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03/07/2013

**AGREEMENT**

**BETWEEN**

**CITY OF LYNDHURST, OHIO**

**AND**

**OHIO PATROLMEN'S BENEVOLENT ASSOCIATION**

**SERGEANTS/LIEUTENANTS**

**EFFECTIVE JANUARY 1, 2012 – DECEMBER 31, 2014**

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## **AGREEMENT**

This Agreement is entered into between the City of Lyndhurst, Ohio, hereinafter referred to as “the City” and the Ohio Patrolmen's Benevolent Association hereinafter referred to as “the O.P.B.A.”

### **ARTICLE I - PURPOSE**

The purpose of this Agreement is to provide a fair and reasonable method by which employees covered by this Agreement can participate through their exclusive bargaining agent in the establishment of terms and conditions of their employment, to provide for the effective and efficient operation of the City government, and to establish an orderly procedure for the resolution of differences between the City and the members of the bargaining unit.

### **ARTICLE II - RECOGNITION**

**Section 1.** For the duration of this Agreement, the City recognizes the O.P.B.A. as the sole and exclusive collective bargaining representative of the employees covered by this Agreement.

**Section 2.** The members of the bargaining unit covered by this Agreement are all full-time Lieutenants and Sergeants of the Police Department employed by the City other than the Executive Officer.

**Section 3.** The term “full-time” Lieutenant or Sergeant means any Lieutenant or Sergeant employed by the City who is regularly scheduled to work one hundred sixty (160) hours in each twenty-eight (28) day work period.

**Section 4.** The categories of employees excluded from the bargaining unit are all members of the Police Department who hold a rank above Lieutenant, the Executive Officer, Patrolmen, School Guards, Animal Wardens, Auxiliary Police, Special Police, Dispatchers, Park

Guards, clericals, janitors, and supervisors and professionals as defined by the Ohio Public Employer Collective Bargaining Act, and all other full-time and part-time employees.

### **ARTICLE III - AGENCY SHOP - DUES DEDUCTION**

Within thirty (30) days of the execution of this Agreement, all employees in the bargaining unit shall either become dues paying members of the O.P.B.A., or, as a condition of continued employment, remit to the O.P.B.A. a fair share fee in accord with the provisions of Ohio Revised Code Section 4117.09(C). Any newly hired employees in the bargaining unit shall, within sixty (60) days of date of employment, either elect to become members of the O.P.B.A. or remit the fair share fee. As provided in Ohio Revised Code Section 4117.09(C), nothing in this Article shall be deemed to require any employee to become a member of the O.P.B.A.

The Employer agrees to deduct O.P.B.A. dues and fees from any member of the bargaining unit who provides written authorization for a payroll dues and fees deduction. The O.P.B.A. shall indemnify the City and hold it harmless against any and all claims, demands, suits or other liability that may arise by reason of any action of the City in complying with the provisions of this Article.

### **ARTICLE IV - UNION LEAVE**

The City agrees to allow paid time off to the president and/or his designee to attend to O.P.B.A. matters. Such time off shall not exceed ninety-six (96) hours per year, and shall be taken at times mutually agreed by the O.P.B.A. and the City.

### **ARTICLE V - NON-DISCRIMINATION**

The parties agree that neither the Employer nor the O.P.B.A. shall discriminate against any individual on the basis of his or her membership or participation in O.P.B.A. matters. Both parties further agree that equal opportunity will be provided to all department employees

regardless of race, color, creed, age, sex, or national origin. The male pronoun or adjective, where used in this Agreement, refers to the female also, unless otherwise indicated.

## **ARTICLE VI - MANAGEMENT RIGHTS**

**Section 1.** Except as specifically limited by explicit provisions of this Agreement, the City reserves and retains, solely and exclusively, all rights, powers, and authority, including the right to determine and to take actions to carry out the mission of the City and its Police Department, determine staffing policy, and in all other respects to plan, manage, evaluate, administer, govern, control, and direct its personnel and operations. Such exclusive rights include, but are not limited to, the following:

A. To determine matters of inherent managerial policies which include policy areas of discretion such as the functions and programs of the City, standards of service, overall budget, utilization of technology and organizational structure;

B. To establish, modify and enforce reasonable policies, rules, regulations, and standards for employee performance;

C. To determine the size, composition, structure, and adequacy of the work force;

D. To establish and determine job qualifications and duties, and to establish, modify, consolidate, and abolish jobs or job classifications;

E. To hire, evaluate, assign, transfer, schedule, supervise, direct, promote, demote, lay off, retain, discipline, suspend or discharge employees;

F. To subcontract work;

G. To allocate work among employees, divisions, or department, and to determine work methods and responsibilities;

H. To determine overall methods, processes and means by which operations are to be efficiently and effectively conducted;

I. To determine and introduce new and/or improved equipment, methods, and facilities;

J. To determine the financial policies and procedures of the City, including the exclusive right to allocate and expend all funds of the City;

K. To do all things appropriate and incidental to any of its rights, powers, prerogatives, responsibilities, and authority; and in all respects to carry out the ordinary and customary functions of the administration, subject only to the procedures and criteria governing the exercise of these rights as are expressly provided for in this Agreement.

