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AN AGREEMENT
BY AND BETWEEN
THE CITY OF BARBERTON
AND
THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
POLICE OFFICERS BARGAINING UNIT

Effective January 1, 2022
Through December 31, 2024

TABLE OF CONTENTS

| Article | | Page |
|------------|---|------|
| | Preamble/Purpose..... | |
| Article 1 | Recognition | 4 |
| Article 2 | Headings | 5 |
| Article 3 | Interpretation or Agreement..... | 5 |
| Article 4 | Conformity to Law, Application of Civil Service..... | 5 |
| Article 5 | Management Rights | 6 |
| Article 6 | Employee Rights..... | 7 |
| Article 7 | Non-Discrimination | 8 |
| Article 8 | Personnel Files | 8 |
| Article 9 | Union Dues and Fair Share Fees | 9 |
| Article 10 | Grievance Procedure | 9 |
| Article 11 | Joint Labor Management Committee..... | 12 |
| Article 12 | No Strike Clause | 13 |
| Article 13 | Disciplinary Procedure | 13 |
| Article 14 | Equalization of Overtime..... | 16 |
| Article 15 | Waiver in Case of Emergency | 16 |
| Article 16 | Union Time/Representation | 17 |
| Article 17 | Wage Rates and Compensation..... | 18 |
| Article 18 | Hours of Work | 19 |
| Article 19 | Overtime and Court Time..... | 20 |
| Article 20 | Out-of-Classification Pay..... | 22 |
| Article 21 | Holidays | 22 |
| Article 22 | Vacation | 23 |
| Article 23 | Uniform and Safety Equipment Payment/Fitness Payment..... | 24 |
| Article 24 | Educational Benefits/Incentives | 25 |
| Article 25 | Life Insurance | 26 |
| Article 26 | Medical Insurance | 27 |
| Article 27 | Probationary Period..... | 28 |
| Article 28 | Professional Liability..... | 28 |
| Article 29 | Sick Leave | 28 |
| Article 30 | Personal Leave | 30 |
| Article 31 | Bereavement Leave | 31 |
| Article 32 | Jury Duty..... | 31 |
| Article 33 | Family and Medical Leave | 31 |
| Article 34 | Military Leave..... | 32 |
| Article 35 | Injury Leave..... | 32 |
| Article 36 | Work Rules, Policies, and Regulations..... | 33 |
| Article 37 | Severance and Retirement Benefits..... | 33 |
| Article 38 | Substance Abuse Testing | 35 |
| Article 39 | Duration | 41 |
| | Appendix A, Timeliness Extension Form | |
| | Appendix B, Grievance Report Form | |
| | Appendix C, Waiver of Representative | |
| | Appendix D Extra Job Detail Guidelines..... | |

| | | |
|------------|---|----|
| Article 40 | Health and Safety | 42 |
| | Side Letter of Agreement, Unit Assignment..... | 49 |
| | Memorandum of Understanding, Termination of Retiree Benefits..... | 50 |
| | Side Letter of Agreement, Critical Incidents | 51 |

PREAMBLE/PURPOSE

Section 1. Parties to Agreement. This Agreement is between the City of Barberton, Ohio, a charter municipal corporation, hereinafter known as the "Employer," and the Ohio Patrolmen's Benevolent Association Police Officer Bargaining Unit, hereinafter referred to as the "Union."

Section 2. Purpose. It is the purpose of this Agreement to achieve and maintain harmonious relations between the Employer and the Union; to provide for the equitable and peaceful adjustment of differences which may arise; to promote individual efficiency and service to the citizens of the City of Barberton; to avoid interruption or interference with the efficient operation of the Employer's business; to establish the wages, hours and other terms and conditions of employment for employees of the bargaining unit as described in this Agreement; to provide a basis for the adjustment of matters of mutual interest by means of amicable discussion; and to meet the other provisions of Ohio Revised Code Section 4117. This article is not intended to provide bargaining unit employees any rights not specifically granted elsewhere in this Agreement.

ARTICLE 1 RECOGNITION

Section 1.1. Unit Definition. The Employer 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 Ohio Revised Code Section 4117, for all full-time police officers of the Barberton Police Department as certified by the State Employment Relations Board (SERB) in Case Number 95-REP-09-0165 on February 22, 1996. These employees shall hereinafter be referred to as "bargaining unit." Such bargaining unit shall exclude the Chief of Police, all sergeants and lieutenants, and all other employees.

Section 1.2. Excluded. The bargaining unit shall exclude the Chief of Police, all sergeants and lieutenants, all management, confidential, supervisory as defined in R.C. 4117, part-time, seasonal, temporary, and all other employees not included above.

Section 1.3. The City recognizes that the bargaining unit shall be the exclusive provider of routine police patrol services in the City of Barberton. This section does not preclude the ability of the City to:

1. Utilize volunteers.
2. Utilize other law enforcement agencies in mutual aid, in emergencies, or where additional skills or equipment are needed and not available within the bargaining unit.
3. Utilize reserve police officers for such functions as prisoner transport, traffic direction and control, crowd control, parades, parking enforcement, report writing, surveillance, foot patrol, and other similar functions. Part-time/reserve officers will not work a traditional beat alone unless emergency circumstances exist. No reserve officers will be used for the sole purpose of displacing full-time officers. The Employer will not exceed nine (9) paid, part-time/Reserve Officers.

4. Utilize private security firms for guard or security duties at various City of Barberton facilities such as Water Plant, Wastewater Plant, and Reservoir or for investigating workers' compensation cases.

ARTICLE 2 **HEADINGS**

Section 2.1. Headings. It is understood and agreed that the use of headings before articles or sections is for convenience only and that no heading shall be used in the interpretation of said article or section nor effect any interpretation of any article or section.

ARTICLE 3 **INTERPRETATION OF AGREEMENT**

Section 3.1. Entirety. This 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, practices or procedures, previously and presently in effect, may be modified or discontinued at the sole discretion of the Employer. Such sole discretion must be exercised within the scope of the management rights clause as contained herein and cannot serve to alter any right as negotiated and expressly defined in this Agreement.

Section 3.2. Acknowledgement. The Employer and the Union acknowledge that, during negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining/negotiations, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

Section 3.3. Waiver of Obligation to Negotiate. It is agreed, for the life of this Agreement, the Employer and the Union each voluntarily and unqualifiedly waive the right and agree that the other shall not be obligated to 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 negotiated and signed this Agreement, unless otherwise provided by law.

ARTICLE 4 **CONFORMITY TO LAW, APPLICATION OF CIVIL SERVICE**

Section 4.1. Separability. If a court of final and competent jurisdiction renders any portion of this Agreement invalid or unenforceable, such decision shall not affect the validity of the surviving provisions of this Agreement, which shall remain in full force and effect as if such invalid provision thereof had not been included herein.

Section 4.2. Amendments. In the event a provision of this Agreement is rendered invalid, as set forth in Section 4.1, either party may forward a written notice to the other party requesting to meet and discuss an alternative provision. Such notice shall be submitted within sixty (60) days of the date both parties become aware of the decision rendering the provision invalid via an exchange and

service of the written decision. Any mutually agreeable alternate provision will be set forth in a Side Letter of Agreement.

Section 4.3. Application of Civil Service Law. The parties agree that no section of the Civil Service Laws contained in Section 9.44 or Chapter 124 of the Ohio Revised Code, nor any related provisions of the Ohio Administrative Code, nor any civil service rules adopted by the City (i.e., any statutory provisions, administrative rules, or civil service rules addressing the subject matter of any provision of this agreement, including but not limited to layoff, job abolishment, recall, discipline, sick leave, holidays, vacation, grievance procedure, etc.), nor any local City ordinances pertaining to wages, hours, terms or conditions of employment, shall apply' to bargaining unit employees, where such subject matter has been addressed by this agreement.

Notwithstanding the above, ORC Sections 124.34 (A) relative to convictions of a felony and 124.57 shall continue to apply to bargaining unit employees.

Section 4.4. Notwithstanding Section 4.3 above, the parties agree that the conduct and grading of civil service examinations (as related to the City of Barberton Civil Service Commission), the establishment of eligible lists from examinations, the original appointments from the eligible lists, and promotional examinations and appointments shall continue to be governed by City Charter, local statutes, ordinances, and the Civil Service Commission Rules and Regulations of the City of Barberton, as may be applicable.

ARTICLE 5 **MANAGEMENT RIGHTS**

Section 5.1. Function of Employer. The Union recognizes that, except as otherwise limited in this Agreement, it is the exclusive function of the Employer to maintain order, discipline, and efficiency, and to generally operate the City; to hire, direct, classify, assign, transfer, evaluate, promote, demote, and lay off employees; to suspend, discipline or discharge employees for just cause, provided that a claim by an employee that such employee has been demoted, suspended, disciplined or discharged, without just cause, may be made subject to the grievance procedure and dealt with as hereinafter provided; to promulgate and enforce rules and regulations; to determine classifications, size and the duties of the work force; to determine shifts and reasonable overtime requirements; to assign and allocate work within and between stations; to reorganize, discontinue or enlarge any departments or portions thereof; to determine or change the methods and means by which its operations are to be carried on; and to otherwise generally carry out all other ordinary and customary functions of the Employer as set forth in Ohio Revised Code 4117.08(C).

Section 5.2. Inherent Rights. The Union recognizes and accepts that all rights and authority of the Employer not specifically modified by this Agreement or ensuing agreements shall remain the function of the Employer.

ARTICLE 6
EMPLOYEE RIGHTS

Section 6.1. Seniority and Continuous Service.

A. Seniority. Seniority shall be established as of the date of the employee's appointment to their current rank and shall be the total length of continuous service in that rank after that date. Seniority shall be used for the purpose of: the order in which vacation selections shall be made within the bargaining unit; determining who shall receive an out-of-classification assignment among qualified individuals; or for any other purpose as expressly stated in this Agreement.

Layoff and recall rights will be done in accordance with seniority based on the date of the employee's original appointment to a full-time police officer position with the Employer and shall be the total length of continuous service as a police officer with the Employer after that date.

B. Continuous Service. Continuous service with the Employer shall be defined as the uninterrupted service of an employee from the employee's original date of employment with the City of Barberton, to include and taking into account any consecutive interdepartmental transfers or appointments. Continuous service with the Employer shall be used for determining longevity and vacation entitlement and any other purpose as expressly stated in this Agreement.

C. Termination. An employee's Seniority and Continuous Service shall be terminated when one (1) or more of the following occur: the employee resigns or retires; or the employee is discharged for just cause; or the employee is on layoff for more than thirty-six (36) months.

Section 6.2. Layoff. When the Employer determines that a layoff and/or a job abolishment(s) is fiscally necessary, the Employer shall notify the affected employee(s) at least seven (7) calendar days in advance of the effective date of the layoff or job abolishment. The Employer, upon request from the Union, agrees to discuss with the representatives of the Union the impact of the layoff on the bargaining unit, including alternatives to such proposed layoff and/or abolishment. The Employer further agrees to discontinue use of outside contractors performing bargaining unit work, and that reserve, volunteer, auxiliary, part-time and seasonal police officers shall be laid off first. When the Employer determines that a layoff/abolishment will occur, employee(s) shall be laid off in reverse order of seniority regardless of whether such employee is in the Police Officer Bargaining Unit or the Sergeant and Lieutenant Bargaining Unit, i.e. the employee with the least amount of seniority shall be the first one laid off. This process shall continue with other employees until the specific number of employees to be laid off has been achieved.

Section 6.3. Recall. Employees who are laid off shall be placed on a recall list for a period of thirty-six (36) months. If there is a recall, employees who are still on the recall list shall be recalled, in the inverse order of their layoff. Any recalled employee requiring additional training to meet the position qualifications in existence at the time of recall must satisfactorily complete the additional training requirements within twelve (12) months of the recall. Any training required during the twelve (12) month period described herein shall be at the Employer's expense.

The Employer shall be deemed to have fulfilled its obligations by mailing the recall notice by certified mail, return receipt requested, to the last mailing address provided by the employee. The recalled employee shall have five (5) working days following the date of receipt of the recall notice to return to work, unless a different date for returning to work is otherwise specified in the notice.

