

AGREEMENT

by and between

THE CITY OF OAK HARBOR

and

OAK HARBOR POLICE ASSOCIATION

**** NON-COMMISSIONED UNIT ****

JANUARY 1, 2010 through DECEMBER 31, 2012

TABLE OF CONTENTS

ARTICLE 1	-	PREAMBLE	3
ARTICLE 2	-	RECOGNITION, MEMBERSHIP AND PAYROLL DEDUCTION.....	3
ARTICLE 3	-	NON-DISCRIMINATION / GENDER.....	4
ARTICLE 4	-	PROBATION, SENIORITY, EMPLOYEE ROSTER.....	5
ARTICLE 5	-	ASSOCIATION BUSINESS.....	6
ARTICLE 6	-	WORK DAY, WORK WEEK AND WORK CYCLE.....	7
ARTICLE 7	-	HOURS OF WORK, OVERTIME, CALLBACK STANDBY AND COURT TIME.....	8
ARTICLE 8	-	MAINTENANCE OF STANDARDS	12
ARTICLE 9	-	HOLIDAYS	13
ARTICLE 10	-	WAGES	14
ARTICLE 11	-	LEAVES OTHER THAN VACATION.....	14
ARTICLE 12	-	VACATION.....	18
ARTICLE 13	-	DISTANCE FROM RESIDENCE	20
ARTICLE 14	-	UNIFORMS, CLOTHING ALLOWANCE AND CLEANING ALLOWANCE.....	21
ARTICLE 15	-	GRIEVANCE PROCEDURE.....	24
ARTICLE 16	-	MANAGEMENT RIGHTS	26
ARTICLE 17	-	LIABILITY INSURANCE PROTECTION.....	27
ARTICLE 17 (B)	-	SEPARATION.....	27
ARTICLE 18	-	HEALTH AND WELFARE.....	28
ARTICLE 19	-	MISCELLANEOUS	29
ARTICLE 20	-	DISCIPLINE.....	30
ARTICLE 21	-	EMPLOYEE RIGHTS.....	31
ARTICLE 22	-	DRUG TESTING.....	34
ARTICLE 23	-	WHISTLEBLOWER ACT	42
ARTICLE 24	-	SEPARABILITY AND SAVINGS	42
ARTICLE 25	-	ENTIRE AGREEMENT.....	42
ARTICLE 26	-	TERM OF AGREEMENT.....	43
APPENDIX A-	-	COMPENSATION	44

Article 1 **PREAMBLE**

- 1.1 This Agreement is effective this 1st day of January, 2010, between the City of Oak Harbor and the Oak Harbor Police Association. The parties recognize that the Mayor, or designee, is the Chief Executive Officer and the Police Chief, or designee, is the official of the date-to-day operations of the Police Department. Accordingly, the term "Employer" or "City" shall be used herein and shall apply interchangeably to those officials or their authorized designees. The Oak Harbor Police Association shall herein be referred to as the "Association" or "Bargaining Unit Members."
- 1.2 The Employer and the Association recognize the need to provide efficient service to the public and to enhance the quality of service. Further, both parties agree to the need for establishing and maintaining a sound labor-management relationship and mutually agree to continue working toward this goal. Each party had been afforded the opportunity to put forth all its proposals and to bargain in good faith and both parties agree that this Agreement expressed the results of their negotiations.

Article 2 **RECOGNITION, MEMBERSHIP AND PAYROLL DEDUCTION**

- 2.1 Recognition – Employer recognizes the Association as the exclusive bargaining representative for the non-commissioned regular employees of the Oak Harbor Police Department, excluding full-time confidential employees, and all other employees of the Employer not otherwise represented by the Association or any other certified bargaining representative.
- 2.2 Association Membership - All employees who are, or who hereafter become, members in good standing in the Association on or after the effective date of this Agreement, shall maintain their membership in good standing in the Association as a condition of continued employment. All employees who are not now members in the Association and/or all new employees hereinafter employed shall, within thirty-one (31) days from their first date of hire, or within thirty-one (31) days from the effective date of this Agreement, whichever is later, become and remain members in good standing in the Association as a condition of continued employment, or pay a service fee to the Association not exceeding the amount of regular Association dues and initiation fees and not exceeding the maximum agency fee that may be assessed as a matter of law.

- 2.3 Payroll Deduction – The Employer shall deduct from the pay of each employee covered by this Agreement, upon their written authorization, the dues and fees of the Association, and shall remit to said Association all such deductions monthly.

The Association shall indemnify, defend and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of any check-off of dues and fees for the Association. The Association shall refund to the Employer any amount paid to it in error on account of this check-off provision upon presentation of proper evidence thereof.

Article 3 **NON-DISCRIMINATION/GENDER**

- 3.1 Non-Discrimination – The Employer and the Union shall abide by federal, state and local laws against discrimination towards all individuals with respect to their hiring, compensation and terms and conditions of employment.

Claims of unlawful discrimination shall be pursued privately through State and Administrative agencies or through the courts and are not subject to the grievance procedure.

- 3.2 Gender – Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

Article 4 **PROBATION, SENIORITY, EMPLOYEE ROSTER**

- 4.1 Initial Probation Period – New employees shall be subject to a probation period for new or inexperienced employees and lateral entry employees commencing with their date hire and concluding after six (6) months. Said initial probationary period may be extended up to an additional six (6) months. During either the initial or extended probationary periods, such employee may be disciplined and/or discharged at the sole discretion of the Employer.
- 4.2 Promotion Probation Period – A member of the bargaining unit who has been promoted in rank shall serve a six (6) month probationary period commencing with their first work shift. In the event the employee does not satisfactorily complete the probationary period as determined solely by the Employer, said employee shall be returned to their former position and pay if such is available or to a comparable position and pay.
- 4.3 Seniority – An employee’s seniority, as it applies to this agreement, shall be defined as that period from the employee’s date of hire or promotion within the bargaining unit within classification.
- 4.4 Employee Roster – The Employer shall provide the Association annually a roster of all current employees in the bargaining unit with their respective seniority dates effective each July 1st during the term of this Agreement.
- 4.5 Termination - An employee shall lose all seniority in the event of discharge or voluntary termination.

Article 5 **ASSOCIATION BUSINESS**

- 5.1 Association Officials Time Off – Association officials who are employees in the Bargaining Unit shall be granted reasonable time off with pay while conducting contract negotiations or grievance resolution on behalf of the employees in the Bargaining Unit; provided that the Employer is able to properly staff the employees' job duties during the time off, and without any additional expense to the Employer. The Association Negotiations Committee shall consist of not more than four (4) Association members.
- 5.2 Bulletin Boards – The Employer shall provide space for a bulletin board at each station which may be used by the Association.
- 5.3 Access to Office Equipment – The employer shall allow Association access to the telephone, photocopiers and computers for purposes of administering this contract; provided reasonable reimbursement is made for the use of materials and services, by providing their own paper and paying .02 cents per page for each copy as well as paying any actual long distance charges for any phone calls made. The OHPA will coordinate payment details with the departments Administrative Assistant.
- 5.4 Association Investigative and Visitation Privileges – The Labor Representative of the Association may visit the work location of employees covered by this Agreement at any reasonable time for purpose of investigating grievances. Such representative shall coordinate his/her visitation in advance with the Chief of Police or designee for a mutually agreed-upon time and shall limit his/her activities during such investigations to matters relating to this Agreement. Employer work hours shall not be used by employees or Association Representatives for the promotion of Association affairs other than stated in this Article 5. The Association may utilize Employer Facilities for meetings, subject to availability, and with the prior approval by the Chief of Police or designee.
- 5.5 Reservation of Rights – The Chief of Police or designee reserves the right to determine the total amount of specific hours of official time which will be approved for Association officials to conduct other Association business on duty time, not addressed in Article 5.1.

Article 6 **WORK DAY, WORK WEEK AND WORK CYCLE**

- 6.1 Hours of Work – Defined – The Section 7(k) work period under the Fair Labor Standards Act, 29 U.S.C., 207(k) for those employees eligible for such exemption shall consist of twenty-eight (28) consecutive days. Otherwise, the work period shall consist of seven (7) consecutive days. The work day, work week and work month are defined as follows:
- 6.1.1 Work Day – A work day shall be one (1) eight (8) hour work shift in a twenty-four (24) hour period. The work day commences at midnight and runs through 11:59 P.M. the same day.
- 6.1.2 Work Week – A work week shall be five (5) consecutive work days followed by two (2) consecutive days off.
- 6.1.3 Twenty-Eight Day Cycle – A twenty-eight (28) day cycle of four (4) of the above work weeks.