#### **ARTICLE VII - HOURS OF WORK AND OVERTIME**

**Section 1.** The basic work schedule for members of the bargaining unit shall consist of one hundred sixty (160) hours in each twenty-eight (28) day work period.

**Section 2.** The City retains sole discretion as to the need for overtime work, and all assigned overtime must be worked. All overtime work must be authorized by the Mayor or his authorized representative, except that where overtime work is performed in an emergency without prior authorization, the overtime work shall be reported to the Mayor or his authorized representative for confirmation that such an emergency existed and for authorization of the overtime work. The City will maintain the current practice of offering scheduled overtime to members of the Department before offering that work to special police officers.

**Section 3.** Overtime hours are those hours worked in excess of forty (40) hours in each scheduled workweek. Overtime hours shall be compensated at a rate determined by dividing the employee's annual rate including detective premium by 2080 hours, and multiplying by one and one-half (1-1/2) times, or, at the option of the employee, and if in the City's discretion scheduling needs so allow, overtime hours may be accumulated and taken in equivalent time off

at the one and one-half (1-1/2) premium rate. All overtime shall be paid for or taken in time off within a single twenty-eight (28) day work period. Employees shall be allowed to accumulate compensatory time up to one hundred sixty (160) hours. Employees are required to cash-out all hours in excess of one hundred (100) at the end of the calendar year, but can cash-out more at that time upon request. The compensatory time cash-out shall be paid in a separate check payable in December. In addition, accumulated compensatory time can be cashed out throughout the year. Vacation, holidays and sick leave during any portion of a work period shall be counted for the purpose of determining the existence of any overtime worked during that period.

**Section 4. Travel Time.**

Employees traveling to assignments outside of Cuyahoga County will be compensated for the appropriate actual driving time from Cuyahoga County as reasonably determined by the Chief of Police. Examples of appropriate actual driving times would include the following:

Columbus Highway Patrol Academy: 2 hrs. and 30 min.

O.P.O.T.A. (London, Ohio): 3 hrs.

No travel time beyond one round trip will be paid for commuting to and from locations outside Cuyahoga County for consecutive day assignments when employees customarily stay overnight at such locations.

**Section 5. Call-in Time.**

A. When employees are required to report for work as part of their job-related duties during times that are outside of their scheduled work time and that are not contiguous to their scheduled work time, the employees will be paid a minimum of three (3) hours' overtime pay or

for the actual time spent, whichever is greater, to be computed at the overtime rate of the respective employee.

B. When employees are required to appear in court as part of their job-related duties during times that are outside of their scheduled work time and that are not contiguous to their scheduled work time, the employees will be paid a minimum of three (3) hours' overtime pay or for the actual time spent, whichever is greater.

C. The minimum will be increased to four (4) hours overtime time pay when employees are required to appear in the following tribunals in downtown Cleveland: Common Pleas Court, Juvenile Court, and Grand Jury.

**ARTICLE VIII - SALARIES AND OTHER COMPENSATION**

**Section 1. Annual Base Pay.**

For employees appointed to such classification, there shall exist a differential between the rank of the top paid Patrol Officer and Sergeant and between the rank of Lieutenant and Sergeant of twelve (12%) percent.

The annual base pay for employees covered by this Agreement shall be as follows:

	Effective <u>1/1/2012</u>	Effective <u>1/1/2013</u>	Effective <u>1/1/2014</u>
Lieutenants	\$88,106.25	\$89,427.85	\$90,769.26
Sergeants	\$78,666.46	\$79,846.45	\$81,044.15

In addition, each employee who works the scheduled afternoon or midnight shift shall receive, in addition to the employee's base rate, \$.25 and \$.35 per hour shift differential, respectively, for all hours worked on such shift.

The City also agrees to maintain its current pension pick-up program which reduces the employee's gross pay by the amount of the employee's contribution to the Police and Firemen's Disability Pension Fund of Ohio and the City is then responsible for both the City's and the employee's contribution to the retirement fund.

**Section 2.** Members of the bargaining unit assigned to detective duties shall receive a detective premium of One Hundred Fifty Dollars (\$150.00) per month in addition to their annual base pay.

**Section 3.** Members of the bargaining unit who are designated by the Chief, in his discretion, to serve as Detective Bureau Commander and Traffic Bureau Commander shall each receive a premium of One Hundred Fifty Dollars (\$150.00) per month in addition to their annual base pay during the term of such designation.