Lieutenants and Sergeants who have been displaced from their previous rank due to Section 6.2, Layoffs, shall be given the option to return to their previous rank if their respective positions and/or rank is restored due to recall.

Section 6.4. Ohio Revised Code. Sections 6.2 and 6.3 are intended to modify Ohio Revised Code 124.321 et seq.

Section 6.5. Right to Review Body Camera and Dash Camera Footage. Employees will be allowed to review body camera and dash camera footage prior to making any statements or reports related to the incident.

ARTICLE 7 NON-DISCRIMINATION

Section 7.1. Pledge Against Discrimination. The Employer and the Union agree not to discriminate against any bargaining unit employee with respect to compensation or terms and conditions of employment in accordance with applicable state and federal laws. The Employer and the Union further agree not to discriminate against any bargaining unit employee due to membership or non-membership in the Union. Nothing in this Agreement shall provide any additional rights, privileges, recourse, or remedy other than those already provided by state or federal law. The Employer and Union agree not to discriminate against any bargaining unit member on the basis of race, religion, color, creed, national origin, age, sex, disability, military or veteran status, sexual orientation or any other basis protected by law.

Section 7.2. Gender Neutral. All references to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

ARTICLE 8 PERSONNEL FILES

Section 8.1. Personnel Files. Adverse material received from an outside law enforcement agency shall not be inserted in any departmental file, except a criminal investigation file, unless the officer has an opportunity to review, sign, receive a copy of, and attach, if the employee so chooses, comments in writing upon the adverse material. Completed criminal investigation paperwork, either internal or external, resulting in a conviction shall be placed in the permanent Personnel File of the employee.

ARTICLE 9
UNION DUES AND FAIR SHARE FEES

Section 9.1. Dues Checkoff. The Employer will deduct dues on a monthly basis in whatever sum is authorized by the OPBA from the pay of employees covered by this Agreement upon receipt from the OPBA of individual written authorization cards voluntarily executed by an employee for that purpose and bearing his signature. All deductions under this Article, accompanied by a list of all employees for whom deductions have been made, will be transmitted to the OPBA no later than the fifteenth day following the end of the pay period in which the deduction is made.

Section 9.2. Authorization. The Employer will deduct from each pay of each member of the bargaining unit, who has signed an authorization to do so, the required amount as designated by the Union to the Employer.

Section 9.3. Termination of Deductions. The Employer's obligation to check off OPBA dues will terminate when an employee separates employment, transfers to a job classification outside the bargaining unit, or properly notifies the Employer and the OPBA in writing that he has revoked his dues checkoff authorization in accordance with the terms and conditions of the card. Copies of the employees' dues check off cards are available from the OPBA upon request.

Section 9.4. Insufficient Wages for Deduction. Deductions under the Article will be made during the second pay period of each month, but if the employee's pay for the period is insufficient to cover the OPBA dues, the Employer will (make the deduction from the pay earned during the next period or subsequent period.

Section 9.5. Indemnification. The OPBA agrees to hold the Employer harmless from any and all liabilities and damages which may arise from the performance of its obligations under this Article.

Section 9.6. Fair Share Fee. Fair share fee will no longer apply. In the event any State or Federal body with authority over the Employer reinstates fair share fee, the parties will meet to renegotiate this Section of the Agreement within 30 days.

Section 9.7. Union Warranty. The Union warrants and guarantees to the Employer that no provision of this article violates the constitution or laws of either the United States of America or the State of Ohio. Therefore, the Union hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions or proceedings by any employee arising from deductions made by the Employer pursuant to this article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

ARTICLE 10
GRIEVANCE PROCEDURE

Section 10.1. Definition of Grievance. A grievance is a dispute between the Employer and the Union, or an employee or a group of employees, as to the interpretation, application or alleged violation of the specific provisions of this Agreement. The Employer and the Union both encourage the informal settlement of disputes.

Section 10.2. Filing. A grievance may be brought by any member of the bargaining unit through, or with the knowledge of, a representative of the Union. Where a group of bargaining unit members desire to file a grievance involving a situation affecting each member in the same manner, a single representative may process the grievance for the benefit of all affected members.

Section 10.3. Timeliness. For the purpose of this article the term "day" shall mean calendar days not to include Saturdays, Sundays or legal holidays. Failure by the Employer at any step of this procedure to communicate the decision on a grievance within the specified time limit shall be considered to be a response in the negative and permit the Union to proceed to the next step of this procedure, within the applicable time limitations. Any grievance not advanced from one step to the next step by the employee shall be considered dismissed with prejudice. The parties may mutually extend or waive the timeliness provided in this section by executing a "Timeliness Extension" form found at Appendix A of this Agreement.

Section 10.4. Presented In Writing. The written grievance shall state the specific article and section of this Agreement alleged to have been violated, a brief set of facts and the relief requested. A grievance, as defined in this article, must be presented in writing on the form found at Appendix B of this Agreement. Employees shall have the right to file and resolve grievances with or without Union representation; however, the Union shall have the right to be present during the grievance procedure. The resolution of a grievance must conform to this Agreement and the Union shall be informed of such grievance and resolution. At any time prior to the filing of the grievance at Step 1, the grievant, the Union representative and the grievant's supervisor may meet to discuss the issues involved. Any resolution at this informal meeting shall not be precedential.

Section 10.5. Disciplinary and Bargaining Unit Grievances. The following grievances may be filed directly at Step 3:

- A. all disciplinary actions including written reprimands, suspensions, demotions or any other reduction in pay, rank or status, and removals; and,
- all grievances effecting the entire bargaining unit.

Section 10.6. Procedural Steps.

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

Step 2: Chief of Police. If the grievance is not resolved at Step 1, the employee shall have the right to appeal in writing, within five (5) days after receipt of the Division Commander's written answer to the grievance to the Chief of Police. The Chief of Police shall issue a decision or schedule a meeting within three (3) days of the filing of the grievance at Step 2 to discuss the matter with the employee and Union

representative. If a meeting is held, the Chief of Police shall provide a written answer to the employee with a copy to the Union within three (3) days of the meeting. If the employee does not invoke Step 3 of this procedure within five (5) working days after the answer of the Chief of Police, said grievance shall be considered satisfactorily resolved.

Step 3: Director of Public Safety. If the grievance is not resolved at Step 2, the employee shall have the right to appeal in writing, within five (5) days after receipt of the Chief of Polices written answer to the grievance to the Director of Public Safety. The Director of Public Safety shall review the grievance and issue a decision or schedule a meeting with the employee, the Union representative, the Chief of Police and any other parties as deemed necessary by the Director of Public Safety within fifteen (15) days from the date of receipt time stamped in the office of the Director of Public Safety. If a meeting is held, a decision from the Director of Public Safety shall be reduced to writing and submitted to the employee and the Union within five (5) days from the date of the Step 3 grievance meeting.

Step 4: Grievance Mediation. If the grievance is not resolved, the Union may submit the Grievance to mediation with the agreement of the employer. If the Union chooses not to use mediation, a Notice must be sent to the Employer of its intention to forego this process and, must be received by the Director of Public Safety within five (5) working days of the reply received in Step 3. The Grievance will be held in abeyance until such time mediation is completed.

The mediation will be deemed completed when an agreement is ratified or either party notifies the other in writing of their intention to no longer participate in the mediation process.

If the Union does not invoke Section 10.7, said grievance shall be considered satisfactorily resolved and dismissed with prejudice.

Section 10.7. Arbitration. If the grievance is not satisfactorily settled in Step 4, the Union may submit the grievance to final and binding arbitration by submitting notice to the Employer within fourteen (14) calendar days of the conclusion of mediation by submitting a joint request to the Federal Mediation and Conciliation Service (FMCS) for a list of nine (9) Ohio Resident, National Academy Certified arbitrators, with a copy of such request delivered to the Employer. In the event the letter of intent or referral to arbitration (i.e., list request) is not submitted within the time limits prescribed, the grievance shall be considered resolved based upon the Step 3 answer or default rejection as may be applicable. The Union has the sole right to decide whether to arbitrate, appeal, or settle any grievance.

Upon receipt of a list of arbitrators, the Employer and the Union shall have fourteen (14) calendar days from the date of mailing to strike any name to which it objects, number the remaining names in order of preference, and return the list to FMCS.

Prior to striking, each party shall once have the option to completely reject the list of names provided by FMCS and requesting another list. All procedures relative to the hearing shall be in accordance with the rules and regulations of FMCS.

Section 10.8. Authority of the Arbitrator. The arbitrator shall limit the decision strictly to the interpretation, application or enforcement of specific articles and sections of this Agreement, and shall be without power or authority to make any decision that is contrary to or inconsistent with or modifying or varying in any way the terms of this Agreement or of applicable laws; limits or interferes in any way with the powers, duties or responsibilities of the Employer under applicable laws; limits or interferes in any way with the powers, duties or responsibilities of the City Council under its rule making power not inconsistent with this Agreement; contrary to, inconsistent with, changing, altering, limiting or modifying any practice, policy, rule or regulation of the Employer so long as such practices, policies, rules or regulations do not conflict with this Agreement; and/or, granting any right or relief for any alleged grievance occurring at any time other than the contract period in which such right originated.

Section 10.9. Arbitrability. The question of arbitrability of a grievance may be raised by either party no less than five (5) working days before the arbitration hearing of the grievance, on the grounds that the matter is non-arbitrable or beyond the arbitrator's jurisdiction. The first question to be placed before the arbitrator will be whether the alleged grievance is arbitrable. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same arbitrator.

Section 10.10. Decision. A written decision of the case shall be provided by the arbitrator resulting from any arbitration of grievances hereunder, and such decision shall be final and binding on the Employer, the Union and the employee.

Section 10.11. Fees/Expenses. The cost of the services of the arbitrator, the cost of any proofs produced at the direction of the arbitrator and rent, if any, for the hearing rooms, shall be borne by the losing party. The expenses of any witness shall be borne, if at all, by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter. Any employee whose attendance is requested by an arbitrator's subpoena for such hearing shall not lose pay or benefits to the extent such hearing hours are during the employee's normally scheduled working hours on the day of the hearing.

ARTICLE 11 **JOINT LABOR MANAGEMENT COMMITTEE**

Section 11.1. Joint Labor Management Committee. In the interest of sound labor relations, a joint committee of no less than four (4) nor more than six (6) members, half (1/2) of whom shall be from the Employer and half (1/2) of whom shall be from the Union, shall meet for the purpose of discussing subjects of mutual concern. Such committee shall be co-chaired by the Director of Public Safety and a representative selected by the bargaining units. It shall be the express purpose of this committee to build and maintain a climate of mutual understanding and solution of common problems.

Section 11.2. Meetings. Either party may request the other to meet upon execution of a notice. The parties shall meet within ten (10) business days following the execution of such notice, subject to the availability of the participants. Each party shall be responsible for taking its own notes. To provide for productive meetings, the parties agree that they will exchange topic agendas at least five (5) calendar days in advance of any meeting. Employee members of the committee shall not lose pay for participation while on duty.

ARTICLE 12 **NO STRIKE CLAUSE**

Section 12.1. Illegal Work Stoppages. The parties to this Agreement mutually recognize and agree that the services performed by employees covered by this Agreement are services essential to the public health, safety, and welfare. Under no circumstances will the Union or its representatives cause or permit its members to cause any bargaining unit member to take part in any strike, sit-down, stay-in or slowdown in any department, or any curtailment of work or restriction of services or interference with the operations of the Employer.

Section 12.2. Union Responsibility. In the event of a work stoppage, picketing, patrolling or any other curtailment by the Union or its employees covered hereunder during the term of this Agreement, the Union by its officers, agents and stewards, shall immediately declare such work stoppage, picketing, patrolling or other curtailment to be illegal and unauthorized in writing, and instruct employees to stop the said conduct and resume work immediately.

Section 12.3. Union Liability. In the event that the Union in any such situation performs the obligation of this paragraph in good faith, and has not authorized such conduct, it shall not be liable in any suit in any court for money demands caused by said violations.

Section 12.4. Strike Discipline. The Employer shall have the right to discipline, up to and including discharge, any employee who participates in or gives leadership to any activity herein prohibited.

