, 11, 12
- disciplinary action, 8, 12, 13, 15, 18, 29
- Discipline, 12
- discretion, 11, 14, 15, 17, 18, 19, 20, 28, 31, 36
- discriminate, 8
- discrimination, 9, 29, 32
- displaced, 13
- dues, 7, 9, 10
- eligible, 14, 15, 16, 19, 20, 24, 30
- emergency, 17
- Emergency Call-In, 20
- equipment, 5, 6, 22, 28, 29
- estate, 16
- expiration, 12, 18
- Exposure, 14
- FMLA, 16, 30
- facilities, 6, 10
- Family Medical Leave, 16, 30
- federal law, 18, 29, 28, 30
- Federal Mediation and Conciliation Service, 35
- Finance Director, 26
- FMCS, 35
- funeral leave, 16
- garage, 5, 20, 21, 22, 23
- gender, 32
- grievance, 7, 8, 10, 11, 13, 19, 31, 32, 33, 34, 35
- Grievance Procedure, 7, 13, 32, 33, 34
- grievance/arbitration procedures, 19
- ground rules, 27
- headings, 32
- health and safety, 15
- health and welfare, 8
- Health Care and Wellness Committee, 26, 27

holiday, 24
 holidays, 24, 27
 hours to be worked, 6
 illness, 12, 14, 15, 17, 18
 immediate family, 14, 15, 16, 30
 indemnify, 7, 9, 35
 ineligible, 20
 initiation fees, 7, 9
 injury, 12, 14, 15, 16, 17, 18, 28, 29
 insurance, 17, 25, 26, 27, 30
 insurance carriers, 25
 investigate, 10
 jury, 30
 Labor/Management Committee, 36
 laid off, 6, 12, 13
 Law Director, 13, 26
 least senior, 13, 19
 leave of absence, 17, 18
 legislative, 32
 liability, 7, 35
 life insurance, 16, 27
 Longevity, 25
 lowest seniority first, 20, 21
 lunch, 19
 management responsibility, 6
 maternity leave, 17
 Mayor, 26, 27, 34
 medical, 14, 15, 17, 25, 26, 30
 meeting notices, 11
 Membership, 8
 Military Service Leave, 18
 OPERS, 15
 opt out, 26
 overtime, 14, 19, 20, 21, 28
 paid leave, 16
 pay grade, 21
 payments, 8, 16, 24, 25
 payroll, 8, 26
 personal day, 24
 Personnel, 9
 personnel folders, 28
 physical exam, 17
 physician, 14, 15, 17
 plan design, 27
 practitioner, 14
 Pregnancy, 14
 premiums, 25, 26
 Probationary Employees, 11
 probationary period, 11, 36
 property, 6, 10, 28
 pro-rated, 22, 25
 provisions, 7, 10, 13, 16, 18, 29, 30, 31, 32, 33, 34, 35
 psychological, 6, 14
 psychological testing, 6
 qualifications, 6
 qualified, 16, 19
 quorum, 27
 reasonable, 5, 6, 10, 28
 recall, 12, 13
 Recreation Center, 30
 reduction, 13
 Refusal, 17
 regular pay, 10, 19
 reprimand, 12
 resignation, 18
 retirement, 15, 16
 reverse seniority, 20, 21
 Road Department, 20, 21
 roster, 20, 21
 rules and regulations, 6
 safe working practices, 29
 safety and health, 29
 safety equipment, 22
 Saturday, 18, 19, 20
 schedule, 10, 19, 23, 24, 25, 34, 35
 seniority, 9, 11, 12, 13, 16, 17, 20, 21, 23, 35
 separation, 24
 Service Pay, 25
 severance, 15, 16
 shift assignment, 19
 Shop Stewards, 10
 sick leave, 14, 15, 16, 20, 27, 30
 Sick Leave Beneficiary, 16
 sick leave credit, 15
 standard work day, 19, 20
 State Employment Relations Act, 5
 Steward, 10, 12
 Street Department, 20, 21, 23
 subcontract, 27
 Sunday, 18, 19, 20

Superintendent, 34
supervisor, 10, 14, 20, 22, 34
Supervisor, 19
surviving spouse, 27
suspension, 12, 13
technological alterations, 6
termination, 12, 16, 17, 18, 27
testing, 6
time off, 9, 10, 13, 16, 22
transferred, 15, 16, 27
Transitional Work Program, 30
unauthorized leave, 15, 18
uniform, 22, 29
unscheduled work, 20
vacancy, 35
vacation, 12, 23, 24, 27, 30
violation, 7, 8, 28
vision, 26
voicemail, 14
voluntary, 20
waiver, 16
water, 20, 22
Water/Sewer, 20
wellness, 25
winter clothing, 23
work days, 12, 16, 19, 23
work force, 7, 13
work gloves, 23
work location, 11
work processes, 6
work shoes, 23
work standards, 6
work stoppage, 7
work week, 18, 19, 22, 28
Workers' Compensation, 16, 17
working conditions, 5, 10
working days, 12, 13, 16, 17, 18, 34, 35
working schedule, 10