**Section 4. Longevity Compensation.**

After the completion of five (5) full years of continuous service with the City as a regular full-time employee, employees shall be eligible for longevity pay according to the following schedule:

At the completion of the fifth through ninth years of continuous service	2% of current annual base pay
At the completion of the tenth through fourteenth years of continuous service	3% of current annual base pay
At the completion of the fifteenth through the nineteenth years of continuous service	4% of current annual base pay
At the completion of the twentieth year and over of continuous service	5% of current annual base pay

Longevity compensation shall be paid on the second payday of the anniversary date of appointment. In case of death or retirement of an employee, payment of longevity compensation shall be made to the employee or his or her personal representative for the pro-rated portion of his or her service during his or her current anniversary year.

Employees who transfer to another department of the City or who have terminated and returned to service within one (1) year shall be eligible for the longevity pay as though there had been no interruption in their service except that credit shall not be given for the period of absence from City employment.

No longevity credit shall be given for seasonal or part-time employment.

**Section 5. Uniform Allowance.**

The City shall provide all employees who are assigned to the Uniform Division with a full complement of uniforms, clothing and equipment that the City requires them to wear or use. In addition, the City will pay for the costs of all cleaning, repairing, the tailoring, or replacing of the aforesaid items. The Police Chief or an authorized representative will have sole discretion to determine whether an item is tailored, repaired or replaced.

The City shall provide all employees who are assigned to the Detective Bureau with a full complement of all uniforms, clothing, and equipment that the City requires them to wear or use. Employees who are assigned to the Detective Bureau will be allowed to purchase up to \$500.00 in 2007, \$600.00 in 2008, and \$700 in 2009 worth of civilian clothing items utilizing a voucher and/or reimbursement system. In addition, the City will pay for the costs of all cleaning of all the aforesaid items. The City will also pay the cost of repairing an item if it is damaged in the line of duty.

**Section 6. Life Insurance.**

The City shall provide a group term life insurance policy for each full-time employee in the amount of two times the employee's base salary.

**Section 7.** Any employee who has an Associate's Degree or Bachelor's Degree will receive a one (1) percent premium on the employee's base pay. In the reasonable determination of the City, the degree must be from a duly accredited college or university, such premium shall not be effective until appropriate documentation is furnished to the City.

**Section 8.** The employee in the bargaining unit serving as Union Representative shall receive an extra fifty cents (50¢) per hour while serving in that capacity. The extra rate of pay provided in this paragraph is not applicable during vacation, leaves of absence and holidays.

**Section 9.** When an employee in the bargaining unit acts in the capacity of a Field Training Officer, and no other employee of the department is simultaneously receiving Field Officer Training pay for such duty, the employee in the bargaining unit will be paid a premium of one hour of pay at the employee's overtime rate of pay per duty-shift during the period of such service. It is expressly understood that the assignment and designation of a Police Officer to serve as a Field Training Officer shall be solely within the discretion of the Chief of Police, and the premium shall only be paid during the period of such assignment and designation by the Chief.

**ARTICLE IX - HOSPITALIZATION**

**Section 1.** After three (3) months of continuous employment, the City will provide coverage for members of the bargaining unit under a hospital and medical group insurance plan.

**Section 2.** Except as provided in Section 3 below, the City will bear the full cost of health care premiums for the duration of this Agreement.

**Section 3.**

A. Except as provided below, the City agrees to maintain the level of benefits under the current healthcare plan until the termination date of this Agreement subject to the following: Any decision by the City to change carriers or the benefit plan will be discussed with the O.P.B.A. before implementation; and if there is a substantial reduction in benefit level, there must be a mutual agreement between the O.P.B.A. and the City before implementation.

B. It is agreed that the City will maintain the Health Care Task Force comprised of appropriate representatives of the City administration and City employees, including representation from the bargaining unit. The Task Force will be expected to study the problems of health care and health care cost containment and then formulate recommendations which will be considered by the City.

C. The City and the Health Care Task Force in coordination shall determine annually how to absorb and/or to distribute mutually agreeable shares of any health care cost increases between the City and the employees. The Health Care Task Force will analyze cost containment measures, including, but not limited to, deductibles, co-pays, out-of-pocket maximums, prescription drug changes, and changes in providers, and will recommend appropriate measures for implementation. The background for this new agreement for controlling health care costs was the collaboration of the City and the unions through the Health Care Task Force. The parties have now agreed to remove the “cap” language from this contract and the City, the Union, and the Health Care Task Force have agreed to continue to implement, as in the past, cost containment measures in a manner that is fair and equitable for both the City and its employees. The City and the Union agree to implement any agreements of the Health Care Task Force. If the Health Care Task Force is unable to reach agreement concerning such measures, the City

may implement such measures consistent with the terms and spirit of this section, and, if the union disagrees, it may file a grievance and submit the matter to binding arbitration.