Article 7 **HOURS OF WORK, OVERTIME, CALLBACK, STANDBY, AND COURT TIME**

- 7.1 **Overtime** - Overtime pay shall be paid for any work authorized and performed in excess of that provided by these provisions. All such work shall be paid at the rate of one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay.
- 7.1.1 **Definition** - "Overtime" as used in this Agreement shall mean that time an employee works in excess of the regularly established hours of work. Shifts which commence within eight (8) hours of the end of the preceding shift shall constitute an overtime shift.
- 7.1.2 **Rate** - Overtime shall be paid at the rate of one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay; provided however, with the mutual agreement of the employee and the employer, the employee may elect to receive compensatory time off at the rate of one and one-half (1-1/2) times the time worked, in lieu of paid overtime. Overtime shall be paid on the check for the time period in which it is earned; unless such overtime is earned after the deadline for payroll preparation, in which case it will be paid on the following month's check.
- 7.2 **Callback** - Employees ordered to report back to duty after going home from their regular shift, or called in on their day off, shall be guaranteed two (2) hours at the time and one half (1½) rate.
- 7.2.1 **Court Time** - Time spent in court, including time spent enroute to and from court, may be taken as compensatory time, if mutually agreed between employee and the Chief of Police. All officers subpoenaed to appear in court will call their OHPD Voice Mail service, after 1530 the day before the court date, (or the Friday before if the court date is a Monday), to see if their court appearance has been cancelled. Employees who are not notified on their voicemail that they need not respond to scheduled court appearances before the end of the prior business day shall receive three (3) hours minimum at the time and one half (1/2) rate.
- 7.2.2 **Vacation Call Back** - Any employee called back to duty for any reason once vacation has been approved, and the affected employee has incurred expenses in planning for the same, shall be reimbursed for costs involved in returning for duty, or any other non-refundable expenses incurred. Reimbursement for travel shall be made on the same basis as the original mode of transportation. If applicable, mileage shall be paid at the approved City rate. Vacation approval shall not unreasonably be withheld to frustrate the intent of this section. For purposes of the Vacation Call Back section, all vacations will have been previously approved according to Department procedures, and will have been for a block of 5 days minimum. Employee shall suffer no loss of vacation time.

- 7.3 Department Meetings - The Chief of Police may require employees to attend department meetings upon one (1) week's advance notice; time spent by employees at such meetings will be governed by the appropriate overtime policy.
- 7.4 Time of Effect for Overtime - Overtime pay will come into effect after fifteen (15) minutes of the employee's regular shift and he/she will be paid for the one (1) hour's overtime until he/she is at one hour and fifteen minutes past his/her shift, at which time he/she will be paid for two (2) hours, etc., until his/her duties are completed or he/she is relieved, at the rate of one and one-half (1½) his/her regular hourly rate.
- 7.5 Overtime Earned At Department Mandated Training – Any overtime that is earned while at Department mandated training will be computed using the above described process, (Articles 7.1 – 7.6), but will only be accumulated and/or taken as Non-Payable Comp-Time. Accumulation and required usage is described in Article 7.6.

Additional Language, (As agreed to in the MOU of November 2004);

Exceptions to Article 7.5 – Specific “In-House” training listed below, provided by departmental instructors, is eligible for compensation at the regular rate of overtime/compensatory time as outlined in article 7.1.2;

- (1) Firearms qualifications
- (2) Defensive Tactics Training
- (3) EVOC Training
- (4) TASER Annual Training and Requalification
- (5) In House Spillman / Access Training

In addition, the Chief of Police reserves the right to schedule additional training as the need or opportunity arises. Such training would be eligible for compensation as outlined in Article 7.1.2. This language does not negate a supervisor's responsibility to schedule training while an employee is on-duty, but is designed to allow flexibility when such scheduling is not possible. It is also understood that the language modification does not change the status of training and travel time in conjunction with collateral/promotional or specialty positions of training that is provided outside of our agency.

- 7.6 Compensatory Time Accumulation - Any compensatory time given, in excess of eighty (80) hours, in lieu of paid overtime, will be by mutual agreement between the Department and the employee. A maximum of eighty (80) hours of payable comp time or 120 non-payable comp time hours can be carried over from one month to the next. Any additional hours in excess of eighty (80) payable hours at the end of the month will be paid to the employee at his/her regular pay rate. Any additional non-payable hours in excess of 120 hours will be carried for one month with notification that the employee has that period of time to use the non-payable comp time. The department reserves the right to schedule this time off if at the end of a reasonable period of time, (within the one month period), the employee fails to schedule the excess time. Upon termination or retirement, unused compensatory time will be paid to the employee at the regular rate of pay. An employee may request to carry over more than 120 hours, for a specific amount of time, and for a specific period and purpose, upon approval by the Chief of Police.
- 7.7 No Loss - No compensatory time shall be deducted from that accrued to the employee unless the employee actually used that compensatory time, or was paid for same or agreed to having it removed for disciplinary purposes.
- 7.8 Death - Upon the death of any employee in active service within the bargaining unit, his estate shall be paid any accrued but unused payable comp time. An employee is deemed on active service for purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of payable hours accumulated.
- 7.9 Time Chits in Duplicate - Time chits recording overtime shall be made in duplicate, with the employee retaining a copy.
- 7.10 Approval of Overtime - All overtime work performed must be requested and/or approved by the Department.

HOURS OF WORK

- 7.11 Three-12 Hour Shifts: Employees who work a twelve-hour shift shall not exceed three (3) consecutive days in a week (excluding overtime). All employees on this plan are entitled to nine (9) "Kelly" days per year. "Kelly" days shall be taken as time off, and cannot be paid. Any employee who does not use his/her Kelly Day within a 6-week period may be assigned a day off by management. The shifts will rotate from AM (days) to Cover to PM (nights) every sixty (60) days. Employees work three (3) consecutive days on and have three (3) consecutive days off. Employees assigned to the Jail Division work the three 12-hour shifts.

- 7.12 Five-8 Hour Shifts: Employees who work eight (8) hour shifts shall work five (5) consecutive days and have two (2) consecutive days off. Any hours worked in excess of the above will be compensated at the overtime rate. Employees assigned to the Records Division work the Five-8 shift.
- 7.12.1 Nine-Eighty Shifts: Employees who work the nine (9) eighty (80) shift shall work four (4) nine (9) hour shifts and one (1) eight hour shift in the first week, followed by two (2) consecutive days off and then four (4) nine (9) shifts in the second week followed by three (3) consecutive days off. This will be for a one (1) year (2010) interim period and at any time can revert to a 5-8 schedule at the sole discretion of the Chief of Police. After the one (1) year (2010) interim period, any schedule change must be agreed upon by mutual agreement between the Oak Harbor Police Association and the Chief of Police. The Support Services Supervisor, Records Information Specialists and the Receptionist will work this schedule.
- 7.13 Four-10 Shift: Employees who work the ten (10) hour shifts shall work four (4) consecutive days and have three (3) consecutive days off. Any hours worked in excess of the above will be compensated at the overtime rate. Employees assigned to the ID Division and the Jail Supervisor will work the Four-10 shift.
- 7.14 Changing Hours of Work - An employee's hours of work can be changed if mutually agreed upon by the Oak Harbor Police Association and the Employer. Notwithstanding the department's ability to set and adjust the hours of work, as needed, during any properly posted shift schedule change.
- 7.15 Breaks - All non-commissioned employees, who work the five (5) eight (8) hour shift plan, have a one hour lunch break, (not included in the shift), and two (2) 20 minute rest breaks, (included in the shift). Employees assigned to the Nine-80 shift shall be entitled to one (1) thirty minute lunch break, (not included in the shift), and two (2) twenty minute rest breaks, (included in the shift). Employees assigned to the Four-10 shift shall be entitled to one (1) 40 minute lunch break and two (2) 20- minute rest breaks to be included within their shift. Employees assigned to the Three-12 shift shall be entitled to one (1) 40 minute lunch break and three (3) twenty minute rest breaks to be included in their shift. All Jail and ID employees shall be subject to immediate call during rest and lunch breaks at no cost to the Employer. Management reserves the right to schedule breaks and lunches.
- 7.16 Alteration of Schedules - With Employer approval, work schedules may be altered upon written request of the employee. The Employer shall post a monthly work schedule. Schedules shall be posted not less than three (3) days in advance of a change. Any shifts changed with less than three (3) days notice shall be compensated at the overtime rate. In the event of planned schedule changes, i.e., training, vacations, special events, extended illness or injury, etc., and with 3 days notice, any employee may have their schedules adjusted to maintain shift coverage. Days off and shift hours may be changed to cover shifts, at no cost to the Employer.