ARTICLE 13 **DISCIPLINARY PROCEDURE**

Section 13.1. Employees Covered By Procedure/Forms for Discipline. This procedure shall apply to all non-probationary bargaining unit employees. The tenure of every non-probationary employee subject to the terms of this Agreement shall be during good behavior and efficient service. No non-probationary employee shall be reduced in pay or position (including working suspensions), suspended, discharged, or removed except for grounds stated in Section 2 of this article. "If the Employer may take disciplinary action against any employee in the bargaining unit for just cause. Forms of disciplinary action are:

1. Letter of instruction and cautioning.
2. Written reprimand.
3. Suspension without pay, at the option of the employee, and with concurrence of the Employer, accrued vacation or other paid leave may be forfeited equal to the length of the suspension. Records of suspension will be maintained. Any employee that is suspended

due to disciplinary action shall not be eligible for any type of overtime during the suspension period. When the period has concluded and the employee returns to his regular scheduled shift, he shall become eligible again.

4. Suspension of record (i.e., paper suspension).
5. Discharge.

An employee who is given a working suspension (i.e., suspension of record) shall be required to report to work to serve the suspension and shall be compensated at the regular rate of pay for hours worked. The working suspension shall be recorded in the employee's personnel file in the same manner as other disciplinary actions having the same effect as a suspension without pay for the purpose of recording disciplinary action.

Section 13.2. Just Cause. Discipline shall be imposed only for just cause.

Section 13.3. Administrative Leave Pending Investigation. An employee may be placed on administrative leave with pay at any time during the disciplinary procedure at the sole discretion of the Employer.

Section 13.4. Notice of Pre-disciplinary Meeting. The specific charges for which discipline is being considered shall be set forth in writing in the Notice of Pre-disciplinary Meeting to the employee along with a brief explanation of the facts and circumstances underlying the charges. The notice shall contain a reference to dates, times and places if possible.

Section 13.5. Pre-disciplinary Meeting. Where the Employer seeks as a penalty the imposition of a suspension without pay, demotion, reduction in rank and/or termination, the Notice of Pre-disciplinary Meeting shall be served on the employee a minimum of five (5) days and a maximum of ten (10) days prior to the Pre-disciplinary Meeting. The parties may extend this five (5) day to ten (10) day notice of Pre-disciplinary Meeting by mutual consent. The Notice of Pre-disciplinary Meeting shall be accompanied by a written statement that includes:

- A. Date and time of the Pre-disciplinary Meeting;
- B. the employee has a right to object by filing a grievance within five (5) working days of receipt of the Notice of Pending Disciplinary Action;
- C. the grievance procedure provides for a hearing by an independent arbitrator as its final step; and,
- D. the employee is entitled to representation as provided in Section 13.6 (A).

Section 13.6. Rights During Disciplinary Actions. Employees have the following rights when involved in discipline:

- A. **Representation.** An employee shall be entitled to representation by a Union representative or an attorney, at the employee's expense, at any time after the employee receives the Notice of Pre-disciplinary Meeting. If the employee chooses to secure representation by an attorney or declines Union representation, the employee shall execute a "Waiver of

Representative" form found at Appendix C of this Agreement and forward such form to the Union.

B. Criminal Investigation. If an employee is questioned as a suspect in any investigation of a known pending criminal charge, such employee shall be advised of the appropriate constitutional rights prior to questioning.

C. Recording Devices. No recording device, stenographic or other record shall be used during questioning unless the employee or the Employer is advised in advance. If the questioning is recorded, the employee may request a transcript at the employee's expense. The employee will be supplied a copy of the record at least fifteen (15) working days prior to the date of arbitration. The cost of the transcript will be borne by the party requesting the copy of the transcript.

D. Polygraph/VSA. Polygraph and/or voice stress analyzer (VSA) examination(s) will be administered only with the consent of the employee. If the employee consents, the employee will be supplied a copy of the record at least fifteen (15) working days prior to the date of arbitration. The cost of the transcript will be borne by the party requesting the copy of the transcript.

Section 13.7. Employee's Response. If an employee receives the notice provided in Section 13.4, such employee shall have five (5) working days to respond to such allegations if the employee so chooses. The employee may waive the right to respond to the allegations within five (5) working days, in writing, to the Chief or Public Safety Director.

Section 13.8. Notice of Disciplinary Action. Upon the conclusion of the Pre-disciplinary Meeting, if the Employer believes that just cause exists, discipline shall be imposed. The affected employee and the O.P.B.A. shall be notified in writing of the discipline to be imposed within ten (10) days of the conclusion of the Pre-disciplinary Meeting. This ten (10) day period for the Employer's response may be extended by mutual agreement of the parties. The employee may file a grievance at Step 3 of the grievance procedure within five (5) working days following the day the employee receives the Notice of Disciplinary Action. Nothing contained herein shall prohibit the Employer and the employee from mutually agreeing to informally meet to attempt to resolve the issue during the ten (10) day period described herein. A suspension without pay and/or termination of an employee shall only be imposed concurrent with or subsequent to the Employer's decision at Step 3 of the grievance procedure.

Section 13.9. Resignation. An employee may resign at any time following the receipt of the Notice of Pre-disciplinary Meeting provided in this Agreement. Any such resignation will be processed in accordance with the Employer's rules and regulations, and the employee's employment shall be terminated.

Section 13.10. Failure to Appeal. Failure to file a Step 3 grievance within the above time limit shall be construed as an agreement to the disciplinary action by the affected employee and the Union. All subsequent appeal rights shall be deemed waived.

Section 13.11. Settlement. A disciplinary matter may be settled at any time. The terms of the settlement shall be agreed to in writing. An employee executing a settlement shall be notified of the right to representation as provided in Section 13.6(A). A settlement entered into by an employee shall be final and binding on all parties. The Union shall be notified of all settlements.

Section 13.12. Records of Discipline. Records of disciplinary action shall cease to have force and effect to be considered in future discipline matters according to the following schedule:

| | |
|----------------------------|-------------------------|
| Instruction and Cautioning | Six (6) Months |
| Written Warning | Twelve (12) Months |
| Suspension | Twenty-Four (24) Months |

Section 13.13. Investigation. The employee will be informed of the nature of any investigation prior to any questioning. The employee will be advised of whether such employee is the subject of a complaint or a possible witness to the alleged incident. In either case, the employee being questioned shall be informed of the employee's right to union representation.

ARTICLE 14 **EQUALIZATION OF OVERTIME**

Section 14.1. Department Policy. The Chief of Police shall execute a policy that, insofar as is possible, will provide fair distribution of overtime among members of the bargaining unit, ranks, shifts, and/or classifications. Such policy shall govern overtime procedures and shall be considered a function of management to administer, alter or modify. The Employer agrees that both the original policy, and any change in policy during the course of this Agreement, will only occur after input is received from the Union via the Joint Labor Management Committee.

Section 14.2. Police Officers Performing Jailor Functions. The parties acknowledge that it is the policy of the Employer that police officers shall not be scheduled or assigned to perform jailor duties except in the following circumstances:

- A. Bona fide emergency situations as defined in Article 15; and/or,
- B. when a police officer is on light duty, can perform such jailor functions consistent with that light duty status, and voluntarily agrees to work in such position while on light duty.

"Ibis does not include the willful failure of the Employer to maintain a sufficient number of jailors.

ARTICLE 15 **WAIVER IN CASE OF EMERGENCY**

Section 15.1. Disasters. In cases of circumstances beyond the control of management, such as acts of God, riot, flood, civil disorder and other similar acts which require a declaration of emergency by the Mayor, the Union agrees that management reserves the right during any such emergency to assign employees to work duties without regard to provisions of this Agreement.

ARTICLE 16
UNION TIME/REPRESENTATION

Section 16.1. Union Duties. The Employer agrees that the elected officers of the Union and/or the Union's duly appointed representatives shall be granted time off from duty hours, when necessary and without loss of pay, for the purpose of fulfilling their Union representation duties, which shall be defined as necessary meetings with the Employer for matters which may require discussion and consultation by both parties. Such matters shall include negotiations, workers' compensation, pension, work rules, the resolution of possible grievances, and any other meetings which are mutually set by the Employer and the Union. However, under no conditions shall more than one (1) Union representative be excused from the employee's regular shift at any one time and/or be paid for attending meetings in accordance with the above.

Section 16.2. Union Access. One (1) accredited Union representative may have access to the Roll Call Room at reasonable times during working hours to consult with up to two (2) Union staff representatives, provided prior notification is given to the Chief of Police, who upon such notification shall so advise the Union representatives' immediate supervisor. A list of accredited Union staff representatives will be furnished to the Chief of Police each year or as changes take place. The Union agrees that no official of the Union (employee or non-employee) shall unduly interfere with, interrupt, or disrupt the normal work duties of other employees.

Section 16.3. Elections. Whenever a polling of Union members is necessary, the Union shall be permitted use of the Roll Call Room as necessary, along with the placing of materials to conduct same.

Section 16.4. Union Leave. The Union shall be granted a total of forty-eight (48) hours leave per calendar year for transacting Union business such as district, state, local OPBA Director Meetings, or international meetings, conventions or seminars or the performance of a state or international held office or position. Union officers needing such leave shall notify the Chief of Police at least five (5) working days in advance of the date requested or as soon as practical and will submit a written request for same. The use/granting of such leave shall be subject to the operational needs of the department. If Union leave is denied by the Chief of Police, the Union representative who was denied leave may appeal the Chief's decision directly to the Director of Public Safety. Unused Union leave balances may be carried over from calendar year to calendar year, up to a maximum accumulation of ninety-six (96) hours solely at the discretion of and upon the approval of the Chief of Police. In no event shall Union leave be granted for attendance at or preparation for social or fund-raising activities. The Chief of Police may approve more than one (1) OPBA Director off on Union Leave under this Section 16.4.

Section 16.5. Bulletin Board. The Employer shall furnish a locking bulletin board in the Roll Call Room hallway for use by the Union and the Employer which may be used for the following notices: recreational and social affairs of the Union; Union meeting notices; Union nominations and elections; reports of the Union committees and/or officers; rulings of policies of the international Union or local Union; political endorsement if not dealing with local partisan elections, rulings or mandatory notices of SERB or other related state or federal entity; and/or communications between the Employer and the Union. Notices of announcements shall not contain anything reflecting upon the Employer or any of its employees, or any labor organization among its employees. Additionally, the Union may post non-defamatory

communications of information. If the Employer finds this article being violated, the Employer shall request the Union to immediately remove such notices. If violations of this article continue, the Employer reserves the right to cancel the provisions of this section.

ARTICLE 17
WAGE RATES AND COMPENSATION

Section 17.1. Hourly Rates. Bargaining unit members shall receive wages as provided in the following schedule.

Section 17.2. Wage Schedule Administration. Wages shall be paid in steps commensurate with service, advancing in step on anniversary date as set forth below. Anniversary date for purposes of experience advancement step increases is determined as follows: date original of employment with Employer as a police officer or, if applicable, any re-employment date following a resignation.

| Experience Advancement | Step |
|-------------------------------|-------------|
| 0-1 year | 1 |
| 1-2 years | 2 |
| 2-3 years | 3 |
| 3-4 years | 4 |
| 4-5 years | 5 |
| 5-15 years | 6 |
| 15+ years | 7 |

| Rank | Step | 2% 1/1/22 | (2.5% raise) 1/1/23 | (2.5% raise) 1/1/24 |
|------|------|--------------|------------------------|------------------------|
| | 1 | \$23.14 | \$23.72 | \$24.31 |
| | 2 | \$25.11 | \$25.74 | \$26.38 |
| | 3 | \$27.10 | \$27.78 | \$28.47 |
| | 4 | \$29.05 | \$29.78 | \$30.52 |
| | 5 | \$33.71 | \$34.55 | \$35.41 |
| | 6 | \$34.03 | \$34.88 | \$35.75 |
| | 7 | \$34.22 | \$35.08 | \$35.96 |
| | FTO | \$36.96 | \$37.89 | \$38.84 |

Section 17.3. Pension Pickup. Wages shall be paid bi-weekly, via direct deposit, every other Friday. When a holiday falls on a Friday, employees shall be paid on the preceding Thursday. When a pair of holidays falls on both a Thursday and Friday, employees shall be paid on the preceding Wednesday. Such wage compensation shall include payments previously termed "longevity" and shall include payments for pension pickup as currently payrolled for all bargaining unit members.