D. Notwithstanding the foregoing, the City will bear the full cost of any increase to the City in its cost of health care per eligible employee from calendar year 2012 to calendar year 2013, and from calendar year 2013 to calendar year 2014, up to the cost that it paid per eligible employee for health care in 2011, whether for the same or a different plan. Any cost increases above the amount paid per eligible employee in 2011 will be borne approximately equally by the City and the employees. The manner in which such increases are shared, such as by premium payments or changes in benefit levels, will be determined by the Health Care Task Force as provided in Subsection C above, including the right to submit a grievance over the matter to binding arbitration.

**Section 4.** The current prescription rider shall provide for a \$15.00 deductible for each order of a proprietary or “brand-name” prescription drug and for a \$10.00 deductible for each order of a generic equivalent drug. Any decision by the City to change carriers or the benefit plan will be discussed with the Union before implementation.

**Section 5.** The City, at no cost to the employees, will continue to maintain the level of benefits provided under the Fortis Dental Plan to all employees for the duration of this Agreement. Any decision by the City to change carriers or the benefit plan will be discussed with the Union before implementation.

#### **ARTICLE X - HOLIDAY CREDITS**

Each member of the bargaining unit shall be entitled to thirteen (13) Holiday Credits throughout the year, except as follows. New employees shall be entitled to one (1) holiday for each month that they work during their first year of employment, except those employees who were hired in the months of January or February who shall be entitled to all thirteen (13)

holidays. Such Holiday Credits, or time off allowed in lieu thereof, shall be fixed and determined by the City, who shall make provisions for such Holiday credits consistent with the proper administration of the Department.

Employees shall be entitled to receive time off with pay for seven (7) Holiday Credits, to be taken at the employees' option, without regard for whether the absent employee's position must be filled with an employee earning overtime. Requests for such time off must be submitted at least seven (7) days prior to the requested day. This time requirement may be waived by the Chief of Police or designee. If no employee can be found to fill the absent employee's shift, the requested day off may be denied. The remaining six (6) Holiday Credits, or time off in lieu thereof, shall be fixed and determined by the City, who shall make provisions for such Holiday Credits consistent with the proper administration of the Department.

Any employee working on Memorial Day (observed), Independence Day (observed), Labor Day, Thanksgiving Day, Christmas Eve Day, or Christmas Day, shall be compensated at the rate of 1-1/2 times the employee's regular hourly rate of pay in addition to the 13 Holiday Credits.

## **ARTICLE XI - VACATIONS**

**Section 1.** Each eligible member of the bargaining unit shall be entitled to a vacation with full pay as follows:

After one year and through five years of continuous service	2 weeks each year
After five years and through ten years of continuous service	3 weeks each year
After ten years and through fifteen years of continuous service	4 weeks each year
After fifteen years of continuous service	5 weeks each year

In addition, for each year of continuous service after twenty (20) years, an employee will receive an additional day of vacation up to five (5) days as shown in the following schedule:

Twenty-one years	1 day
Twenty-two years	2 days
Twenty-three years	3 days
Twenty-four years	4 days
Twenty-five years	5 days

**Section 2.** For the purposes of this Article, years of continuous service shall be determined by the most recent date of hire as a regular, full-time employee. Employment by another political subdivision of the State of Ohio shall be included when determining years of continuous service for the purpose of this Article, provided that there is no more than one (1) month between termination from former public employment and appointment in Lyndhurst.

**Section 3.** All vacations shall be taken at such time as approved by the Mayor or his designated representatives. During vacations, employees shall receive their current salary or the proportionate amount thereof, if the Mayor or his designated representative schedules such vacations into shorter periods for the convenience of the conduct of City business.

**Section 4.** If an employee is hired after April 1 and prior to October 1 of a calendar year, he or she shall be entitled to two (2) weeks' vacation the following calendar year. If an employee is appointed between October 1 and December 31, he or she shall be entitled to one (1) week the following calendar year, but only after completion of at least six (6) months' employment. If an employee is appointed between January 1 and April 1, he or she shall be entitled to one (1) week of vacation in that calendar year, but only after the completion of six (6) months of employment.

Following the determination of the first vacation period as set forth above, vacation time shall accrue to each employee in each calendar year according to the schedule in Section 1 of this

Article. Vacation time shall be taken by an employee during the calendar year in which it accrues and may not be carried forward after December 31. A vacation shall be taken by the employee during the year in which it has accrued. If an employee is unable to use his or her full vacation allotment during a calendar year, the employee will be paid any unused vacation pay up to, and not in excess of, forty (40) vacation hours' vacation pay.

**Section 5.** If an employee retires or leaves employment prior to October 1, there shall be no additional paid vacation time beyond his or her entitlement for that calendar year. If an employee retires or leaves employment between October 1 and April 1, he or she shall be entitled to one-half (½) his or her annual vacation entitlement for the year in which that April 1 falls. If an employee retires or leaves employment after April 1, he or she shall be entitled to his or her full annual vacation entitlement for that calendar year.