- 7.17 Offers of Overtime - The employer shall offer employees to volunteer for overtime shifts before they are assigned. Offers of overtime shall be based on seniority and shall be offered within the assigned division. If, in the opinion of the supervisor needing to fill the slot, the slot can adequately be filled by someone outside the division if unable to fill it from within the division. In addition, supervisors will be included in the offer of overtime when the overtime is necessitated to maintain minimum staffing and no supervisory personnel are on duty. Under these circumstances, seniority is calculated by date of hire and not date of promotion.
- 7.18 Extra Work - Additional consecutive days worked after a regular shift, due to shift or scheduled work changes, not subject to article 7.17, but required by the employer, will be paid overtime at the rate of one and one-half (1½) times the hourly rate of pay.
- 7.19 Shift Changes - Employees agree that additional days worked as a result of monthly shift schedule changes will not be considered overtime. Employer agrees that days not worked as a result of quarterly shift schedule changes will not place employee under any obligation to "make up" for time not worked. This same policy will apply to hours worked or not worked due to changes from Standard to Daylight Savings Time.
- 7.20 Use of Volunteers to Circumvent Overtime - The employer will in no event use volunteers to do normal work of Association members or to circumvent the holiday overtime and/or any other provisions of this Agreement.
- 7.21 Use of Volunteers in Normal Police Functions - Volunteers shall not be regularly assigned to perform functions normally performed by a regular employee working in a paid status. It is understood that volunteers may be used by the Department to supplement services, such as for additional staffing for special projects, (i.e., Community Oriented functions, civic activities, monitoring city parks, surveillance by reserves and citizens); in emergencies, or in other short-term circumstances. If the Association believes that volunteers are being utilized inappropriately, it may meet with the Chief of Police or his or her designee to discuss such disputes or disagreements, and to attempt to resolve any disputes or disagreements. Disputes regarding the utilization of volunteers shall be subject to grievance procedure.

Article 8 MAINTENANCE OF STANDARDS

- 8.1 No Reductions – No employee shall suffer any reduction of wages or less favorable working conditions or any loss of vacation benefits through the adoption or operation of this Agreement, except as negotiated.

Article 9 **HOLIDAYS**

9.1 Holidays Identified – the following shall be considered Holidays:

January 1 st	Labor Day	Thanksgiving Day
President's Day	July 4 th	Day after Thanksgiving
Memorial Day	Veteran's Day	Floating Holiday (1)
Martin Luther King Day	Christmas Day	

9.2 Pay for Holidays – Employees shall receive pay for Holidays listed herein, regardless of which day of the week on which the Holiday falls. Employees shall be paid for such Holidays, if no work is performed, at the hourly rate of the employee's regularly scheduled work shift for their classification.

9.3 Additional Compensation – If an employee works on any of the above Holidays, on a regular work day, he/she shall receive pay at one (1) times the regular rate performed, in addition to Holiday Pay. The employee may elect to add the Holiday Pay to the compensatory time bank.

9.4 Regular Day Off – If a Holiday falls on the employee's regular work day off, he/she will not receive any extra pay for that day. The employee shall receive compensatory time in the amount of the employee's regularly scheduled work shift, which must be taken as such. Holidays which occur during the employee's vacation or sick leave shall not be charged against such leave. This compensatory time may be carried over from month to month and will be drawn on first.

9.5 Called in on Holidays – If an employee is called in to work on a Holiday, on his/her regular day off, he/she will receive overtime pay (1-1/2) pay for the number of hours worked; and he/she will receive compensatory time in the amount equal to the employee's regularly scheduled work shift, which must be taken as such.

9.6 Definition of Work on a Holiday – In the event an employee works the bulk of his shift hours on a given date, that date is the one for which he will be considered paid, regardless of the date upon which the shift commenced.

9.7 Treatment on Vacation or Sick Leave – Holidays which occur during the employee's vacation or sick leave shall not be charged against such leave.

9.8 50% Rule – For purposes of this Article, employees are entitled to holiday benefits for any holiday on which not less than fifty percent (50%) of their shift occurs.

Article 10 **WAGES**

- 10.1 Wage Schedule – Wages effective January 1, 2010 through December 31, 2012 are listed on the attached Classification Schedule, as Addendum A to this Agreement
- 10.2 Out-of-Class Pay/Supervisor Pay – An employee assigned to perform in a higher paid job classification for an entire shift or more shall receive the base rate of pay for the higher classification for the duration of such assignment.

Article 11 **LEAVES OTHER THAN VACATION**

- 11.1 Sick Leave – All full-time Employees shall receive sick leave benefits in accordance with the following:
- 11.2 Accrual – Each Employee shall accrue eight (8) hours sick leave for each calendar month from their date of hire as a full-time employee. All sick leave accrued by the current policy of the Employer shall be included with all future accumulation. The total accumulation shall be limited to one-hundred eighty (180) days as it pertains to “Payment Upon Separation” as outlined in Article 11.8, but shall continue to accrue for sick leave usage.
- 11.3 Authorization – Sick leave shall be taken as needed up to the limit of accrual on occurrence of the following conditions:
- 11.3.1 Personal Illness – Personal illness or physical incapacity which renders the employee unable to perform the duties of his position.
- 11.3.2 Quarantine – Enforced quarantine in accordance with health regulations.
- 11.3.3 Medical Appointments, etc. – Medical, Dental, or optical appointments; or
- 11.3.4 Family Care Sick Leave – Sick leave days of absence from the job shall be granted to an employee due to a requirement to care for immediate family members, as defined in Article 11.13. Written or verbal verification for family care sick leave may be required from an attending physician by the Chief or his/her designee. The Employer will comply with the Family Medical Leave Act of 1993.

- 11.3.5 Sick Leave as Supplement to State Industrial Insurance – Sick leave may be used to supplement partial benefits received from State Industrial Insurance, provided that in no event shall an Employee receive more than otherwise would have been received in base salary. In the event that State Industrial benefits are later received for a period for which an Employee has already received payment through sick leave benefits, the Employee shall pay the partial benefit back to the Employer and the sick leave shall be reinstated.
- 11.4 Verification – After three (3) days of sick leave, the Employer may require a doctor’s certificate.
- 11.5 Accounting – Sick leave shall be computed exclusive of holidays and vacations.
- 11.6 Family Leave – An employee may use up to twelve (12) weeks of Family Leave per year, to care for a newborn, adopted or foster child, or seriously ill child, parent or spouse, or because of the employee’s own serious illness. The employee may choose to use accrued sick leave and other paid leave time, or take unpaid leave time. The employee may use a combination of paid and unpaid leave. The Employer shall agree to continue health and dental benefits only to employees while on unpaid leave. Any additional related costs shall be borne entirely by the Employee.
- 11.7 Transfers and Rehires – Employees transferring from one department or office to another shall retain all accrued and unused sick leave benefits. Any employee rehired within one (1) year after termination who, within sixty (60) days after rehire, reimburses the Employer for any lump sum sick leave settlement paid him/her shall retain all accrued and unused sick leave benefits.
- 11.8 Payment Upon Separation – Upon retirement, or termination, unused sick leave shall be paid according to the following schedule:
- | | | | | | |
|--------------------|---|---|-----|----------------------------|---|
| After: | | | | | |
| 5 years of service | | | 10% | of accumulated sick leave. | |
| 10 | “ | “ | 25% | “ | “ |
| 15 | “ | “ | 35% | “ | “ |
| 20 | “ | “ | 45% | “ | “ |
| 25 | “ | “ | 50% | “ | “ |
| 30 | “ | “ | 60% | “ | “ |
- 11.9 Death – Upon the death of any Bargaining Unit employee, his estate shall be paid accrued but unused sick leave in accordance with Section 11.8. An employee is deemed on active service for the purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of days provided for in this Article.

- 11.10 Sick Leave Bank – Effective his/her date of employment with the Employer, a new employee will be credited with twelve (12) days of sick leave. This initial bank will be reduced at the rate of one (1) day per month for the first twelve (12) months of employment.
- 11.11 Light Duty Assignments – The Chief of Police or designee will evaluate and determine whether or not a departmental need exists that would warrant the use of an employee in a light duty capacity. The prior approval of a medical doctor may be required.
- 11.12 Compassionate Leave – In the event of a death in the “immediate family” of an employee, the Chief of Police or designee shall, upon request, grant the employee compassionate leave with pay. The maximum number of consecutive work hours granted shall be forty (40); provided however, if necessary for health or travel, an amount up to an additional 40 (40 hours) leave can be charged to the employee’s sick leave, upon approval of the Chief of Police or designee.
- 11.13 Definition of Family – The term “immediate family” shall include:
- Spouse and children, including step-children and foster children of the employee;
 - Mother, Father, Brother, Sister of the employee or spouse;
 - Any relative living in the immediate household of the employee;
 - Any individual for whom the employee is legally responsible.
 - Step Parents (or step parents) of the employee or spouse.
- 11.14 Maternity Leave – Disabilities caused or contributed to by pregnancy, miscarriage, childbirth and recovery there from, are, for all job-related purposes, to be considered temporary disabilities. Accrued sick leave, annual leave and Family Leave may be used for childbearing or related circumstance (i.e., miscarriage, or recovery there from). The Employer shall continue health and dental benefits only to employees while on unpaid leave. Any additional related costs shall be borne entirely by the employee. If the period of disability because of childbirth or related circumstances extends beyond the employee’s accrued sick leave, Family Leave and Maternity Leave, then she may take a leave of absence not to exceed one year without pay and fringe benefits, unless the employee reimburses the employer the cost of such benefits. When the above occurs, the employee must work out the conditions of the leave of absence with the Chief of Police or designee. Eligibility for sick leave benefits due to childbearing or related circumstances require that an employee provide the Employer thirty (30) days notice, if possible, of the anticipated date of departure and date of intention to return to active employment.