Section 17.4. Advanced Placement on Scale. At the discretion of the Employer, a newly hired police officer may be placed at a wage step other than the entry level step. The step placement shall be made at the time of original appointment and no wage step adjustments shall be made at any other time. The new police officer shall then advance through the pay scale in accordance

with Section 17.2. The following criteria shall be used by the Director of Public Safety for the placement of a new police officer at a wage step commensurate with these requirements:

| <u>Step Number</u> | <u>Item Number</u> |
|--------------------|--|
| 1 | 1. A newly hired police officer who has a minimum of six (6) months experience as a Dispatcher/Jailor with the Employer. |
| | 2. Completed required training and has passed the State of Ohio certification test and capable of being immediately certified as a police officer, or recertified with a maximum of eighty (80) hours of updated training. |
| 2 | 3. Complies with Item #2 and has less than one (1) year part-time or full-time experience as a police officer. |
| 2 | 4. Complies with Item #2, and has an Associate's Degree in Criminal Justice or law enforcement related program from an accredited college or university. |
| 3 | 5. Complies with Item #2, and has at least one (1) year but less than four (4) years of full-time experience as a police officer. |
| 3 | 6. Complies with Item #2, and has a Bachelor's Degree in Criminal Justice or law enforcement related program from an accredited college or university. |
| 4 | 7. Complies with Item #2, and has four (4) or more years of full-time experience as a police officer. |

Section 17.5. FTO Compensation. Officers assigned as FTOs shall be compensated 8% per hour above top patrolman wage.

ARTICLE 18
HOURS OF WORK

Section 18.1. Shift Designations. The Chief of Police is responsible for the assignment of shift and duty assignments. The Chief may assign individuals to work hours as required to fulfill the tasks of the department so long as such is done in accordance with the provisions of this Agreement where applicable. For the Patrol Division, except those on special assignment, the standard hours of work for the various uniformed shifts are as follows:

1st Shift 0600 — 1400 2nd Shift 1400 — 2200 3rd Shift 2200 - 0600

One swing shift may be added by the Chief of Police. Such shall occur after attaining increased staffing levels to adequately operate such a shift and discussion with the Union regarding related details.

All shift staffing shall be achieved for sergeants and lieutenants by annual assignment by seniority in rank, except for the detective bureau lieutenant, detective bureau sergeants, administrative lieutenant, patrol commander lieutenant, and staff services sergeant. Seniority shall be controlling in filling such positions or shift vacancies that occur within the year.

Section 18.2. Shift Change Notice. The Employer agrees that: 1) it will give three (3) days' notice prior to any shift change; 2) when a shift is changed, the officers so assigned shall serve at least seven (7) days on a shift; and, 3) schedule changes will not be made solely for disciplinary purposes.

Section 18.3. Shift Staffing. Relatives, married couples, and dating couples are permitted to request to bid to the same shift. However, such shift bid request may be denied at the discretion of the Chief. Further, such relationships may be transferred at the Chiefs discretion, following Section 18.2 and at any shift movement point, upon recommendation of their supervisors and unit commanders for documentable operational issues.

ARTICLE 19 **OVERTIME AND COURT TIME**

Section 19.1. Overtime. All employees held over past the time for the end of their regularly scheduled shift on other than a Sunday or holiday shall be paid one and one-half (1 1/2) times the regular hourly rate of pay. For the purposes of this Agreement, any reference to the time period referred to as a Sunday commences at the start of the third shift on Saturday and ends at the start of the third shift on Sunday. The time period referred to as a holiday commences at the start of the third shift on the day preceding the holiday and ends at the start of the third shift on the date of the actual holiday. All employees held over past the time for the end of their regularly scheduled shift on a Sunday or holiday shall be paid two (2) times the regular hourly rate of pay.

Section 19.2. Call-In Pay. A call-in occurs when the employee is required to report to work prior to the scheduled time for the start of the employee's scheduled shift or when an employee is required to report back to work after completion of the employee's scheduled shift. All employees called in to work additional hours on a weekday, Saturday or non-holiday shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for a minimum of three (3) hours. All employees called in to work additional hours on a Sunday or holiday shall be paid two (2) times the regular hourly rate of pay for a minimum of three (3) hours.

Section 19.3. Compensatory Time. Compensatory time earned as a result of overtime hours worked shall not be confused or combined with holiday compensatory time. Compensatory time shall be accumulated to a maximum accumulation of two hundred forty (240) hours and may be utilized by taking four (4) continuous days off of scheduled duty days. After accumulation of two hundred forty (240) hours of accumulated compensatory time, all hours worked shall be paid in cash at current rate of overtime and holiday pay rates. Accumulated compensatory time, not to exceed two hundred forty (240) hours, other than holiday compensatory time, shall be paid in cash on the death or separation from employment. Any employee desiring to use such hours shall request the approval of supervision of such time off. The request shall be granted if supervision determines it is reasonable to do so in relation to the staffing requirements. However, with at least five (5) days' notice, no more than one (1) employee shall be permitted to take compensatory time, regardless of whether it creates an overtime situation.

Section 19.4. Court Time. All employees who are required to appear in court or an administrative agency shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for a minimum of three (3) hours as "court time." An employee who is required to appear at a proceeding in the morning and a different proceeding in the afternoon shall be entitled to a minimum of six (6) hours of court time at the applicable rate. Court time shall be paid only for those proceedings at which the employee is required to attend as a result of the employee's actions as a law enforcement officer no matter when such actions occurred. Court time shall not be paid to employees attending such proceedings during regularly scheduled working hours. If the employee attending such a proceeding is required to remain past the time for the end of the employee's shift, the employee shall be entitled to court time at the rate of one and one-half (1 1/2) times the regular hourly rate of pay for each hour worked after the employee's scheduled shift. Court time shall include travel to and from the court.

Section 19.5. Off-Duty Arrest. An employee shall receive a minimum of three (3) hours pay at one and one-half (1 1/2) times the regular rate of pay for an off-duty arrest.

Section 19.6. Travel. Employees shall be at their work sites, report-in location or headquarters by their shift starting time. Any employee who must begin work, appear in court, attend training, or transport prisoners at some location other than the employee's actual work location shall be compensated for travel time. In the event such travel is required and such travel occurs outside of the employee's normal work hours, the employee shall receive one and one-half (1 1/2) times the regular rate of pay for all hours spent in transit for those hours in excess of the regular scheduled workday. In the event such travel is required beyond one hundred (100) miles by automobile, the employee shall receive mileage payable at the Employer's standard rate according to current ordinance, if prior approval is granted by the shift supervisor.

Section 19.7. Funeral Escort Pay. All employees shall receive one hundred dollars (\$100.00), or the prevailing rate of other agencies within Summit County, for each and every funeral escort to which they are assigned. The funeral home shall pay the Employer for each funeral escort. The Finance Department shall pay the employee.

Section 19.8. Extra Details. All requests by private citizens, businesses and public entities, other than the Employer, to provide security for various functions must be approved by the Chief of Police, and then such extra details shall be first offered to members of the police officer and sergeant and lieutenant bargaining units. The Chief of Police or his designee shall post guidelines for these details and be responsible for arranging the scheduling and work requirements for these details with the outside employer. No later than April 1, 2017, the Employer will "post" Extra Detail information electronically as a method of notification and scheduling. An administrator of the outside employer may periodically change the schedule of the police officer if the manager signs a change in schedule form and a copy is forwarded to the office of the Chief of Police. Officers not complying with the posted extra detail guidelines may be subject to discipline as per the Barberton Police Rules and Regulations and the current OPBA bargaining agreement. (See Guidelines for Extra Details — Appendix D)

A. Employees may determine two (2) rates for Extra Details as follows:

- a. Traffic rate
- b. Non-traffic rate

B. Rates shall be agreed upon by the majority of collective members belonging to the

OPBA Officers Unit and OPBA Supervisors Unit.

C. Rates shall not be increased more than one (1) time per year.

D. Per hour rates shall not exceed the average per hour rate required for Extra Details by other police departments within the area of the City of Barberton unless exceptional circumstances apply and is approved by the Chief of Police.

ARTICLE 20 **OUT-OF-CLASSIFICATION PAY**

Section 20.1. Acting Sergeant. The Employer agrees that the police officer with the most seniority shall be appointed Acting Patrol Sergeant at the rate assigned to the individual being replaced. No person will be assigned to Acting Patrol Sergeant when there is a Sergeant or Lieutenant on duty. Such Acting Patrol Sergeant shall have passed the most recent Civil Service examination for Sergeant. In the event there is not an available police officer eligible for Acting Patrol Sergeant, the Chief of Police, or designee, shall have the discretion to appoint a qualified police officer. The Employer shall make a reasonable effort to contact a sergeant or lieutenant prior to appointing a police officer.

ARTICLE 21 **HOLIDAYS**

Section 21.1. Designated Holidays. The following holidays are hereby established:

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

Section 21.2. Holiday Compensation. All holidays will begin at the start of the third shift on the day preceding the holiday and will end at the start of the third shift the day of the holiday. All employees who work on a holiday shall be paid one and one-half (1 1/2) times the regular hourly rate of pay in addition to their normal wages as a time and one-half (1 1/2) holiday bonus or be credited with twelve (12) hours of holiday compensatory time. All employees called in to work on a holiday shall be paid two (2) times the regular hourly rate of pay for a minimum of three (3) hours. All employees held over past the time for the end of their regularly scheduled shift on a holiday shall be paid two (2) times the regular hourly rate of pay. If the holiday falls on an employee's day off, the employee shall earn eight (8) hours holiday compensatory time and select a substitute day off for the holiday utilizing the eight (8) hours of holiday compensatory time when staffing permits.

Section 21.3. Holiday Compensatory Time Cash Out. Bargaining unit employees will be permitted a one-time payment up to eighty (80) hours of holiday compensatory time during the last calendar quarter of each year from accumulated hours earned before the date of the request for payment. Employees wishing to exercise this option shall provide the Finance Department with two (2) weeks' notice. **Holiday compensatory time will be paid out upon separation.**

ARTICLE 22
VACATION

Section 22.1. Vacation Eligibility. All bargaining unit employees shall be entitled to vacation after they have completed twelve (12) months of service. Such employees shall then receive vacation according to the following schedule:

| <u>Service Completed</u> | <u>6/2 Schedule</u> | <u>5/2 Schedule</u> |
|--|---------------------|---------------------|
| One (1) year through four (4) years service | 96 hours | 80 hours |
| Five (5) years through nine (9) years service | 144 hours | 120 hours |
| Ten (10) years through fourteen (14) years service | 192 hours | 160 hours |
| Fifteen (15) years through nineteen (19) years service | 240 hours | 200 hours |
| Twenty (20) years service and over | 288 hours | 240 hours |

For employees assigned a 6/2 schedule, a week equals six (6) days of forty-eight (48) hours. For employees assigned to a 5/2 schedule, a week equals five (5) days of forty (40) hours.

If an employee makes a vacation step advancement on a date other than January 1, the employee may not use the additional hours received in that calendar year until after the employee's anniversary date.

Section 22.2. Vacation Rules. Vacation benefits are subject to the following computations and rules:

- A. Entitlement of vacation and/or vacation pay shall be based on continuous service with the Employer and is applicable only to bargaining unit members. In computing service for vacation purposes, full credit shall be given for all service rendered in a probationary status, provided such member immediately after probationary status becomes an employee eligible to receive vacation.
- B. Vacation periods for all classes of service shall not be cumulative, except as provided in Section 22.3, and shall be taken during the year earned or forfeited. In no event shall an employee be permitted to take in excess of 288 hours of vacation (if on a 6/2 schedule) or 240 hours of vacation (if on a 5/2 schedule) in any calendar year.
- C. Periods of vacation by employees shall be so arranged by the Chief of Police so that the department shall at all times be adequately serviced by a sufficient number of employees. All scheduling shall be done so as to hold overtime hours to a minimum.
- D. Insofar as possible, police officers and sergeants and lieutenants, having rank and seniority of service, shall be given preference as to vacation periods. However, during the

course of vacation selections, no employee shall be permitted to schedule more than 144 consecutive hours of vacation (if on a 6/2 schedule) or 120 consecutive hours of vacation (if on a 5/2 schedule) on the employee's first pick in any calendar year unless every employee within the group affected approves of same. Vacation shall not be scheduled except at the individual employee's discretion and shall not be involuntarily scheduled. In the event it becomes necessary due to an unforeseen depletion in staffing caused by accident or illness, cancellation of vacations will occur in order of reverse seniority and rank (i.e., least senior police officer first, then least senior sergeant, then least senior lieutenant, etc.). Vacations that are cancelled may be rescheduled or carried over into the subsequent year in addition to that as provided in Section 22.3.