## **ARTICLE XII - SICK LEAVE**

**Section 1.** Members of the bargaining unit shall be entitled to sick leave of 4.6 hours for each eighty (80) hours of service or fraction thereof, including vacation and holidays, but not to include any overtime hours or hours of paid sick leave. For calendar year 2012 only, employees will accrue sick leave during paid sick leave.

**Section 2.** Employees may use sick leave, upon approval of the Mayor or his authorized representative, for absence due to personal illness, pregnancy, injury, exposure to contagious diseases which could be communicated to other employees, and for illness or death in the employee's immediate family. The Mayor or his authorized representative may require the employee to furnish a satisfactory affidavit or medical report to confirm that his absence was caused by illness due to any of the causes listed in this Section.

**Section 3.** Unused sick leave shall be cumulative without limit. When sick leave is used, it shall be deducted from the employee's credit on the basis of one (1) hour for every hour of absence from previously scheduled non-overtime work.

**Section 4.** The previously accumulated sick leave of an employee who has been separated from the public service shall be placed to his or her credit upon employment with the City, provided that such employment with the City takes place within ten (10) years of the date on which the employee was last terminated from public service.

**Section 5.** Sick leave during any portion of a work period shall be counted for the purpose of determining the existence of any overtime worked during that work period.

**Section 6.** Any member of the bargaining unit with ten (10) or more years of cumulative public service with the State of Ohio or its political subdivisions shall receive payment, at the time of retirement, for not more than a maximum of three hundred (300) hours unused sick leave time based on a formula of one-fourth (1/4) of the employee's accrued but unused sick leave at the time of retirement, but not to exceed a maximum accrual of twelve hundred (1200) hours. A member of the bargaining unit who has been employed with the City of Lyndhurst for the period of time required shall be paid for accrued but unused sick leave at the time of retirement an amount which shall be the greater of the 25% or the other percentage of unused sick leave set forth in this Section 6 as follows: 15 years, 30%; 20 years, 35%; 25 years, 40%; 30 years, 45%. The accrual of unused sick leave used for this formula shall not exceed a maximum accrual of twelve hundred (1200) hours. In addition to that amount, the City will pay 50% of the accumulated sick leave which exceeds twelve hundred (1200) hours. The payment shall be based on the employee's rate of pay at retirement and eliminates all sick leave credit accrued but unused by the employee at the time the payment is made. An eligible employee

must apply for payment of accumulated sick leave from his appointing authority within one hundred twenty (120) days after eligibility.

In the case of death of an employee while on the City payroll, if the employee had ten (10) or more years of cumulative public service with the State of Ohio or its political subdivisions, accumulated sick leave shall be paid to his or her personal representative, designated by the employee, under the same terms and in the same manner as provided upon retirement above.

**Section 7.** In December of each year, for any employee (a) who has accumulated more than nine hundred sixty (960) hours of sick leave and (b) has used less than five (5) sick days during the preceding twelve (12) month period (December 1 to November 30), the City will, at the employee's option, buy back up to five (5) sick days so that the total of sick days used or paid for that period totals to five (5). In other words, the following schedule will apply for such employees:

<u>Sick Days Used</u> <u>Dec. 1 to Nov. 30</u>	<u>Sick Days City</u> <u>Will Buy</u>
0	5
1	4
2	3
3	2
4	1
5 or more	0

(The City will not buy back any sick days if the employee has used five (5) or more sick days during the one (1) year period). For any days paid under this program, that amount of sick leave will be treated as used and will not be credited to the employee's accumulated sick leave.

**ARTICLE XIII - EMERGENCY PAID LEAVE**

**Section 1.** The Mayor or his authorized representative may allow an employee paid time off work, not to exceed four (4) eight (8) hour days because of the death in his or her family

of mother, father, sister, brother, spouse, or child. The Mayor or his authorized representative may allow an employee paid time off from work not to exceed three (3) eight (8) hour days because of the death of the employee's grandparent, grandchild, step-parents, brother-in-law, sister-in-law, father-in-law, mother-in-law and step-children. In the event of the death of other relatives in the employee's immediate family, the Mayor or his authorized representative may, within the above limitation, allow such time off as he deems necessary depending on the circumstances of each situation.

**Section 2.** The use of emergency leave is a privilege which must be specifically requested by the employee of the Chief of Police and granted by the Mayor or his authorized representative and does not automatically consist of the maximum time allowed, but is up to the discretion of the Mayor or his authorized representative. In cases where more time off is desired than granted, the employee shall request, in advance, the use of his accrued vacation or sick leave credit.