Employees shall not be categorically denied the opportunity to work during the entire period of pregnancy, and may continue to work as long as the individual and her physician concur in her ability to work, and the demands of the job are satisfied. Proof of the physician’s concurrence shall be submitted at regular intervals during the employee’s pregnancy, when requested by the Employer.

Upon return from disability leave, if related to pregnancy, childbirth or related circumstances, an employee shall return to her same job and pay.

- 11.14.1 Adoption – The above Article 11.14 shall also apply in cases of adoption by an employee.
- 11.14.2 Equal Rights – Male employees shall be entitled to use up to two (2) weeks of sick leave, vacation, or comp time upon the birth or adoption of a child.
- 11.14.3 Maternity Leave of Absence – A Maternity Leave of Absence without pay may be Granted to the employee, upon written request, for a defined period of time, upon approval of the Chief of Police or designee.
- 11.15 Military Leave - In the event an employee covered by the Agreement is a member of the Washington National Guard or a Federal Military Reserve unit who is called to temporary or full-time active duty or is called or volunteers for service with the Armed Services of the United States or Washington National Guard, such employee shall be entitled to the applicable provisions of R.C.W. 38.40.060 and/or the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- 11.16 Jury Leave – Employee shall be granted leave with pay except as herein limited while required to perform jury service; or required to appear before a court or other public body on any matter related to his work. In order to receive such leave, employees must surrender to the City all fees connected with their court service or appearance.
- 11.17 Political Leave – Employees elected or appointed to a political or legislative position which is incompatible with the employee’s employment, may, upon request, be granted leave of absence without pay. The period of leave may be for up to one (1) year. Requests for political leave renewals shall be granted at the discretion of the Chief of Police or designee.
- 11.18 Education Leave – Employees may request a leave of absence without pay for educational purposes to attend accredited institution. The period of leave may be for up to one (1) year. Requests for educational leave and educational leave renewals shall be granted at the discretion of the Chief of Police or designee.
- 11.19 Leave of Absence – Leave of absence without pay may be granted to the employee upon written request, which shall specify the reason for the request and the requested period of time for the leave. Such requests shall be granted at the discretion of the Chief of Police or designee.

Article 12 VACATION

12.1 Vacation Leave – Employees shall accrue annual leave with pay for the number of working days corresponding to the following schedule:

CONTINUOUS YEARS OF SERVICE	VACATION ACCRUED PER YEAR	
0-5 years	12 days	96 hours
6-10 years	15 days	120 hours
11-15 years	20 days	160 hours
16-20 years	22.5 days	180 hours
21 + years	25 days	200 hours

12.2 Prior Vacation Accumulation – All vacation accrued under a prior policy of the Employer shall be included with all future accumulation.

12.3 Annual Leave / Maximum Accrual – Except when approved by the Chief of Police or designee for good cause shown, an employee’s accrued unused annual leave may not exceed the amount of the annual accrual at the end of the two calendar years. Annual leave accrued and unused in excess of that permitted by this Section shall be forfeited.

12.4 No Deduction of Vacation - Except as provided in Section 12.3, no annual leave shall be deducted from that accrued until it has actually been used; or the employee has agreed to the deduction in lieu of other discipline; or there has been a lump sum settlement.

12.5 Termination – Upon termination from all City employment, the employee shall be paid a lump sum settlement for the number of days of annual leave accrued and not previously used.

12.6 Transfers, Leave of Absence and Termination – Employees transferring from one department or office to another or granted a leave of absence for more than one (1) month or rehired within one (1) year after layoff for lack of funds shall accrue annual leave benefits based on the total time of active employment with the Employer which, in the case of lay-off, was not separated by more than one (1) year. In the event of a transfer, leave of absence for more than a month, or lay-off for a time less than one (1) year, the employment anniversary date shall be adjusted to reflect the actual period of active duty employment.

Employees rehired after lay-off for more than one (1) year shall accrue leave benefits on the same basis as provided for lateral transfer employees under Section 11.10. Employees re-hired after layoff for more than one (1) year shall have their employment anniversary date adjusted to reflect the actual period of active duty employment. An individual on sick leave or disability leave shall for purposes of this Section be deemed to be on active duty employment.

- 12.7 Seniority / Scheduling – Vacation periods shall be selected by seniority. Vacation requests shall be submitted in writing by March 1st for proper scheduling. Vacation requests submitted prior to March 1st shall be responded to by the Chief of Police or designee within two (2) weeks following submittal. After the said March 1 date any vacation requests shall be subject to availability.
- 12.7.1 Right to Request – The above sections do not serve to bar the employee from submitting vacation requests later than the relevant date, but sets forth deadlines for those who wish to have priority pursuant to seniority provisions. Late requests will be granted to the extent consistent with staffing needs and approval will not be unreasonably withheld.
- 12.8 Leave - Leave shall be at a time when it shall not impair the efficiency of the Department or section; and, if the nature of the work is such that no employees or a limited number of employees may be on vacation at a given time, the Employer may establish non-leave period and priority list for assigning the order in which leaves may be taken.
- 12.9 Military Leave - During the term of this Agreement, employees who serve in the military reserve or National Guard shall provide the Chief of Police or designee with their individual training dates in writing for that calendar year on or before each January 15. The Employer shall block out such training dates in determining the number of employees that may be scheduled off, other than the employee's annual vacation, consistent with the current minimum staffing standard. The Employer shall not incur overtime expense as a direct result of scheduled military or National Guard training.
- 12.10 Lateral Transfer Employees – Employees who laterally transfer from an agency outside the City of Oak Harbor into the Department shall be considered to have seniority for vacation purpose as is reflected by their actual period of employment with the Employer.
- 12.11 Death – Upon death of any employee in active service within the Bargaining Unit, his estate shall be paid any accrued but unused vacation time. An employee is deemed on active service for purpose of this Section if he is on duty status, or is on annual leave, sick leave, compassionate leave, jury duty or other leave for a period of time not to exceed one (1) calendar year. Any such payment shall be made as a lump sum settlement for the number of hours accumulated.

Article 13 **DISTANCE FROM RESIDENCE**

- 13.1 Distance from Residence – There will be no residency requirement for non-commissioned employees; however, in the event of callback, the employee will not be compensated for any travel time prior to arrival at the work site.

Article 14 UNIFORMS, CLOTHING ALLOWANCE AND CLEANING ALLOWANCE

14.1 Fair Wear and Tear – Uniform and equipment items in need of replacement shall be reviewed by the Chief of Police or designee for approval. In the event that a replacement has been denied, the employee will take the item to the Chief of Police or designee in the form of a grievance as described in article 15.

14.2 Standard Uniform Items/Jailer:

Shirts	3 winter / 3 summer
Trousers.....	3 pair
Utility Jacket	1
Ties.....	2
Tie Bar	1
Soft Body Armor.....	1
Collar Devices.....	1 pair
Uniform Shoe.....	1 pair
Uniform Boots	1 pair (And ID Technician)
Baseball Hat	1 (And ID Technician)
Rain gear	1 set
Jumpsuit.....	1 (And ID Technician)

14.3 Standard Uniform Items/All Other Non-Commissioned:

Shirts	3 winter/3 summer
Trousers and/or Skirts	4 pair
Blazer	1
Cardigan or Pullover Sweater	2
Collar Devices.....	1 pair
Shoes	3 pair (combination of pumps, walking shoe and tennis shoe style boot)
Utility Jacket	1
Raid Jacket	1 (ID Technician Only)

14.4 Weapon, Weapon Items & Equipment/Jailer:

Service Weapon	1 (new jail employee only)
Chemical Irritant	1 (And ID Technician)
Hinged & Chain Handcuffs	1 pair each
Flashlight.....	1
Night Stick	1
Portable Radios	1
Portable Radio Holder.....	1

14.5 Leather Gear Items/Jailer:

Gun Belt	1
Uniform Pant Belt	1
Gun Holster	1
Chemical Irritant Holster	1
Handcuff Cases	2
Bullet Pouches	2
Riot Helmet.....	1 (optional)
Keepers	4
Night Stick Ring/Flashlight Ring.....	1
Badge Holder or Badge Wallet.....	1 (And ID Technician)
Key Holder.....	1
Trouser belts.....	1
Gloves	1 pair (And ID Technician)
Wristwatch	1 (And ID Technician) (Up to \$40 / replacement only)

14.6 BASIC Corrections Academy Uniforms/Supplies - Uniforms and supplies required for an employee's attendance at the Basic Corrections Academy will be furnished by the Department.