E. Police officer vacation scheduling preference shall not be affected by any other bargaining unit's vacation scheduling prior to April 1. After April 1, the Employer may take into consideration the operational needs of the department in scheduling vacations.

When scheduling vacations in patrol, one Blue Unit Member may be off per week on vacation if a supervisor is off on vacation that week. If no supervisor is scheduled off on vacation, two (2) Blue Unit Members may be scheduled off. No overlapping of a vacation day except for these two members will be scheduled.

Section 22.3. Vacation Carryover. All employees may carry over a maximum of forty (40) hours or forty-eight (48) hours depending upon whether the employee is assigned to a 5/2 or 6/2 schedule from one (1) year to the next.

Section 22.4. Vacation Bank. All employees with twelve (12) or more years' service may "bank" any amount of unused vacation leave up to a maximum accumulation of one hundred eight (108) days to be paid upon retirement.

Section 22.5. Vacation Payout at Death. In the case of death of an employee while still employed, unused vacation pay shall be paid to the employee's estate.

Section 22.6. Ohio Revised Code. This article is intended to modify Ohio Revised Code 9.44 except for credit for prior service.

ARTICLE 23 **UNIFORM AND SAFETY EQUIPMENT PAYMENT** **FITNESS PAYMENT**

Section 23.1. Uniform and Safety Equipment Payments. Uniform and safety equipment payment shall be paid annually in a lump sum payment of one thousand two hundred and fifty dollars (\$1,250.00) and shall be deposited into the Employee's account during an "off" payroll week. However, such payment shall be prorated for any employee who has been a non-probationary employee for less than one (1) year. Such payment shall be issued via a separate direct deposit the first off payroll pay period in January of every year. Such payment shall serve as sole payment to the non-probationary employee for maintenance and replacement of the department's standard issue of uniforms and safety equipment items. Any new items added to the uniform policy shall be issued by the Employer and thereafter maintained with the uniform and safety equipment payment.

a.) The Employer agrees to reimburse employees for ballistic, protective vests up to \$650.00 for each year of the contract. Employees are responsible for paying the difference in cost beyond that amount.

b.) To receive reimbursement the employee must turn in a signed document to the Chief's Office that reflects the submitting officer's name, type of vest, serial number, vest expiration date, with proof of payment/receipt.

Section 23.2. Proration - Upon Termination of or Retirement from Service. If an Officer should terminate or retire from employment with the Employer, the Employer shall deduct from such employee's final paycheck a sum equal to:

\$1,250.00 or \$850 as applicable x the number of full months remaining in the year divided by 12.

Section 23.3 The Employer shall reimburse each employee up to \$400 per year for membership in a fitness club.

The reimbursement period shall be December 1 to November 30 of the succeeding year, with the annual reimbursement amount of \$400 to be made in December.

ARTICLE 24 **EDUCATIONAL BENEFITS/INCENTIVES**

Section 24.1. Educational Benefits. The Employer agrees to provide Tuition Reimbursement to qualified employees according to City of Barberton Ordinance #94-2015 and the City of Barberton Handbook and as outlined below.

The Employer will reimburse the entire cost of necessary charges for admission fees, textbooks, and tuition to any employee who, upon being granted prior approval by the Employer's Director of Human Resources, successfully completes a course in a job related field of study in a two year, four year, or graduate program at an accredited institution. Such reimbursement shall be contingent upon the employee receiving a grade of "C" or better in undergraduate level courses or a "B" or better in graduate level courses. To be considered, employees must submit a Tuition Reimbursement Application Form to the Office of Human Resources prior to taking that course. Such reimbursement is also subject to the following:

- A. an employee will not be eligible for tuition reimbursement if he or she withdraws from an approved course or if the course is cancelled;
- B. if an employee receives an incomplete in a course for good reason (such as an illness in the family) the employee will have until the end of the following semester to complete the work and then seek reimbursement;
- C. if an employee is terminated by the Employer for cause, eligibility for these benefits ends immediately;
- D. if an employee is laid off, the employee maintains eligibility for reimbursement at the completion of the course, provided that course began prior to the layoff; and if an employee voluntarily terminates employment prior to the

completion of an approved course, the employee will no longer be eligible to receive any reimbursement.

The parties acknowledge and agree that the Employer shall have the ability to equally limit all City employee bargaining units participation as to these Educational Benefits if the Employer is limited and unable, because of financial constraints, to provide this benefit to any of Employer's employees.

Section 24.2. Required Documentation For Payment. An employee claiming this benefit must submit evidence to the Employer that the charges and textbooks were required for a course in one (1) of the above-described programs. In addition, a paid receipt shall also be submitted showing payment in **full** for the charges and evidence that the employee has successfully completed the course for which the charges were required. The Employer shall not reimburse the employee for charges for which the employee is entitled to reimbursement from any other entity. In addition, the employee must provide the Chief of Police advance written notice by October 1 of the preceding calendar year of the employee's intent to enroll. Failure to provide proper written notice shall relieve the Employer of its obligation to reimburse the employee.

ARTICLE 25 **LIFE INSURANCE**

Section 25.1. Death Benefit. All members of the bargaining unit shall be covered by a fifty thousand-dollar (\$50,000.00) life insurance benefit, fully paid by the Employer. All members of the bargaining unit shall be permitted to purchase an additional amount of coverage as available through, and allowed by, the Employer's life insurance carrier. Such premiums may be paid by payroll deduction at the group rates for this life insurance coverage.

Section 25.2. Eligibility. An employee is eligible for life insurance after ninety (90) days service; if the employee does not apply for group insurance within ninety (90) days, the insurance company may require a physical examination.

Section 25.3. Retiree Coverage. Any employee who retires prior to December 30, 2013, will continue to be covered at the face amount in existence at the time of the employee's retirement, at the Employer's expense. Upon reaching seventy (70) years of age, the face amount for the retiree is reduced by half, and the retiree loses the double indemnity provision. No retiree coverage shall be provided to employees retiring on or after December 30, 2013.

Section 25.4. Coverage Continuation. An employee who leaves the Employer's service by discharge or layoff can continue such insurance policy directly with the insurance company as an individual, but will have to pay a rate set by the insurance company and must convert the policy within thirty (30) days from the last day of service with the Employer.

ARTICLE 26
MEDICAL INSURANCE

Section 26.1. Coverage and Premium. Upon the first day of the month following the completion of one (1) month of service, medical, dental, vision and prescription coverage shall apply to full-time employees, their spouses, and eligible dependents. The Employer will offer to bargaining unit employees a medical plan including prescription, dental, and vision coverage through a group plan.

Section 26.2. Contributions. Plan contributions shall be fifteen percent (15%) for each year of this Agreement.

The Employer will continue to provide a Section 125 plan in order to make said deductions pretax.

Section 26.3. Administration. The Union acknowledges the Employer's right to seek and secure insurance carriers that most efficiently provide economical services, as long as benefit levels on the effective date of this Agreement are maintained in the areas of medical, dental, vision, and prescription. The Employer reserves the right to contract for cost containment services either with the primary carrier or with an independent organization. These cost containment measures may include but are not limited to: (1) smoking cessation programs, (2) wellness programs; (3) prescription protocols; (4) audio and video physician services and/or telephone physician services.

The Union agrees that the City may create and maintain a Health Care Advisory Committee (HCAC). The Employer and the Employer's medical benefits liaison will advise committee members on cost containment programs for medical and prescription coverage; report usage and trends of the City's health care benefits; and provide a detailed report on the City's insurance fund. Once created, the Union agrees to participate in the HCAC and will appoint two (2) representatives to share information presented by the Employer and the Employer's medical benefits liaison with fellow Union members.

Section 26.5. Retiree Coverage. The Employer shall provide retirees of the Barberton Police Department who have retired prior to December 30, 2013, reimbursement for any health insurance deductibles *or prescription costs* paid by the retiree as the result of coverage as provided by the Police and Firemen's Pension and Disability Fund (PFPDF) or any other bona fide-health insurance provider. Said reimbursement, regardless of the amount of deductible imposed by the health care provider, shall not exceed in any calendar year five hundred dollars (\$500.00) for single coverage or seven hundred fifty dollars (\$750.00) for family coverage. The retiree shall provide the Finance Director with the necessary documentation as provided by the insurance carrier indicating they are the primary insured on the policy and the amount of deductible incurred and paid.

Section 26.6. Adult Dependent (Age 26-28) Coverage/Premium Rates. The Employer shall comply with the Affordable Care Act for dependents turning age twenty-six (26).

ARTICLE 27
PROBATIONARY PERIOD

Section 27.1. Probationary Period. Newly hired employees or existing City of Barberton employees who enter the bargaining unit shall be required to successfully complete a probationary period. The probationary period shall begin on the first day for which the employee receives compensation from the Employer as a police officer and shall continue for a period of up to one (1) calendar year, except that if the newly hired employee is not a certified police officer, the probationary period shall be eighteen (18) months. Such probationary employee may be terminated any time during the probationary period and shall have no right to appeal the termination. Upon mutual agreement between the Union, the affected individual, and the Employer, the probationary period may be extended. This section is intended to modify Ohio Revised Code 124.27.

ARTICLE 28
PROFESSIONAL LIABILITY

Section 28.1. Public Release of Information. In the event an employee is involved in any incident concerning the use of firearms or where an allegation of brutality is made against the employee, and such incident or allegation is related to the employee's law enforcement duties, the officer's identity shall not be announced to the public until the investigation is completed or as required by Ohio Public Records Laws.

Section 28.2. Suit. No department regulation shall prohibit an employee from bringing suit arising out of the employee's duties as a law enforcement officer.

Section 28.3. Liability Insurance. The Employer will cover each employee with professional liability insurance. The coverage limits for each employee will provide a minimum of two hundred fifty thousand dollars (\$250,000.00) per incident and five hundred thousand dollars (\$500,000.00) aggregate.

ARTICLE 29
SICK LEAVE

Section 29.1. Sick Leave. This section is intended to modify Ohio Revised Code 124.38 and 124.39.

Section 29.2. Accrual. All bargaining unit employees shall earn sick leave at the rate of four and six tenths (4.6) hours for every eighty (80) hours worked or compensated and shall accumulate without limit.

Section 29.3. Definition/Usage. Sick leave may be used by an employee for only the following reasons:

- A. Illness, injury or pregnancy-related condition of the employee;

13. exposure of the employee to a contagious disease which could be communicated to and jeopardize the health of other employees;

C. examination of the employee, including medical, psychological, dental or optical examination;

D. illness, injury, pregnancy-related condition, or post-partum condition of a member of the employee's immediate family where the employee's presence is reasonably necessary for the health and welfare of the employee or affected family member;

E. examination, including medical, psychological, dental, or optical examination of a member of the employee's immediate family member where the employee's presence is reasonably necessary.

Section 29.4. Reporting Procedure/Documentation. An employee who is absent on sick leave shall report such absence to the employee's supervisor. Such report shall occur as soon as possible but in no event later than one (1) hour before the start of the employee's shift each day the absence will occur. The employee shall state the employee's name, reason for absence and the expected length of absence. Before an absence may be charged against accumulated sick leave, the Chief of Police may require satisfactory proof of illness, injury, or death. In any event, an employee absent for more than three (3) consecutive scheduled workdays must supply a physician's report to be eligible for paid sick leave.

Section 29.5. Abuse and Discipline. Any abuse of sick leave or the patterned use of such leave shall be sufficient cause for discipline.