#### **ARTICLE XIV - ON-THE-JOB INJURY LEAVE**

**Section 1.** When an employee becomes injured, ill, or disabled as a result of an event arising out of and in the course of bona fide high-risk police work, as reasonably determined by the City, so as to be physically unfit for duty, the employee shall be granted a special leave of absence with pay by the City beginning with the first working day of such disability. In order to qualify as high risk police work, the following criteria shall be certified by the Chief of the Division and approved by the Mayor:

The injuries are the direct result of:

A. An accident occurring when lights and sirens are being used pursuant to Division rules and regulations;

- B. An automobile accident occurring during the course of a high-speed chase;
- C. A fight, effecting an arrest or controlling a domestic violence situation, or during a SWAT team call-out for any critical incident;
- D. The use of a firearm, knife, chemical agent, impact weapon, or other dangerous weapon;
- E. An injury which occurs while on the street as a result of directing traffic or investigating a traffic violation or traffic accident;
- F. An injury which occurs during high risk training; or
- G. An injury that occurs while responding to an emergency call or during a pursuit while on a Police Bicycle.

The event herein described must be duly logged and a written report submitted to the Chief's office during the shift in which it occurs. In order to be eligible for the special on-the-job injury leave as provided in this Article, the employee's disability must be evidenced by a certificate of a physician designated by the City to examine the employee. Special on-the-job injury leave shall not be granted to employees who incur injuries of a routine nature or those which occur in the course of non-emergency situation.

**Section 2.** Special on-the-job injury leave shall terminate no later than ninety (90) consecutive calendar days after the beginning of the leave, or at such earlier time as provided below:

- A. On the day a ruling is made of permanent and total disability or temporary and total disability.
- B. When the employee is released by his or her physician to return to work.

C. At such time that the employee is declared capable of performing his or her normal duties by a physician appointed by the City.

D. If, prior to release for normal duties, it is determined by a physician that the employee is capable of performing limited work assignments, the employee shall immediately report for duty under the conditions set forth in the physician's certificate.

E. Any limited assignments of duties shall be reviewed each thirty (30) calendar days to determine if the employee is capable of resuming normal, unlimited duties. Such limited assignments shall not further extend the ninety (90) days' maximum injury leave.

#### **ARTICLE XV - JURY DUTY COMPENSATION**

An employee serving on jury duty shall be compensated for the difference between his or her regular pay and jury duty pay for absences from scheduled working hours necessarily caused by the jury duty. To receive such compensation, the employee must present the Mayor or his designated representative with an official voucher showing the amount of jury duty pay received. Employees shall not be compensated by the City for Grand Jury service.

#### **ARTICLE XVI - TUITION REIMBURSEMENT**

The City will provide tuition reimbursement for college accredited courses, including graduate level courses, taken by employees covered under this Agreement, provided that the following conditions shall apply:

A. The tuition for two (2) courses per quarter or semester (i.e., two (2) courses at a time), up to six (6) courses per year will be reimbursed limited to the amount of the then current per-credit hour cost charged by Cleveland State University.

B. As determined within the reasonable discretion of the City, the course must be directly related to police or law enforcement activities or must be a specifically required core

course of a degree program related to police or law enforcement activities in which the employee is enrolled.

C. The employee must obtain the City's approval of the course prior to the employee's enrollment. The City will respond within two (2) weeks of receipt by the Chief of Police of a written request for approval describing the course to be taken.

D. A grade of "C" or better must be obtained. For core courses needed for a degree which are taken on a "pass/fail" basis, a "pass" must be obtained.

E. Adequate documentation must be provided to the City by the employee.

### **ARTICLE XVII - SENIORITY**

**Section 1.** Seniority for a regular full-time employee shall be that employee's length of continuous service as a full-time employee of the City. For the purpose of calculating length of service as a full-time employee, the date of an employee's service shall be counted from his or her most recent date of appointment as a regular full-time employee. An employee shall have no seniority during his or her probationary period, but upon completion of the probationary period, seniority shall be retroactive to the date of appointment.

**Section 2.** Seniority shall be broken and terminated when an employee:

- A. Quits or resigns;
- B. Is discharged;
- C. Is laid off more than twelve (12) months;
- D. Is absent without notice for three (3) consecutive work days; or

E. Fails to report to work when recalled from layoff within three (3) work days from the date on which the City sends or delivers the employee notice to report to work (to the employee's last known address as shown on the City's records).

**Section 3.** All newly hired employees shall be considered to be on probation for a period of one (1) year from the date appointment. An employee may be discharged for any reason during the probationary period and such discharge shall not be subject to the grievance procedure. The discharge or retention of a probationary employee shall be at the sole discretion of the City. If an employee's seniority is broken or terminated and then is later rehired, he or she shall be considered to be a new employee and subject to the provisions of this Section.

**Section 4.** **Layoff/Recall.**

In the event that the City decides to lay off members of the bargaining unit, the layoff will be occasioned on the basis of seniority, with the least senior employee laid off first. Upon recall, said recall will be occasioned on the basis of inverse seniority. Should the City choose to lay off by eliminating a particular position within the department, then that employee may exercise (within a particular rank) his or her seniority so as to cause the least senior employee within that rank to bump down into the next lower rank until the least senior bargaining unit employee within the Police Department is laid off. Reinstatement of a position and employee recall shall be on the basis of inverse seniority. The City will recall a laid off person to fill manpower shortages regardless of duration without subcontracting police service.