14.7 Required Uniform Attachments - All required patches, cloth badges, name emblems, service bars or any such items will be provided and affixed to all such uniform items issued to employees, at Department cost.

14.8 Uniform Maintenance - All reasonable uniform maintenance, alterations and repairs shall be provided by the Employer.

14.9 Body Armor Replacement - Soft body armor shall be replaced by the Department based on the manufacturer's replacement recommendation.

- 14.10 Uniform Accountability - The employee shall be held accountable for all uniforms, weapons and leather gear which is issued to the employee by the Employer. Items which become worn out and/or items which become lost or destroyed as a direct result of the performance of the employee's duties, or as a result of an occurrence not due to the employee's intentional act or willful negligence, shall be replaced by the Employer. Accountable items of clothing or protective devices assigned to an employee which are lost or mutilated as a direct result of that particular employee's willful negligence shall be replaced by the employee.
- 14.11 Cleaning Allowance - The Employer shall pay all cleaning costs.
- 14.12 Property of Employer - All uniforms and equipment issued by the Employer to each employee shall remain the property of the Employer.

Article 15 **GRIEVANCE PROCEDURE**

- 15.1 Grievance Defined – A “grievance” is defined as a claim, allegation or dispute, with respect to the interpretation or application of the provisions of this agreement, by an employee or group of employees or the Association on behalf of a member of the bargaining unit.
- 15.2 Grievance Process – The procedure shall be as follows:
- 15.2.1 Step 1 – An employee or group of employees, or their delegated representative, who consider they have a grievance, may present such grievance within ten (10) working days of its alleged occurrence, or knowledge of its alleged occurrence to the employee’s immediate supervisor or designee, who shall attempt to resolve it within ten (10) working days after it is presented.
- 15.2.2 Step 2 – If the employee is not satisfied with the solution by the immediate supervisor or designee, the employee may present the grievance within ten (10) working days, in writing together with all other pertinent material, to the Chief of Police or designee, who shall attempt to resolve the grievance within (10) working days. The Chief or designee shall make his decision in writing and a copy of such decision will be given to the employee.
- 15.2.3 Step 3 – If the employee is not satisfied with the decision of the Chief of Police or designee, may present the grievance to the President of the Association, or his designee. Upon receipt of such grievance, the President shall call for a meeting of the Association Executive Board, who will review all of the pertinent facts. The Executive Board shall attempt to resolve the grievance within ten (10) working days, and shall make their decision in writing, with a copy given to the employee.
- 15.2.4 Step 4 – If the grievance is not resolved, the matter may be submitted by the signatory parties to this agreement to final and binding grievance arbitration. Arbitration shall be the exclusive method of appeal of grievance not resolved in step 3. Either party may submit a demand for arbitration to the other party within ten (10) working days of the step 3 decision. The parties may attempt to agree on an arbitrator to hear the dispute. The arbitrator shall have no authority to alter, modify, vacate or amend any terms of this agreement. If the employer and the association are unable to agree upon an arbitrator within ten (10) working days after receipt of the demand for arbitration, either party may request a list of nine (9) arbitrators from the Federal Mediation and Conciliation Service, (also known as the FMCS). Determination of payment shall be made based on existing law governing grievance arbitration payment.

- 15.3 Association Right to Grievance – None of the foregoing is intended to mean that the Association itself cannot lodge a grievance and process the same through the various steps, in accordance with and subject to the provision thereof. The right of the Association to so lodge and process a grievance is expressly confirmed. No settlement of a grievance with an employee or the Association shall be contrary to the terms of this Agreement.
- 15.4 Time limits may be modified by mutual agreement of the parties.
- 15.5 Working days shall be defined as Monday through Friday and shall exclude Saturday, Sunday and holidays.

Article 16 **MANAGEMENT RIGHTS**

- 16.1 Recognition by Association - The Association recognizes the prerogative of the Employer to operate and manage its affairs in all respects, in accordance with its responsibilities and power of authority.
- 16.2 Scheduling Work - Subject to the provisions of this Agreement, the Employer has the right to schedule work as required in a manner most advantageous to the Department and consistent with requirements of municipal employment and public safety.
- 16.3 Job Description - It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described.
- 16.4 Rights Reserved to Management - Subject to the provisions of this Agreement, the Employer reserves the right to:
- 16.4.1 Recruiting and Promotions - Recruit, assign, transfer, or promote members to positions within the Department.
- 16.4.2 Discipline - Suspend, demote, discharge, or take other disciplinary action against members for just cause.
- 16.4.3 Levels and Methods of Service - Determine methods, means and personnel necessary for departmental operations.
- 16.4.4 Budget Control - Control the departmental budget.
- 16.4.5 Emergencies - Take whatever actions necessary in emergencies in order to assure the proper functioning of the Department. Emergencies may include unforeseen budget issues and shortfalls, which adversely impact the levels of service to the community, and which would cause a hardship to the Department.

Article 17 **LIABILITY INSURANCE PROTECTION**

- 17.1 Employer Contributions – The Employer will purchase insurance coverage in the following amounts, on behalf of employees covered by this Agreement against false arrest and detention, malicious prosecution, assault and battery, negligent or wrongful act, errors and omission, with the following limits: \$2,000,000 each person, \$2,000,000 each occurrence; \$2,000,000 total aggregate.

The policy will provide for the payment of judgment against any member of the bargaining unit within its coverage, and will provide for the legal defense of the member, based upon a lawful act performed in the course of his/her duty.

- 17.2 Judgment and Legal Defense – The Employer shall provide legal counsel or reasonable attorney's fees for representation and defense, settlement or monetary judgments from such actions, claims, or proceedings arising out of or incident to acts and/or omissions occurring while the employee was acting in good faith in the performance or purported failure of performance of his official duties or employment and provided further that the employee was not engaging in criminal or malicious misconduct. A criminal conviction shall be deemed conclusive but not exclusive proof of criminal misconduct for the purposes of this Section. If the Employer elects to pay reasonable attorney's fees hereunder, no claim for such payment may be made by an employee prior to the conclusion of a criminal lawsuit.

Article 17 (B) **SEPARATION**

- 17(B).1 Separation Payment – Upon an employee's separation for any reason, the City shall not be required to pay additional monies to cover any increased pension benefits, due to compensation for accrued Vacation, Holidays or Sick Leave.

Article 18 **HEALTH AND WELFARE**

- 18.1 Eligibility and continued employee and dependent participation in any group insurance or other financially based group benefit plan provided through the Employer shall be in accordance with the applicable Group Insurance Plan Document or Master Plan Agreement.
- 18.2 The Employer will provide an IRS Code Section 125, Flexibility Benefits Plan for enrolled members of the bargaining unit and their enrolled dependents shall be consistent with the provisions of this Article 18.
- 18.3 The Employer shall provide eligible enrolled employees a group medical and group dental plan at no cost to the employee during the term of this Agreement. In the event of extraordinary increases in group insurance premiums imposed by the group insurance carrier(s), the Employer and the Association agree to reopen this Article 18 for renegotiation.
- 18.4 The Employer shall provide eligible enrolled employee only group long term disability and basic group term life insurance benefits at no cost to the employee. Enrolled employees shall have the option at their expense to purchase additional group term life insurance as well as participate in other group benefit plans as may be offered by the Employer's group benefit carrier(s) with payments by payroll deduction.
- 18.5 The Employer shall pay seventy-five percent (75%) of premium amount required to provide eligible enrolled dependents of enrolled employee covered by this Agreement with group medical and group dental insurance coverage.
- 18.6 The Employer shall reimburse those members of the bargaining unit who have been continuously employed by the Employer as of December 31, 2000 or before, forty percent (40%) of the group medical and group dental premium amounts unused by the employee shall be paid to the employee subject to the following conditions. For any change in benefit selections, or for persons hired after January 1, 2001, the reimbursement rate for the above unused premiums will be at 25%.