The Director of Public Safety may require the employee to be examined by a physician designated, scheduled, and paid for by the Employer, or require a report from the employee's personal physician to be eligible for paid sick leave. If, upon direction of the Director of Public Safety, the employee fails to submit written proof of illness, injury, or death, or the employee fails to submit to a medical examination at the cost of the Employer, or documentation or proof as is submitted and attained through examination is insufficient to justify the employee's absence, such leave may be considered an unauthorized leave and discipline imposed. Falsification of either a written signed statement or a physician's certificate shall be grounds for disciplinary action.

An example of abuse/patterned use is an absence due to personal illness or injury for more than five (5) consecutive days or more than five (5) days in a four (4) week period without proper notice or medical documentation.

Section 29.6. Employer Required Examination. If the Employer has a reasonable basis, based on job conduct, for believing that an employee is no longer mentally or physically capable of performing the essential functions of his position, or that he poses a threat to himself or others, the Employer may order an examination by an appropriately qualified medical professional, at the Employer's expense. This includes but is not limited to situations where an employee has been absent due to personal illness or injury for more than two (2) consecutive work days or more than five (5) days in an eight (8) week period; the Employer prior to and as a condition of the employee's return to duty may require an examination under this section.

Upon receipt of the medical professional's opinion on fitness for duty, the Employer, the Union, and the employee will meet to discuss possible alternatives and/or accommodations. If no alternative or accommodation is mutually agreeable, then the employee will be placed upon disability leave or disability separation.

Section 29.7. Immediate Family Defined. When the use of sick leave is due to illness or injury in the immediate family, "immediate family" shall be defined as the employee's spouse, children, stepchildren, grandchildren, parents, **any person for who the employee has healthcare power of attorney**, or foster children.

Section 29.8. Sick Leave Cash Out. Employees who have a minimum of nineteen (19) days of accumulated sick leave as of the first pay of October may, at the employee's option, sell back to the Employer four (4) days of accumulated sick leave and be compensated for thirty-two (32) hours of pay at the employee's regular hourly rate. A one-time pay out shall occur in the last quarter of the calendar year from hours earned prior to the date of the request for payment. The Finance Director shall deduct the amount of sick leave sold back from the account of the employee. Employees wishing to exercise this option shall provide the Finance Department with two weeks' notice. Below represents the Sick Leave Cash Out schedule:

1. Beginning January 1, 2017 and through December 31, 2018, employees with more than seven (7) years of service shall not participate in Sick Leave Cash Out as described in this Section.
2. Beginning January 1, 2019, employees with more than six (6) years of service shall not participate in Sick Leave Cash Out as described in this Section.
3. An employee's anniversary date determines the first day of the sixth or seventh year, as applicable.

Employees meeting the requirements of Article 37 Severance and Retirement Benefits, shall receive four hundred (400) hours of Sick Leave added to their Severance and Retirement payout. See Article 37. Severance and Retirement Benefits.

Section 29.9. Sick Leave Donation. Employees can donate up to 50% of their earned sick time to help any City of Barberton full-time employee who has used all of their accrued paid time in the recovery of a major illness or injury. This may be done on an individual basis and is strictly voluntary. This bank will be administered by the Union without any intervention by the Employer.

ARTICLE 30 **PERSONAL LEAVE**

Section 30.1. A bargaining unit member may use two (2) restricted days of leave and one (1) unrestricted day of leave per year for personal reasons, without deduction of any other accrued leaves. The restricted personal days shall not be scheduled under conditions that create overtime and must be approved in advance by a supervisor. Once said scheduled personal day has been approved, such approval shall not be revoked. The unrestricted personal day shall only require one (1) hour notice to the employee's supervisor. Unrestricted personal days are limited to one (1) officer per shift. When scheduling personal leave day's, such requests shall be granted to the employee first requesting.

ARTICLE 31
BEREAVEMENT LEAVE

Section 31.1. An employee may be off work with pay up to a maximum of three (3) days for the death of a member of the employees family as herein defined. The employees family, for bereavement leave purposes, is defined as follows: mother-in-law, father-in-law, grandparents, spousal grandparents, grandchildren, brother, sister, and stepparents. For the death of a spouse, parent, child, stepchild or a foster child who lives in the home, the maximum shall be five (5) days of leave. The maximum leave to be taken for the death of a brother-in-law or sister-in-law shall be one (1) day. Funeral leave shall be used without reduction in sick leave.

In order to receive payment for bereavement leave, the employee must have been scheduled for work on the date or dates for which the employee requests payment, and if more than one (1) day is claimed (up to the maximum allowed), the time must be continuous and include the date of the funeral. The Chief of Police may authorize additional sick leave for an out-of-state funeral for the employee to attend the funeral of a close friend or relative not defined above.

ARTICLE 32
JURY DUTY

Section 32.1. Employees shall receive paid jury duty leave under the following conditions:

- A. The employee will notify his/her immediate supervisor within seventy-two (72) hours of receiving the notice to appear for jury duty.
- B. The employee will be assigned to first shift for the period of his/her jury duty service. The Employer retains the right to temporarily assign another bargaining unit member to cover for the temporary jury duty transfer.
- C. Any compensation for jury duty need not be remitted to the Employer.
- D. Where there is less than one (1) hour of work time remaining on an employee's scheduled work day, the employee need not report back to work when released from jury duty.

ARTICLE 33
FAMILY AND MEDICAL LEAVE

Section 33.1. The Employer agrees to comply with the Family Medical Leave Act of 1993 and any amendments thereto. Any leave taken by an eligible employee, whether paid or unpaid, shall be applied against the employee's leave entitlement.

Section 33.2. Seniority While on Leave. Employees shall not lose seniority during FMLA leave.

Section 33.3. Certification of Need for Leave/Return to Duty. An employee requesting FMLA leave must provide the Employer with a written certification by a physician on a form provided by the Employer. An employee returning to work after FMLA leave for the employee's serious health

condition or pregnancy must provide the Employer with a written certification by a physician that the employee is able to return to work.

Section 33.4 Employees who exhaust all sick and personal leave *and* exhaust all but one (1) week of vacation leave during approved FMLA leave, shall have the option to reserve the last one (1) week of vacation leave. Employees choosing to reserve one (1) week of vacation leave will not be paid for the one week that has been reserved.

ARTICLE 34 **MILITARY LEAVE**

Section 34.1. Preemption. This article is intended to preempt Ohio Revised Code 5923.05.

Section 34.2. Training. An employee who is a member of any United States Military Reserve or National Guard unit and is required to engage in annual training exercises shall be paid the difference between the employee's regular wages and the compensation from the military unit for up to one hundred seventy six (176) hours per year. Additional time may be granted subject to prior approval by the Director of Human Resources. If such leave is granted, the Employer shall only be obligated to pay the difference between the employee's military pay and the employee's regular pay.

Section 34.3. Active Duty. An employee who is a member of any United States Military Reserve or National Guard unit and is called to active duty shall receive the difference between the employee's regular wages and the compensation from the military unit for up to one hundred seventy six (176) hours per year. The City shall continue medical benefits for any of the employee's dependents for six (6) months.

ARTICLE 35 **INJURY LEAVE**

Section 35.1. Injury Benefit. All bargaining unit members who are injured or incapacitated in the scope and performance of their duties or work and are entitled to workers' compensation insurance shall be entitled the employee's regular rate of compensation without reduction in sick leave status, if and only if said injury or incapacitation is reported to management prior to the completion of the employee's shift or at the first available opportunity. Said injury shall be readily ascertainable and of such a nature to prevent the employee from engaging in the duties of his employment. Said employee shall receive benefits as stated above for a *6 month* period computed on a calendar month basis. The City, upon approval by the Chief and Safety Director, shall extend such leave for two (2) additional periods of three (3) months each. The Employer reserves the right to subrogate against the employee for any payment made by a third party or uninsured/underinsured coverage. Such amount shall not be reduced by attorney fees or partial settlement. Said period shall begin on the date of injury. Said employee shall provide medical certification of the disablement before entitlement. The Finance Director shall be charged with the compliance of the provisions of this regulation.

Section 35.2. Benefit Period. Upon the exhaustion of the period of leave above, the employee shall have the option to use accrued sick leave or of relying solely upon workers' compensation weekly benefits should the employee retire under the disability provisions of the PFPDF such sick

days shall be reinstated for the purposes of severance as provided in this Agreement. Should an employee rely solely upon workers' compensation weekly benefits or upon the exhaustion of any accrued sick Leave the employee's continuous service and seniority shall continue.

Section 35.3. Workers Compensation. On-duty injuries shall be handled in accordance with the present rules and regulations set up under the Ohio workers' compensation laws and provisions of the PFPDF. All employees who are injured or who are involved in an accident during the course of their employment shall file an accident report on a form furnished by the Employer. No matter how slight the incident, all such injuries should be reported to the employee's immediate supervisor and any necessary medical attention shall be arranged by the Employer. The Employer shall provide assistance to employees in filling out all necessary forms when requested with copies of accident and physician reports attached.

Section 35.4. Workers Compensation Representation. If an employee-claimant or the employee's designated representative is scheduled to work on a date when (1) a workers' compensation hearing or appeal is scheduled to be heard, or (2) the employee's presence is required before the Bureau of Workers' Compensation or Industrial Commission for the filing or processing of any claim needed to satisfy a time limit as prescribed by law, and the employee is unable to change either the date of such hearing or time limit, the employee or the employee's representative shall be released from duty to perform same without loss of pay, provided a reasonable effort to reschedule such action off-duty has been made. This provision shall not include any appeal filed by the employee or the employee's representative in a court of law beyond the Ohio Industrial Commission.

ARTICLE 36

WORK RULES, POLICIES, AND REGULATIONS

Section 36.1. The Union recognizes that the Employer, under this agreement, has the right to promulgate and implement new and revised reasonable work rules, regulations, and policies and procedures that regulate the conduct of employees and the conduct of the Employer's services and programs.

Section 36.2. Prior to implementation or modification of any new or existing rule, regulation, policy or procedure which affects members of the bargaining unit, the Employer will notify the Union, and if requested, meet with the Union to discuss the matter prior to the date of implementation.

Section 36.3. The Employer recognizes and agrees that no work rules, regulations, policies or procedures shall be maintained or established that are in violation of any expressed terms or provisions of this agreement.

ARTICLE 37

SEVERANCE AND RETIREMENT BENEFITS

Section 37.1. City Severance. All bargaining unit members shall be granted severance pay upon retirement. "Retirement," as used in this section, is defined as: a break in service with the Employer; the employee has met the criteria of the PFPDF for retirement; and, the employee is eligible to receive retirement benefits at the time of the break in service. The amount of allowable days of severance pay shall be computed as follows: one and eight tenths (1.8) days

per completed year of service with the City of Barberton shall be granted, plus the employee's accumulated sick leave maximum at the time of retirement. Employees shall not receive credit for more than hundred (100) days of *accumulated* sick time and may be credited an *additional* fifty (50) Sick Leave days as described in Article 29 Sick Leave. The total of these three (3) figures represents the total amount of days that an employee is entitled to for the purpose of computing severance pay.

(Severance Days + Accumulated Sick Leave Days + Additional Sick Leave Days per Article 29)**

x Eight (8) Flours

Total Flours Payable

x Employee's Hourly Rate At Retirement

Total Severance Payable

** Sick Leave days Max at one hundred (100) plus fifty (50) additional Sick Leave days per Article 29, Service Days = Total Seniority times 1.8.

Sick Leave days, for the purpose of the Severance and Retirement Benefits calculation shall not exceed one hundred and fifty (150) days.

EXAMPLE: Employee "A" is entitled to one hundred forty-five (145) days for purposes of computing his severance pay. $(145 \times 8) \times (\$ 24.86) = \$28,837.60$.

Section 37.2. Severance at Death. In case of the death of an employee, which death occurs during that employee's tenure, the employee's spouse, or if no spouse, the employee's estate, shall receive an amount of money equal to that amount which the employee would have received had the employee retired on the date of said employee's death, and had the employee retired under PFPDF. Said amount of money shall be computed in the same manner as severance pay is computed for an employee retiring under a recognized retirement system. All limitations that would apply to an employee eligible for severance pay will be applicable in determining the amount to be paid to the employee's surviving spouse or to the employee's estate should there be no surviving spouse.