**ARTICLE XVIII - GRIEVANCE PROCEDURE**

**Section 1.** It is mutually understood that the prompt presentation, adjustment, and/or answering of grievances is desirable in the interest of sound relations between the employees, the

O.P.B.A., and the City. The procedures specified in this Article are intended to provide a system for a fair, expeditious, and orderly adjustment of grievances of employees of the department.

**Section 2.** A grievance is any dispute or difference between the City and the O.P.B.A., or between the City and an employee, which concerns the interpretation and/or application of and/or compliance with any provisions of this Agreement, including all disciplinary actions.

**Section 3.** The following procedure shall apply to all grievances arising under this Agreement.

**Step 1**

An employee who has a grievance should meet with his immediate supervisor to attempt to resolve the grievance on an informal basis.

**Step 2**

If the matter is not resolved in the informal manner described in Step 1, a written grievance must be filed with the immediate supervisor within seven (7) days of the alleged violation of this Agreement. Within seven (7) days after the filing of the grievance, a meeting will be held among the appropriate representative of the City, the aggrieved employee(s), and if the employee(s) so elect(s) (or in the case of a grievance filed by the O.P.B.A.), a representative of the O.P.B.A. Within seven (7) days of this meeting, the management representative shall issue a written answer to the grievance.

**Step 3**

If the grievance is not satisfactorily settled in Step 2, the employee and/or the O.P.B.A. may appeal the Step 2 answer to the Chief of Police or his designated representative within seven (7) days after the Step 2 answer was issued. Such appeal shall be in writing and include a copy

of the original grievance, and shall specify the reason why the grievant believes the Step 2 answer is in error. Within seven (7) days after receipt of the appeal, a grievance meeting shall be scheduled with the Chief of Police or his designated representative, who, within seven (7) days after the close of such meeting, shall issue a written answer to the grievance.

#### **Step 4**

If the grievance is not satisfactorily settled in Step 3, the grievance shall be submitted to the O.P.B.A. Screening Committee. The Screening Committee will then review the merits of the grievance and decide, not later than thirty (30) days after the City's Step 3 answer was issued, whether or not to recommend further appeal. Should the Committee decide not to pursue the grievance further, the grievant(s) shall be so informed and the grievance will be withdrawn from the grievance procedure and the Committee's decision shall be final and binding. Should the Committee decide to process the grievance further, the Union may file, within thirty (30) days after the City's Step 3 answer was issued, an appeal with the Mayor or his designated representative. Such appeal shall be in writing, shall include a copy of the original grievance, and shall specify the reason why the grievant believes the Step 3 answer is in error. The Mayor or his designated representative shall reply in writing within ten (10) days from the receipt of that appeal.

#### **Arbitration**

If the grievance is not satisfactorily settled at Step 4, the O.P.B.A. may submit the grievance to arbitration by notifying the Mayor in writing of its intent to do so within ten (10) days after Step 4 answer was issued. If the City and the O.P.B.A. cannot agree upon an impartial arbitrator, the Union may request a panel of arbitrators from the American Arbitration Association and an arbitrator will be chosen in accordance with the Association's then applicable

rules and regulations. The arbitrator selected shall have no authority to add to, subtract from, or modify in any way the provisions of this Agreement. The fees and expenses of the arbitrator and the American Arbitration Association shall be borne equally by the parties.

**Section 4. Time Limitations.**

A. To be considered valid, a grievance must be filed in writing within seven (7) days of the occurrence of the alleged violation of this Agreement. A grievance which is not timely filed under this provision shall be considered void.

B. Where a grievance is originally filed in a timely manner and the City fails to answer it within the prescribed time period at any particular step, then the grievance shall automatically proceed to the next step of the grievance procedure.

C. Once a grievance is originally timely filed, the parties may, by mutual agreement, extend the time in which to answer it or to appeal it to the next step. The parties may also, by mutual agreement, agree to skip any step of the grievance procedure in order to promote the expeditious resolution of any grievance.

**Section 5.** The Union shall have a final authority, in its capacity as exclusive representative of the employees covered by this Agreement, to withdraw or to terminate the processing of a grievance at any step of the grievance procedure.

**Section 6.** The grievance procedure set forth in this Article shall be the sole and exclusive method for resolving matters which constitute grievances under this Agreement. Any decisions, and results, or settlements reached under the terms of this grievance procedure, whether reached by an arbitrator's decision or at any pre-arbitration step of the procedure, shall be final, conclusive, and binding on the City, the Union, and the employees.

**Section 7. Discipline and Discharge.**

Employees may not be disciplined or discharged without just cause.