Article 19 **MISCELLANEOUS**

- 19.1 **Training** – When any employee is required to attend law enforcement training courses, unless otherwise paid for, the entire cost shall be borne by the Employer by making arrangements to be billed by the school in advance for tuition and actual expenses incurred, by reimbursement, or by a combination of these methods. Whenever permitted by State Law, the Employer shall make every effort to obtain authorization for payment of expenses in advance to ensure the employee shall not be required, to the extent possible, to attend such schools under a “pay out of your own pocket and be reimbursed” arrangement.
- 19.1.1 **Training** – An employee who, by attending any training on the employee’s normally scheduled time off, shall be credited paid overtime or compensatory time, agreed to in the MOU on this issue dated November 4, 2004, except for Basic Academy training. Those attending Basic Academy will be compensated for travel time at the outset of the Academy and upon completion of the Academy only.
- 19.1.2 **Schedule Adjustment** – The schedule of an employee attending full day or longer training courses shall be adjusted to conform to the hours of the training program and to exclude breaks and meal periods from the work day.
- 19.1.3 **Mileage Reimbursement** – In the event an Employer vehicle is not available and an employee travels to required training in his personal vehicle, he shall be reimbursed for mileage at the approved IRS rate.
- 19.2 **Performance of Duty** – All employees covered by this Agreement shall present themselves on time for their duty schedules in proper working uniform, ready to perform their assigned duties. There shall be no strikes, slow-downs, stoppage of work or any interference with the efficient management of the Police Department.
- 19.3 **Special Sick Leave** – All LEOFF II, PERS I, PERS II and PERS III employees who have been employed through Civil Service examination shall be provided with fifteen (15) days special sick leave, which shall be used only to supplement the employee’s industrial insurance benefit should the employee be injured on the job during his or her first calendar year on the job. The special sick leave shall not be used until regular sick leave has been exhausted, and will be reimbursed by the employee should he/she leave City employment before having earned enough regular sick leave to pay back any Special Sick Leave used.

Article 20 **DISCIPLINE**

20.1 Discipline and Discharge – The Employer reserves the right to suspend, demote, discharge, or take disciplinary action against an employee covered by this Agreement for just cause.

Article 21 **EMPLOYEE RIGHTS**

- 21.1 Preamble – Because of the ever increasing responsibilities and duties required of law enforcement officers in the performance of their job duties which of necessity increase their contact with the general public and could lead to misunderstandings and questions surrounding the activities of employees covered by this Agreement, it is mutually required, therefore, that procedures be established in order to provide for full investigation of any questions arising from contacts and relations with the public and also to provide for safeguards in order to protect the police officer in these investigations so that the matters can be dealt with in fairness and in an expeditious manner, the following guidelines are set forth. The following provisions shall apply anytime the employer is conducting any investigation, (including those that did not arise from contacts or relations with the public), where the agent of the Department who is conducting the investigation or questioning an employee knows, (or reasonably should know), that the questioning could reasonably result in the employee being suspended, demoted or terminated as opposed to a routine inquiry.
- 21.2 Notice in Writing – An employee shall be advised in writing of the particular nature of the investigation and as to whether he/she is a witness or suspect. This information shall be provided 24 hours prior to the interrogation of the employee and should include names and addresses or other information which shall reasonably inform him/her of the allegations against the said members of the bargaining unit.
- 21.3 Interrogation – Interrogations of said employee shall be at a reasonable hour; preference for such time of interrogations shall be when the individual is on duty and/or during the daytime; provided, however, that the gravity and exigencies of the investigation in all cases control the time of said interrogation.
- 21.4 Location of Interrogation – All interrogations shall be held at the Employer's Police Station facility except when this would be impractical. The employee shall be afforded an opportunity and the necessary facilities to contact an attorney and/or Association representative prior to commencement of the interrogation. The employee's attorney and/or the Association representative may be present during the interrogation, but said attorney and/or Association Representative shall not be permitted to participate in the interrogation. Nothing herein shall in any way restrict the rights of the attorney and/or the Association representative to consult with the employee during the process of the interrogation.

- 21.5 Expeditious Handling – The interrogation shall be conducted in the most expeditious manner consistent with the scope and gravity of the subject matter of the interrogation and the employee shall at all times be given reasonable periods to attend to personal activities, such as meals, telephone calls to his/her private attorney and rest periods. Employees shall be granted up to three (3) hours to contact an attorney or Association representative in administrative matters. No employee shall be compelled to waive his/her constitutional rights in criminal matters.
- 21.6 Disposition of Investigation – The employee shall be advised of the results of the investigation and any future action which the Employer has decided to take on the incident.
- 21.7 When the Investigation Results in Departmental Charges Being Filed – After the investigation is complete, the employee will be furnished with a copy of the reports of the investigation which will contain all known material facts of the matter to include any tape recording at no cost. The employee will also be furnished with the names of all witnesses and complaints known to the Employer, who will appear against him or her and/or whose statements will be used against him or her. This obligation shall continue after charges have been filed against the employee. Under no circumstances shall said employee, or representative, attempt to intimidate or harass any witness and/or complainant or other individual who provides information regarding an investigation of misconduct.
- 21.8 No Abuse – The employee shall not be subject to any profane language nor threatened with dismissal, transfer or other disciplinary punishment as a guise to obtain the resignation of said employee nor shall the employee be subjected to intimidation in any manner during the process of interrogation. No promises or rewards shall be made to the said employee as an inducement to answer questions.
- 21.9 Taping of Interrogation – Upon mutual agreement, and at no cost to the employee, the interrogation shall be recorded on tape and the tape(s) shall be immediately turned over to a third (3rd) party (i.e., City Clerk) who shall be responsible for their safekeeping.
- 21.10 Lie Detector Test – An employee covered by this Agreement shall not be required to take or be subjected to any lie detector tests or similar tests as a condition of continued employment within the Police Department.
- 21.11 No Limitation on Chief's Authority – Nothing contained in any of the above provisions shall restrict and/or limit the authority of the Chief of Police or designee in the performance of his duties and responsibilities as the Chief Administrator of the Police Department.

OAK HARBOR POLICE
NON-COMMISSIONED UNIT

21.12 Use of Force Situations – Employees involved in the use of deadly force or force resulting in serious bodily injury shall be advised of their rights to and allowed to consult with an Association representative or attorney prior to being required to give an oral or written statement about the use of force. In such cases no statement will be mandatorily required by the employer for (24) twenty-four hours after the incident.

In all other incidents where force was used the employee will have (3) three hours, (or a reasonable proximity to three hours), to consult with an OHPA representative or an attorney prior to mandatorily giving a statement about the use of force incident.

NOTE: It shall not be considered a violation of this agreement, if, based on the information known at the time of the use of force, there was no information available that would lead a reasonable person to believe that excessive force was used.

Article 22 **DRUG TESTING**

- 22.1 General Rule – The employer and the Association jointly recognize the need for a drug free workplace and the appropriate use of drug testing. Tests are permitted when probable cause of unlawful drug use exists.
- 22.2 Testing Mechanisms – The following testing mechanism shall be used for any drug test performed on member of the Association:
- 22.2.1 Screening Test – Any screening test shall be performed using the Immunoassay (IA) method.
- 22.2.2 Positive Results – Any positive results on the initial screening test shall be confirmed through the use of Gas Chromatography/Mass Spectrometry (GC/MS).
- 22.3 Procedures to be Used When the Sample is Given – The testing procedure shall be used whenever an employee is required to give a urine sample.
- 22.3.1 Listing of Drugs Taken – Prior to testing, the employee will be requested to list all drugs currently being used by the employee on a form to be supplied by the testing facility.
- 22.3.2 Sampling – A urine sample will be taken of the employee. The test shall be given in such a manner as to protect the authenticity and reliability of the sample and the privacy of the individual.
- 22.3.3 Tests – The sample will first be tested using the screening procedure set forth in Section 22.2.1. If the sample tests are positive for any prohibited drug, the confirmatory test specified in Section 21.2.2 will be employed.
- 22.3.4 Procedure After Positive Results – If the confirmatory test is positive for the presence of an illegal drug, the employee will be notified of the positive result, and will be provided with copies of all documents pertinent to the test sent to or from the employer by the laboratory. The employee will then have the option of having the untested sample submitted to NIDA Certified lab of the employee's own choosing, to be tested at the employee's cost. If the retest results in a negative, the employer will reimburse the employee for all costs. The employer and employee will be given a copy of the results.
- 22.3.5 Documentation – Each step in collecting and processing of urine specimens shall be documented to establish procedural integrity and a chain of evidence.