Section 37.3. One-Time Benefit. Severance pay shall be allowed to the same employee only once. Should an employee retire and receive severance pay, and then be re-employed by the Employer, that employee shall not again be eligible for another severance pay when that employee retires. Further, the re-employed employee's spouse or estate shall not be entitled to any amount of money as provided in this article should that employee die while employed by the Employer. Severance pay shall not be granted to an employee that is fired or that voluntarily terminates employment with the Employer.

Section 37.4. Severance Payment Due Date. Severance pay shall be paid by the Finance Director on the date that the employee's retirement becomes effective, provided that the employee notifies the Finance Director at least ten (10) days prior to that date.

ARTICLE 38
SUBSTANCE ABUSE TESTING

Section 38.1. The Employer has a strong commitment to the health, safety, and welfare of its employees, their families, and the communities it serves. Widely available statistics and information establish that the incidence of drug and alcohol abuse is increasing and the effect is devastating to lives, service, and the community at large.

- a. The Employer is concerned that, in the event of substance abuse among our employees, the safety of our employees and the general public could be endangered. Our commitment to maintaining a safe and secure workplace requires a clear policy and supportive programs relating to the detection, treatment and prevention of substance abuse by employees.
- b. It is the goal of the Employer to provide a safe workplace by eliminating the hazards to health and job safety created by alcohol and other drug abuse. We believe this goal to be in the best interest of our employees and the general public.
- c. The parties recognize that public trust and confidence in the integrity of the Police Department is threatened by even a suspicion of drug use. This substance testing/screening program ideally will serve to deter prohibited drug use and substance abuse by Employees and thereby help insure the integrity of the Department and preserve public confidence.
- d. Employees shall not use any legal drug to the extent that said drug may adversely affect the employee's safety, job performance, or the safety or performance of others. It is the responsibility of the employee to insure that he/she does not violate this requirement.

Section 38.2. The Chief or his/her designee is responsible for implementing and communicating these requirements. Any questions regarding these policies or procedures should be directed to the Chief or his/her designee.

Section 38.3. Employees are encouraged to voluntarily admit problems with drugs and alcohol prior to violating this Article. Employees who voluntarily admit problems with drugs or alcohol prior to violating this Article will not have their job security or promotional opportunities jeopardized by a first request for treatment. Employees should not read this to mean that a first request for treatment will automatically excuse them from discipline or discharge where the Employer initiates corrective action for violation of this Article and/or for manufacturing, distributing, acquiring, dispensing, possessing, or using drugs. Rather, an employee who seeks a first referral for treatment on his or her own initiative is in a better position than one who brings up a drinking or drug problem for the first time in response to an investigation on the Employer's initiation of corrective action. An Employee shall not be disciplined for first time admission of drug or alcohol dependency, if the employee immediately enrolls in a rehabilitation program certified by a substance abuse professional and satisfactorily completes such program.

- a. It will be the responsibility of the employee to comply with the Employer's referral for diagnosis, and it is also the employee's responsibility to cooperate with the prescribed treatment.

- b. When an employee is referred for a drug or alcohol test, he or she shall be allowed to leave work with no loss of pay for the shift.
- c. An employee who participates in a rehabilitation program may use unpaid time.
- d. Rehabilitation programs are designed primarily for those employees who appear to have a treatable condition, not to protect those who manufacture, distribute, acquire, or dispense drugs.

Section 38.4. This Article applies to all employees while on the job.

- a. The Employer wants to be assured that employees will report to work in condition to perform their duties safely and efficiently in the interest of their fellow workers, the public as well as themselves.

Section 38.5. Employees are prohibited from engaging in the following:

- a. Reporting to duty or remaining on duty while having an alcohol concentration of 0.04 level or greater utilizing blood testing or 0.04 BAC Level Concentration or greater utilizing BAC breath testing.
- b. Reporting to duty or remaining on duty while using a controlled substance including prescription drugs that impair the employee's ability to perform the assigned duties, unless the prescribing doctor has approved the employee's use of the prescribed drug while working and that information has been provided to and approved by the Chief or his designee;
- c. Testing positive for illegal controlled substances;
- d. Possessing alcohol or illegal controlled substances while on duty (other than such items that were seized as part of an arrest and/or search);
- e. Using alcohol or illegal controlled substances while on duty;
- f. Refusing to submit to reasonable suspicion, return-to-duty, or follow up alcohol or controlled substance test. Such refusals include, but are not limited to, failing to provide adequate breath for alcohol testing or adequate urine for drug testing, substituting or attempting to substitute and/or adulterate the specimen, altering or attempting to alter the test results, and/or engaging in other conduct that obstructs the testing procedure. The parties agree that an employee's inability to produce an adequate specimen for testing, provided that the employee cooperates and complies with the directions of the testing facility shall not be considered a refusal;
- g. Failing to satisfactorily complete a drug or alcohol rehabilitation program, including aftercare, in which the employee has enrolled pursuant to this Article;

h. Testing positive at any time within twelve (12) months following return to work; or

I. Failing to execute a medical release and/or to authorize disclosure to the Employer of the employee's positive substance abuse test results and/or progress reports with regard to the employee's participation in a rehabilitation program.

An "illegal controlled substance" for purposes of this Article 38 shall be any substance defined in Section 38.8.

Section 38.6. If an employee violates any of the prohibitions listed in this Article, the following consequences will result:

a. The employee may be disciplined up to and including dismissal.

b. The employee will be provided with information regarding the services available for alcohol and substance abuse.

c. The employee will be referred for an evaluation by a substance abuse professional, if it is the employee's first violation.

d. If the employee is not terminated, he or she will be subject to reevaluation, return-to-duty testing, and one follow up test during the twelve (12) month period following return-to-duty. The employee is required to report the use of any prescription or nonprescription medicines containing alcohol or controlled substances to his or her supervisor.

Section 38.7. An employee will be referred to testing for alcohol and/or controlled substances under the following circumstances:

a. Pre-employment testing: Prior to the first time an employee performs official duties for the Department, the employee will be tested for alcohol and controlled substances. The employee will not be hired unless the alcohol and controlled substance test results are negative.

b. Random selection testing: Should the Employer elect, Employees shall be subject to random testing. All officers will be assigned a confidential identification number and will be in a separate pool for testing consisting only of police officers. The identification numbers of all officers will be entered into a computer. Once each calendar month, the computer will select one (1) of the entered identification numbers. That identification number will then be forwarded to the Chief. The Chief will then match the selected number against a master list in the presence of at least one Union representative. Notification of screening will then be made the next time the employee is working so that screening is not compromised.

c. Reasonable suspicion testing: A trained supervisor may refer an employee to undergo testing for alcohol or controlled substances based upon specific, objective facts and reasonable inferences drawn from these facts in

light of experience and training. Such facts and inferences may be based on, but are not limited to, any of the following:

1. Observable phenomena, such as direct observation of drug or alcohol use, possession, or distribution, or the physical symptoms of being under the influence of drugs or alcohol, such as, but not limited to, slurred, rambling or incoherent speech, odor of alcohol or marijuana, dilated pupils or bloodshot eyes, unexplained lack of coordination, impaired reaction time, sweaty or flushed skin, staggering or unsteady walk, uncharacteristic personality changes, dynamic mood swings, etc.;

2. A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance (e.g., frequent absenteeism, excessive-tardiness, recurrent accidents, etc.) which appears to be related to substance abuse and does not appear to be attributable to other factors;

3. The identification of an employee as the focus of a criminal investigation into unauthorized drug possession, use, or trafficking;

4. A report of alcohol or other drug use provided by a reliable, credible and identified source;

5. Repeated or flagrant violations of the Employer's safety or work rules, which are determined by a supervisor to pose a substantial risk of physical injury or property damage, which appear to be related to substance use and do not appear attributable to other factors; or

6. A traffic accident occurring while the employee is operating a vehicle on duty, resulting in physical harm to persons or property, in which the circumstances raise a question as to the existence of substance abuse by the employee involved.

7. Any incident involving the use of deadly force, in which the circumstances raise a question as to the existence of substance abuse by the employee involved.

d. Return-to-duty testing: Before an employee who has been found to be in violation of conduct prohibited in Section 38.5 or before an employee has been off duty for six (6) months or more may return to duty, the employee must undergo testing for alcohol and controlled substances. The results of the alcohol test must show less than 0.04 level utilizing blood testing or 0.04 BAC Level Concentration utilizing BAC breath testing if the offense involved alcohol, and the controlled substance test must be negative if the offense involved controlled substances.

e. Follow-up testing: When an employee has been found to be in violation of conduct prohibited in Section 38.5 and the employee is not terminated, the

employee may be subject to two (2) unannounced follow-up test, in addition to the return-to-duty testing.

Section 38.8. All drug screening and confirmation tests shall be conducted by a laboratory certified under applicable federal and state laws. The Employer and the laboratory shall have a clear and well documented procedure for collection, shipment, and accessing of urine specimens. The procedures utilized by the Employer and the laboratory shall include an evidentiary chain of custody and control and split sample collection and testing. The collection site person is responsible for maintaining the integrity of the specimen collection and transfer process. All procedures shall be outlined in writing and provided to the employees.

Each urine specimen may be tested for the following illegal controlled substances and the following shall be positive test levels for purposes of this policy:

| Substance | Initial Screening Level | Confirmation Level |
|---------------------|-------------------------|--------------------|
| Amphetamines | 500 ng/ml | 500 ng/ml |
| Barbiturates | 300 ng/ml | 200 ng/ml |
| Benzodiazepines | 300 ng/ml | 300 ng/ml |
| Cannabinoids | 50 ng/ml | 15 ng/ml |
| Cocaine Metabolite | 150 ng/ml | 100 ng/ml |
| Methadone | 300 ng/ml | 300 ng/ml |
| Opiate Metabolites | 2000 ng/ml | 2000 ng/ml |
| Phencyclidine (PCP) | 25 ng/ml | 25 ng/ml |
| Propoxyphene | 300 ng/ml | 300 ng/ml |

Should the Substance Abuse & Mental Health Services Administration (SAMHSA) add to or delete from the current panel of controlled substances or alter the initial screening or confirmation levels, this program will be modified to conform to SAMHSA standards. Employees will be notified, in writing, of such changes.

Section 38.9. The Employer shall designate one (1) or more health clinics, emergency medical care centers or hospitals for collection of alcohol and drug testing specimens, and **all** alcohol and drug testing specimens shall be collected by personnel of such health clinics, emergency medical care centers or hospitals, which is hereafter referred to as "Testing Facility." All alcohol testing utilizing BAT breath testing shall be administered by a trained breath alcohol technician (BAT) certified to conduct such tests.

Section 38.10. Each employee shall execute medical releases when requested to do so by the Employer and/or substance abuse testing agency. Except as otherwise provided by state or federal law or with the permission of the employee, such releases shall only authorize the disclosure to the Employer of the employee's drug and alcohol test results and the employee's progress reports with regard to the employee's participation in a rehabilitation treatment program. However, in a grievance or other legal proceeding initiated by or on behalf of an employee involving the positive results of a substance abuse test, the Employer may disclose information obtained by it pursuant to this Article to the decision-maker(s) without a release from the employee.

Section 38.11. Screen Results

1. Negative Results

If the screen results are negative, the results will be reported in writing to the Medical Review Officer of the selected testing facility and the sample will be discarded.

2. Positive Results

If the results of the first screen are positive, the Testing Facility will immediately conduct a second screening using a different methodology on a different portion of the original sample.

The Testing Facility will report the confirmation screen results, whether positive or negative, to the Medical Review Officer. Any adulterated sample, or samples otherwise tampered with, may be treated for disciplinary purposes as a positive result.

If the confirmation screen results are positive, employees may request an additional screening, beyond the confirmation screening, by any SAMHSA approved alternate laboratory. Employees will be responsible for the cost of any additional screenings. For chain of custody purposes, the

sample will be transferred directly from the Testing Facility to the alternate laboratory, and the alternate laboratory will complete the Chain of Custody form.

If the confirmation screen results are positive, the Testing Facility will retain the sample for at least one (1) year to allow for additional screenings, and employee appeals.

Section 38.12. Role of Medical Review Officer.