**ARTICLE XIX - LABOR-MANAGEMENT COMMITTEE**

**Section 1.** A Labor-Management Committee will be established within sixty (60) days after the signing of this Agreement to provide a better means of communication and understanding between the O.P.B.A. and the City. The Committee will consist of no more than two (2) representatives of the Union and two (2) representatives of the City. The Union will notify the Chief of Police as to the identity of the Union representatives. The Committee shall be advisory in nature only.

**Section 2.** Meetings will be held at a mutually agreeable time and place on quarterly basis, unless waived by mutual consent of the parties, for the purpose of discussing subjects of mutual concern. At least one (1) week prior to a meeting, each party may submit in writing specific discussion items. Individual grievances will not be a subject matter for discussion at these meetings.

**ARTICLE XX - PERSONNEL FILES AND POLICY**

**Section 1.** Understanding that in administration of the Police Department the City maintains individual personnel files, an employee may be permitted to review, on an annual basis, his or her personnel file with at least a five (5) day written request. Such general review of the files shall be only during the months of January and July. In addition, a department member may inspect his or her file once in direct response to a pending grievance or official matter.

**Section 2.** Should an employee upon review of his or her file come across material of a negative or derogatory nature, the employee may provide a written and signed comment in rebuttal, mitigation, or explanation of said material, which comment shall remain in the employee's file so long as the negative material remains.

**Section 3.** When an employee is charged with or is under investigation for alleged violations of departmental rules and regulations, reasonable effort consistent with applicable law shall be made to withhold publication of the employee's name and the extent of disciplinary action taken or contemplated until such time as a final interdepartmental ruling has been made and served upon the employee.

**Section 4.** Release of photographs or personal information about any employee in relation to departmental matters shall not be provided to any news or related service without the prior consent of that employee.

**Section 5.** Discipline that is more than five (5) years old (more than five (5) years beyond the date of issuance) other than that which relates to incidents involving work-related physical injury or violence, or sexual harassment, shall not be considered for purposes of progressive discipline.

#### **ARTICLE XXI - BULLETIN BOARD**

The City shall furnish one (1) bulletin board to be used by the members of the O.P.B.A. Such bulletin board shall be used only for posting notices bearing the written approval of the O.P.B.A., and shall be solely for O.P.B.A. business and recreational and social activities of the Union. There shall be no notices or other writings posted which contain anything political, controversial, or critical of the City or any other institution or any employee or other persons.

#### **ARTICLE XXII - NO STRIKE/NO LOCKOUT**

**Section 1.** The O.P.B.A. shall not, directly or indirectly, call, sanction, encourage, finance and/or assist in any way, nor shall any employee instigate or participate in, directly or indirectly, any strike slowdown, job action, walk-out, concerted "sick" leave, work stoppage, sympathy strike, picketing, or interference of any kind with any operations of the City.

Furthermore, all lawful orders of superior officers shall, at all times, be followed and immediately complied with.

**Section 2.** The O.P.B.A. shall, at all times, cooperate with the City in continuing operations in a normal manner and shall actively discourage and endeavor to prevent or terminate any violation of Section 1 of this Article. In the event any violation of Section 1 of this Article occurs, the O.P.B.A. shall immediately notify all employees that the strike, job action, concerted “sick” leave, slowdown, picketing, work stoppage, or other interference of any operations of the City is prohibited and is not in any way sanctioned, condoned, or approved by the Union. Furthermore, the O.P.B.A. shall immediately advise all employees to return to work or to end such interference at once.

**Section 3.** The City shall not lock out employees for the duration of this Agreement.

### **ARTICLE XXIII - CONFLICT AND AMENDMENT**

#### **Section 1.**

A. Should any provision of this Agreement be invalid by operation of law or be declared invalid by any tribunal or competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect.

B. Should any provision or provisions of this Agreement be invalidated as outlined above, upon written request by either party, the parties shall meet within thirty (30) days to discuss the impact of such invalidation and to consider modification of the invalidated provision of provisions.

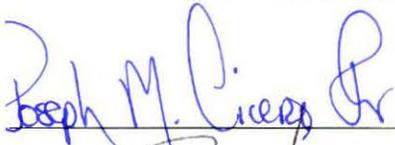
**Section 2.** This Agreement may be not amended during its term except by mutual agreement, in writing.

**ARTICLE XXIV - DURATION**

This Agreement shall remain in full force and effect until December 31, 2014, and thereafter from year to year, unless notice of an intent to terminate or modify this Agreement is served by one party upon the other as provided in Section 4117.14 of the Ohio Revised Code. If such notice is given, and provided that the O.P.B.A. maintains its status as the exclusive bargaining representative of the members of the bargaining unit, this Agreement shall remain in full force and effect as long as the parties are engaged in negotiations, mediation, or arbitration as provided in Section 4117.14 of the Ohio Revised Code.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 14<sup>th</sup> day of JUNE, 2012.

FOR THE CITY OF LYNDBURST

  
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FOR THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

  
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