- 22.3.6 Right of Access – The employer and any employee who test positive shall be given access to all written documentation available from the testing laboratory which verifies the accuracy of the equipment used in the testing process, the chain of custody of the specimen and the accuracy rate of the laboratory.
- 22.4 Limitation or Action “First Offense” – Any action taken by the employer for a “first offense” shall be rehabilitative in nature (i.e., counseling referral, treatment.), except when the employee is involved in criminal activity.
- 22.5 Second Offense – Second or more offenses by an employee shall be subject disciplinary action, up to and including dismissal.
- 22.6 Informing Employees about Drug and Alcohol Testing – All employees shall be fully informed of the Employer’s drug and alcohol testing policy. Employees will be provided with information concerning the impact of the use of alcohol and drugs on job performance. In addition, the Employer shall inform the employees on how the tests are conducted, what the test can determine and the consequence of testing positive for drug use. All newly hired employees will be provided with this information on their initial date of hire. No employee shall be tested before this information is provided to him/her. Employees who voluntarily come forward and ask for assistance to deal with the drug or alcohol problem shall not be disciplined by the Employer for doing so. No disciplinary action will be taken against an employee unless he/she refuses the opportunity for rehabilitation, fails to complete a rehabilitation program successfully, or again tests positive for drugs after completing an appropriate program.
- 22.7 Employee Testing – Employees shall not be subjected to random medical testing involving urine or blood analysis or other similar or related tests for the purpose of discovering possible drug or alcohol abuse. If, however, objective evidence exists establishing probable cause to believe an employee’s work performance is impaired due to drug or alcohol abuse, the Employer will require the employee to undergo a medical test consistent with the conditions as set forth in the Policy.
- 22.7.1 In the event an employee is involved in an accident with serious injury requiring off-site medical treatment, or shooting incident, the employee may be ordered to submit to drug testing where surrounding circumstances provide an articulate suspicion that the employee is impaired.
- 22.7.2 “For Cause” (also known as “Reasonable Cause”) is defined as work-related performance, behaviors and actions that a reasonable and prudent person would believe constitute a potential hazard, either to oneself or others which could indicate that an employee may be under the influence of an illegal drug, or may be abusing a prescription or over the counter (OTC) drug, or alcohol.

- 22.8 Sample Collection – The collection and testing of the samples shall be performed only by a laboratory and by a physician or health care professional qualified and authorized to administer and determine the meaning of any test results. The laboratory performing the test shall be one that is certified by the National Institute of Drug Abuse (NIDA). The laboratory chosen must be agreed to between the Association and the Employer. The laboratory used shall also be one whose procedures are periodically tested by NIDA where they analyze unknown samples sent to an independent party. The results of the employee tests shall be made available to the Medical Review Physician.

Collection of blood or urine samples shall be conducted in a manner which provides the highest degree of security for the sample and freedom from adulteration. Recognized strict chain of custody procedures must be followed for all samples as set by NIDA. The Association and the Employer agree that security of the biological urine and blood samples is absolutely necessary; therefore, the Employer agrees that if the security of sample is compromised in any way, any positive test shall be invalid and may not be used for any purpose.

Blood or urine sample will be submitted as per NIDA Standards. Employees have the right for Association or legal counsel representatives, whichever is more readily accessible, to be present during the submission of the sample. Employees shall not be witnessed while submitting a urine specimen. Prior to submitting a urine or blood sample, the employee will be required to sign a consent and release form (as attached to this Policy).

A portion of the original sample will be separated by the lab in all cases for an independent analysis in the event of a positive test result. All samples must be stored in a scientific acceptable preserved manner as established by NIDA. All positive confirmed samples and related paperwork must be retained by the laboratory for at least twelve (12) months or for the duration of any grievance disciplinary action or legal proceedings, whichever is longer. At the conclusion of this period, the paperwork and specimen shall be destroyed. Tests shall be conducted in a manner as to ensure that an employee's legal drug use and diet does not affect the test results.

- 22.9 Drug Testing – The laboratory shall test for only the substances and within the limits as follows for the initials and confirmation test as provided within NIDA standards. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for drugs or classes of drugs.

INITIAL TESTING

Marihuana metabolites	100ng/ml
Cocaine metabolites	300ng/ml
Opiate metabolites	300ng/ml
Phencyclidine	25ng/ml
Amphetamines	1,000ng/ml
<u>Barbiturates:</u>	
Secobarbital	300ng/ml
Phenobarbital	1,000-3,000ng/ml
Butalbital	1,000ng/ml
<u>Benzodiazepines:</u>	
Oxazepam	300ng/ml
Chlordiazepoxide	3,000ng/ml
Diazepam	2,000ng/ml
Methadone	300ng/ml
Methaqualone	300ng/ml
Propoxyphene	300ng/ml
Ethanol	0.03g/dl

- (1) if immunoassay is specific for free morphine, the initial test level is 25ng/ml. If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the employee's file. Only specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the following listed cutoff values:

CONFIRMATORY TESTING

Marihuana metabolites (1)	15ng/ml
Cocaine metabolites (2)	150ng/ml
<u>Opiates</u>	
Morphine	300ng/ml
Codeine	300ng/ml
Phencyclidine	25ng/ml
<u>Amphetamines</u>	
Amphetamine	500ng/ml
Methamphetamine	500ng/ml
Barbiturates	200ng/ml
Benzodiazepines	200ng/ml
Methadone	100ng/ml
Methaqualone	300ng/ml
Propoxyphene	100ng/ml
Ethanol	0.03g/dl

- (1) *Delta-9-tetrahydrocannabinol-9-carboxylic acid*
(2) *Benzoylcegonine*

If confirmatory testing results are negative, all samples shall be destroyed and record of the testing expunged from the employee's file.

22.9.1 Alcohol Consumption Disclosure – An employee who has consumed any alcoholic beverage and who is called in on off-duty time will advise his/her supervisor of that consumption.

22.10 Medical Review Physician – The Medical Review Physician shall be chosen and agreed upon between the Association and the Employer and must be a licensed physician with a knowledge of substance abuse disorders. The Medical Review Physician shall be familiar with the characteristics of test (sensitivity, specificity and predictive value), the laboratories running the tests and the medical conditions and work exposures of the employee.

The role of the Medical Review Physician will be to review and interpret the positive test results. He must examine the alternate medical explanations for any positive test results. This action shall include conducting a medical review of any other relevant biomedical factors. The Medical Review Physician must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication.

22.11 Laboratory Results – The laboratory will advise only the employee and the Medical Review Physician of the positive results. The results of a positive drug or alcohol test can only be released to the Employer by the Medical Review Physician once he has completed his review and analysis of the laboratory's test. The Employer will be required to keep the results confidential and it shall not be released to the general public.

22.12 Testing Program Costs – The Employer shall pay for all costs involving drug and alcohol testing as well as the expenses involved with the Medical Review Physician. The Employer shall also reimburse each employee for their time and expenses including travel incurred involved in the testing procedure only, if outside normal shift schedule.

22.13 Association Held Harmless – This drug and alcohol testing program was initiated at the request of the Employer. The Employer assumes the sole responsibility for the administration of this Policy and shall be solely liable for any legal obligations and costs arising out of the provisions and/or application of this collective bargaining agreement relating to drug and alcohol testing. The Association shall be held harmless for the violation of any employee rights arising from the administration of the drug and alcohol testing programs.

- 22.14 Changes in Testing Procedures – The parties recognize that during the life of this Agreement, there may be improvements in the technology of testing procedures which provide more accurate testing. In that event, the parties will bargain in good faith whether to amend this procedure to include such improvements. If the parties are unable to agree on the amendments they will be submitted to dispute resolution procedures as agreed upon in this contract.
- 22.15 Conflict with other Laws – This Article is in no way intended to supersede or waive any constitutional or other rights that the employee may be entitled to, or legal rights and obligations that the Employer may have, under Federal, State or local statutes.

ARTICLE 22

DRUG TESTING

CONSENT/RELEASE

I consent to the collection of a urine sample by _____, and its analysis by _____, for those drugs specified in the Collective Bargaining Agreement.

The laboratory administering the tests will be allowed to release the results to my Employer only after the laboratory's results have been reviewed and interpreted by the Medical Review Physician. The information provided to the Employer shall be only whether the tests were confirmed positive or were negative and not any other results of the test without my written consent.

The laboratory is not authorized to release the results of this test to any other person without my written consent.

I understand that I have the right to my complete test results and that the laboratory will preserve the sample for at least twelve months. I have the right to have this sample separated at the lab and a portion tested at my expense at a second NIDA Certified laboratory of my choice, in the event the test results are confirmed positive.

I understand that the Employer is requiring me to submit to this testing as a condition of my employment and that alteration of the sample or failure to reasonably cooperate with the collection of a urine sample may result in disciplinary action by the Employer.

I understand that a confirmed positive test may result in a requirement that I undergo rehabilitation.

By signing this consent form, I am not waiving any of my rights under any federal, state, or local law, statute, constitution, ordinance, administrative rule or regulation or common law provision. I understand that I have the right to challenge any confirmed positive test results and any Employer action based thereon, by filing a grievance under the Collective Bargaining Agreement.