The Medical Review Officer (MRO) is a physician employed by the Testing Facility knowledgeable in the medical use of prescription drugs and the pharmacology and toxicology of illicit drugs. The MRO's primary responsibility is to review and interpret positive test results obtained through testing process. In fulfilling these responsibilities, the MRO is to be guided by federal guidelines.

If any question arises as to the accuracy or validity of a positive test result, the MRO should in collaboration with the Testing.

Facility, review the laboratory records to determine whether the required procedures were followed. The MRO then makes a determination as to whether the result is scientifically sufficient to take further action. If records from collection sites or laboratories raise doubts about the handling of samples, the MRO may deem the urinary evidence insufficient and no further actions relative to individual employees would occur.

The MRO must also assess and determine whether alternate medical explanations could account for any positive test result. In reviewing the laboratory results, the MRO may conduct a medical interview with the employee, review the employee's medical history, or review any other relevant biomedical factors. The MRO shall also review any information provided by an employee attempting to show legitimate use of a drug. The MRO may perform limited physical

examinations, seeking, for example, needle tracks, in determining whether clinical signs of drug abuse are present.

The MRO must ultimately determine whether some reason other than illegal drug use explains a drug-positive urine. If the MRO verifies illegal drug use, the information related to the use of illegal drugs will be disclosed to the Chief or Acting Chief. Any medical information provided to the MRO that is not specifically related to use of illegal drugs will be treated as confidential and not disclosed. If it is determined with reasonable certainty that there is a legitimate medical or other reason to account for the positive laboratory findings, no information identifying the specific employee will be disclosed and the test results will be reported as negative.

Section 38.13. Nothing in this Article shall prevent criminal law enforcement investigation of illegal activity. For example, an employee charged with operating a motor vehicle under the influence of alcohol and/or drugs of abuse (OMVI) may be required to submit to testing as part of the criminal investigation and the procedures of this Article would not be applicable to that investigation. Furthermore, evidence derived in a criminal investigation, including drug and alcohol testing, may be used as evidence in a disciplinary proceeding.

Section 38.14. All employees shall receive at least two (2) hours of annual training covering alcohol and drug testing under this Article and the dangers of, and signs and symptoms associated with, substance abuse. Each employee shall receive and sign an acknowledgment of receipt of such information and the required training annually.

Section 38.15. All supervisors shall receive at least two (2) hours of initial training upon implementation of this Article and two (2) hours of refresher training annually, thereafter, on the supervisor's role and responsibility in administering this program. The training shall include the signs and symptoms of substance abuse, documentation, confrontation and intervention methods, referral, and follow-up.

Section 38.16. Information regarding the effects of alcohol and controlled substance use on an individual's health, work and personal life, and information about drug and alcohol counseling, rehabilitation, and employee assistance programs will be periodically provided to employees.

Section 38.17. The parties acknowledge and agree that should any statute or regulation passed by federal or state government impact this Article 38, the parties shall meet to negotiate the appropriate modifications to this Article caused by such statute or regulations.

ARTICLE 39 **DURATION**

Section 39.1. Term. This Agreement shall be effective January 1, 2022, to and including December 31, 2024, shall continue on a year-to-year basis thereafter, unless within ninety (90) days prior to the termination date either party desires to renegotiate or terminate the Agreement. The covenants and agreements herein contained shall bind and ensure to the benefit of the parties and their representatives, successors and assigns.

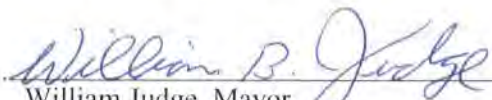
ARTICLE 40
HEALTH AND SAFETY

In the event an employee believes that conditions found during the course of his duties related to equipment or practices are dangerous to his health or safety, he will report his findings to his immediate supervisor and he will not be required to continue to use that piece of equipment or participate in the practice pending an inspection and determination by the immediate supervisor and an appropriate management representative in the presence of an OPBA Director that the equipment or practice is safe, it being understood and agreed that management's determination as to the safety of the equipment or practice is binding. This decision is subject to the grievance and arbitration procedure.

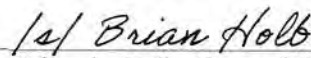
In Witness Whereof, the City of Barberton has caused this Agreement to be executed by its Mayor and the Union has caused this Agreement to be executed by its local and Staff Representatives this 11th day of July, pursuant to authority granted by the Council of the City of Barberton, Ohio.

FOR THE CITY OF BARBERTON

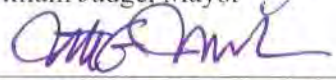
FOR THE OPBA POLICE OFFICER
BARGAINING UNIT



William Judge, Mayor




Brian A. Holb, Counsel for the OPBA



Vincent Morber, Chief of Police



Ed Simmons, OPBA Representative



Jaime Iceman
Director Public Safety and Human
Resources



David Patron, OPBA Representative

APPENDIX A
TIMELINESS EXTENSION FORM

The Employer and Union hereby waive the timeliness provisions set forth in Article 10 of the Collective Bargaining Agreement in regards to the grievance filed on _____ by _____.

Such waiver shall remain in effect until _____ at which time Step shall be invoked or the grievance withdrawn with prejudice.

FOR THE EMPLOYER

FOR THE UNION

Dated _____

Dated _____

APPENDIX B
GRIEVANCE REPORT FORM

A COPY OF THIS FORM MUST BE SENT TO THE UNION IMMEDIATELY

Date and Time Staff Representative Notified _____
Name Of Grievant _____ ID No _____ Rank _____
Assignment _____ Shift _____ Date of Appointment _____
Supervisor at Time of Incident _____

OPBA Representative _____

Grievance First

Discussed With _____
Supervisor _____

Meeting Date _____ Time _____ Place _____

STEP ONE

Statement of Grievance (Give time, dates, who, what, when, where, why):

Article and Section Numbers Of Contract Violations _____

Remedy Requested

Grievant's Signature _____ Date _____

Received By _____ Date/Time _____

Patrol/Detective Commander

STEP ONE RESPONSE

Patrol/Detective Commander's Signature _____ Date/Time _____

STEP ONE ANSWER IS:

Accepted _____ Rejected _____
Grievant's Signature _____ Date _____

STEP TWO

Received By _____ Date/ Time _____
Chief of Police

Meeting Date _____ Time _____ Place _____

STEP TWO RESPONSE

Chief of Police's Signature _____ Date _____

STEP TWO ANSWER IS:

Accepted _____ Rejected _____
Grievant's Signature _____ Date _____

STEP THREE

Received By _____ Date _____
Director of Human Resources

Meeting Date _____ Time _____ Place _____

STEP THREE RESPONSE

Director of Human Resource's Signature _____ Date _____

STEP THREE ANSWER IS:

Accepted _____ Rejected _____
Grievant's Signature _____ Date _____

Referred To OPBA Representative: Yes _____ No _____

Date Referred _____

Approved _____ Disapproved _____

By OPBA Representative _____
(Signature)

STEP FOUR - ARBITRATION

Notice Served For Arbitration _____
(Name and Title) Date _____

Arbitration Notice Received _____
(Name and Title) Date _____

Grievant _____ Supervisor _____

APPENDIX C
WAIVER OF REPRESENTATIVE

I, _____ (please print name), hereby acknowledge that I have been advised of my rights as they pertain to impending disciplinary action that may be taken against me, and that I hereby execute this waiver of my own free will absent any coercion by anyone involved.

I unqualifiedly waive my right to representation by the Union and will hold them harmless and without responsibility to any resultant action that may or may not result from my decision to secure outside legal counsel or in representing myself before my Employer in this action.

Signature _____

Signed this _____ day of _____, 20_____.

Witnessed By:

APPENDIX D
EXTRA JOB DETAIL GUIDELINES

ADOPTED: October 17, 2007

1. These guidelines will cover all Non-City and Non-AMER extra job details.
2. LIMITATIONS on the number of signups, if needed, will be set to ensure everyone has an opportunity to sign up to work the extra detail.
3. A date, on when an officer may sign again, will be set on all schedules that have restricted sign-ups. The officer is to date any additional sign-ups.
4. No white out is to be used. If an officer signs up and is unable to work the job, draw a single line through your name and write in the replacement.
5. When you sign up to work an extra detail, it is your responsibility to show up and work the detail or find a replacement.

FOR HISTORICAL PURPOSES

**SIDE LETTER OF AGREEMENT
UNIT ASSIGNMENTS**

The City of Barberton and the OPBA have engaged in numerous discussions over Section 1.2, formerly titled Unit Assignments, of the labor agreement.

The OPBA does not want the City to use reserve sworn officers to work traditional beats in the place of full time officers. The City agrees that reserve officers when working a beat in a patrol car will only be used to supplement the beat car.

The OPBA does not want the City to use reserve officers to substitute for full-time officers where traditionally full-time officers were hired by the City at overtime rates. Examples would be parades and fireworks. The City agrees that reserve officers will not take the place of full-time officers at these events, but will use reserve officers at these events to supplement the normal compliment of full-time officers.

The City wants to use reserve officers working by themselves for a variety of functions as indicated in 1.2. The OPBA agrees that they may do so.

FOR HISTORICAL PURPOSES

**MEMORANDUM OF UNDERSTANDING
TERMINATION OF RETIREE BENEFITS**

This Memorandum of Understanding is entered into by and between the City of Barberton and the Ohio Patrolmen's Benevolent Association (Blue and Gold bargaining units), and shall be effective commencing May 23, 2011, and shall terminate without extension or renewal at midnight on November 1, 2013.

1. Notwithstanding the provisions of Sections 24.3 and 25.5 (Blue Unit) and Sections 25.3 and 26.5 (Gold Unit), of the 2011-2013 collective bargaining agreements, any bargaining unit member employed as of January 1, 2011, who elects to retire on December 31, 2013 rather than on or before December 30, 2013, shall be eligible for the Retiree Benefits set forth in the above referenced sections provided that the employee notifies the City, in writing, of the intent to retire not later than November 1, 2013. Such notice of intent to retire shall be submitted to the Chief of Police and the Safety/I IR Director.
2. Further, the parties understand and agree, that the retiree benefits referenced in the above-cited sections shall be deemed extinguished as of midnight on December 30, 2013, without renewal, extension, or continuation as the "status quo ante," except that any employee meeting and following the criteria set forth in Section 2 herein shall also be considered to be eligible as if he had retired on December 30, 2013.

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SIDE LETTER OF AGREEMENT
CRITICAL INCIDENTS

The City of Barberton and OPBA Blue and Gold Units (PARTIES) engaged in discussions regarding Critical Incidents involving officers and supervisors. This letter is to address Policy 305 "Officer Involved Shootings and Deaths" of the Barberton Police Department Policy Manual and, critical incidents that do not fall into these specific categories.

Policy 305 is a comprehensive policy outlining duties and requirements of officers not involved, supervisors, witnesses, evidence collection, media policy and attending to the constitutional and contractual rights of Officers Directly Involved Shootings and Deaths.

It is understood that officers and supervisors will follow the steps outlined in Policy 305.

PARTIES AGREE to begin Joint Labor Management Meetings within the first quarter of 2022 to discuss and formulate an Officer Safety and Wellness policy addressing mental health and wellness. These meetings will center on a policy that is designed to address the effect critical incidents may have on OPBA members (other than officer involved shootings and deaths). The parties do agree that "reasonable paid leave" for purposes of Policy 305 shall be a period of time of at least forty-eight consecutive hours.

Types of incidents may include: first officer(s) on scene of a fatal automobile accident, fatal industrial accidents, child fatalities, child sexual assault, etc., death of a close family member, officer suicide or suicide ideation, divorce, or other personal/professional stressful events. *This list is not meant to be all-inclusive.*

For the City



Paul Jackson, Attorney
Roetzel & Andress

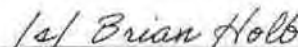


Vincent Morber, Chief of Police



Linn Jeanin
Director Public Safety and Human Resources



For the Union:



Brian A. Holb, Attorney
OPBA Blue and Gold Units




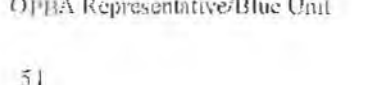
Chris Mitchell
OPBA Representative/Gold Unit

Mike Casey
OPBA Representative/Gold Unit




Ed Simmons
OPBA Representative/Blue Unit

David Patron
OPBA Representative/Blue Unit