Date _____ Employee _____

CITY OF OAK HARBOR

Confidential Reinstatement Agreement
Oak Harbor Police Association

I, _____, request reinstatement to my former position with the City of Oak Harbor. I understand that my reinstatement to employment is conditional, subject to the following terms:

1. I have successfully completed an approved rehabilitation program at a licensed, approved facility and will actively comply with any and all follow-up requirements as stated by the program mandates
2. I understand that any future violation of the substance abuse policy, or failure to comply with and complete the follow-up terms of the approved treatment program will result in my immediate termination of employment.
3. I understand and recognize the importance of involving, (if applicable) my spouse, family or the significant other person in my life in the process of my recovery program.
4. I understand and agree that, as a condition to reinstatement, I am expected to meet all established requirements of the policies and procedures and that I will continue to be subject to established procedures for failure to comply with these standards.
5. I understand that my past conduct and my recovery program require that I comply with random drug screening requests during the period of this Agreement. My failure to comply with this section may result in my immediate termination.
6. I understand that I will be subject to the terms of this Reinstatement Agreement for a period of twelve (12) months from the date of my reinstatement. Upon completion of this twelve (12) month period, I will receive a formal, written review of my work performance and recovery progress during such period. This evaluation will determine if the terms of this Agreement have been met, require modification or, if special detailed circumstances warrant, should be extended.

ACKNOWLEDGEMENT

I understand and agree that my reinstatement and continued employment are conditioned upon my satisfactory compliance with the terms listed above. I have discussed these terms with my supervisor(s) and understand that, should I fail to comply with the terms of those sections specifically cited or in all other sections not so noted, I will be subject to further disciplinary action, up to and including termination of employment with the City of Oak Harbor.

Date: _____

Employee Signature

Copy received and acknowledged:

Print Name of Employee

Initials _____

Article 23 **WHISTLEBLOWER ACT**

23.1 The following principles are to be followed with regard to the City of Oak Harbor Whistleblower regulations:

23.1.1 The provisions of the Whistleblowers policy are a “safe harbor” protection for employees. Thus, an employee following the provisions of the “Whistleblowers” policy and/or acting in good faith are protected from discipline. Conversely, failing to follow the designated procedures is not a “rule of discipline

23.1.2 Failure to follow these procedures, depending on the circumstances, may be a relevant evidence as to (1) whether the violation of applicable rules of conduct has occurred; (2) whether the violation, if it has occurred, was done maliciously or with other bad motive; or (3) whether serious discipline, if any, is appropriate.

Article 24 **SEPARABILITY AND SAVINGS**

24.1 Compliance – It is the intention of the parties hereto to comply with all applicable provisions of the State or Federal Law, and they believe that each and every part of this Agreement is lawful. All provisions of this Agreement shall be complied with unless any of such provisions shall be declared invalid or inoperative by final judgment of a Court of competent jurisdiction. In such event upon request, the parties shall meet for renegotiation of such invalid provisions for the purpose of adequate and lawful replacement thereof.

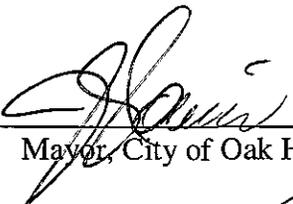
Article 25 **ENTIRE AGREEMENT**

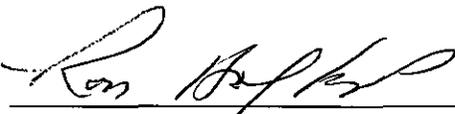
25.1 This Agreement and all of its Articles and/or Appendices constitute the entire Agreement between the parties and no oral statement shall add to nor supersede any of its provisions. Each party to this Agreement agrees that it has had the unlimited right to make proposals that are proper subjects for collective bargaining and waives the right to oblige the other party to negotiate any matters to become effective until the expiration of this Agreement.

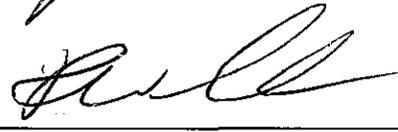
Article 26 **TERM OF AGREEMENT**

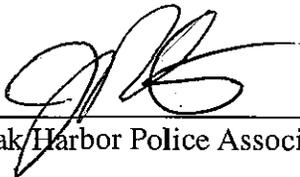
This Agreement shall be effective January 01, 2010, unless otherwise provided for herein, and shall remain in full force and effect through December 31, 2012, and year to year thereafter, unless written notice is given by the Employer to the Association or the Association to the Employer not later than September 01, 2012, to the effect that the Employer or the Association wishes to terminate or modify the Agreement.

SIGNED THIS 17th DAY OF FEBRUARY, 2010.

BY: 
Mayor, City of Oak Harbor

BY: 
Oak Harbor Police Association

BY: 
Chief of Police

BY: 
Oak Harbor Police Association

ID TECH/ JAILER

GROUP 5

GRID	80%	84%	88%	92%	96%	100%
Step	0	1	2	3	4	5
Jan-2010	\$3,806	\$3,996	\$4,186	\$4,376	\$4,567	\$4,757

POLICE RECEPTIONIST

GROUP 6

GRID	80%	84%	88%	92%	96%	100%
Step	0	1	2	3	4	5
Jan-2010	\$2,869	\$3,012	\$3,156	\$3,299	\$3,443	\$3,586

- A.2 Effective January 01, 2011 the wage rates will reflect a cost of living increase that is ninety percent (90%) of the Seattle Consumer Price Index for the period between July 2009 and June 2010. However, the rate will be no lower than two percent (2%) and no higher than four percent (4%).
- A.3 Effective January 01, 2012 the wage rates will reflect ninety percent (90%) of the Seattle Consumer Price Index for the period between July 2010 and June 2011. However, the rate will be no lower than two percent (2%) and no higher than four percent (4%).
- A.4 Wage Step Increases – Any wage STEP increase shall become effective the first of the month coincident with or next following the employee’s anniversary date of employment.
- A.5 In the event an employee covered by this Agreement is on disciplinary status becomes otherwise eligible for a wage increase in accordance with Section A.1, such increase shall not be granted until the employee has been removed from such status by the Chief of Police or designee. There shall be no retroactive pay adjustment under such circumstance.
- A.6 Wage Step Placement – The Union recognizes the Employer may find it necessary to hire individuals with current or prior law enforcement experience in the classification of Police Officer. Such lateral entry placement may be assigned to any step in the Police Officer Classification wage rate structure in Section A.1 at the sole discretion of the Chief of Police or designee.

Education Incentive Pay

- A.7 Employees covered by this agreement with 45 college credits from an accredited institution shall receive one hundred and one half percent (101.5%) of the applicable wage rate in section A or as amended.

OAK HARBOR POLICE
NON-COMMISSIONED UNIT

- A.8 Employees covered by this Agreement with an Associate Arts or Science degree from an accredited institution shall receive one hundred three percent (103%) of the applicable wage rate in Section A or as amended.
- A.9 Employees covered by this Agreement with an Associate Arts or Science degree in the Criminal Justice Behavioral Science(s), or Public Administration from an accredited institution shall receive one hundred four and one half percent (104.5%) of the applicable wage rate in Section A or as amended.
- A.10 Employees covered by this Agreement with a Bachelor of Arts or Science degree in the Criminal Justice, Behavioral Science(s), or Public Administration from an accredited institution shall receive one hundred six percent (106%) of the applicable wage rate in Section A or as amended.
- A.11 It is understood that the Education Pay in articles A.8, A.9 and A.10 shall only be awarded when an actual degree from an accredited college or university, as recognized by the U.S. Department of Education, is presented by the applicant for the applicable incentive increase.
- A.12 Any employee who is currently receiving Education Incentive pay, as agreed to under a previous contract, who was assigned to an incentive pay rate based on an appeal to award them the greater rate of pay based on comparable training or a comparable life's experience, shall remain at that level of pay as outlined below in section A.11.1. There will be no loss of pay to those employees.

1999-2002 EDUCATION INCENTIVE PAY PLAN:

- A.12.1 45 COLLEGE CREDITS.....ADD \$50.00/MO TO GRID
AA DEGREE.....ADD \$100.00/MO TO GRID
LEAA/90 CREDITS.....ADD \$150.00/MO TO GRID
BA/BALE/180 CREDITS.....ADD \$200.00/MO TO GRID
- A.13 Longevity will be paid to employees as follows based on base wage:
 - Fifteen (15) years.....One percent (1%)
 - Twenty-plus (20+) years.....Two percent (2%)Longevity percentages are not compounded.
- A.14 2010 Retroactive checks will be issued fifteen days after signing of the contract.