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CONTRACT AGREEMENT

CITY OF BATAVIA, NY

AND

BATAVIA POLICE
BENEVOLENT ASSOCIATION

APRIL 1, 2003 - MARCH 31, 2005
Batavia Police Benevolent Association

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CITY OF BATAVIA

hereinafter referred to as the "CITY"

and

BATAVIA POLICE BENEVOLENT ASSOCIATION

hereinafter referred to as the "ASSOCIATION"

WHEREAS the parties hereto desire to cooperate to stabilize labor relations by establishing general standards of wages, hours of service and other terms and conditions of employment, and providing arbitral machinery whereby disputes and grievances between the members of the Association and the City may be adjusted without resort to strikes, lockouts or other interferences with the continued and smooth operation of the Police Department of the City.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

PURPOSE AND INTENT

1. The general purpose of this Agreement is to set forth terms and conditions of employment and to promote orderly and peaceful labor relations for the mutual interest of the City of Batavia in its capacity as an employer, the employees, the Association and the people of the City of Batavia, in accord with the intent of the Public Employees Fair Employment Act of 1967, as amended.

2. The parties recognize that the interest of the community and the job security for the employees depend upon the Employer's success in establishing proper services to the community.

3. To these ends the City and the Association encourage to the fullest degree friendly and cooperative relations between their respective representatives at all levels and among all employees.

4. The terms "police officer(s)", "member(s)" and "employee(s)" wherever used herein are synonyms.
ARTICLE II

RECOGNITION

1. The City recognizes the Association as the sole and exclusive representative for all police personnel that have been listed in Appendix A and so recognized by City Council and again noted in Article III.

The Association represents two distinctive units: patrolman & sergeants & lieutenants. This Agreement shall set forth the terms and conditions for both units. However, the City and the PBA agree, without prejudice that the two separate and distinct units shall remain as set forth by the Public Employers Relations Board. The utilization of one document which sets forth the Agreement shall in no way abridge this distinction. Furthermore, the City and the PBA agree, without prejudice, that the Agreement dated April 1, 1996 - April 1, 1999 for the Sergeants and Lieutenants is hereby rendered null and void in order that this Agreement can now set forth the terms and conditions of employment.

2. The City shall deduct from the wages of police officers and remit to the Association regular membership dues for those employees who signed authorizations permitting such payroll deductions.

ARTICLE III

MANAGEMENT RIGHTS

1. The City retains the sole right to manage its business and services and to direct the working force, including the right to decide the number and location of its business and service operations, the business and service operations to be conducted and rendered, and the methods, processes and means used in operating its business and services, and the control of the buildings, real estate, materials, parts, tools, machinery and all equipment which may be used in the operation of its business or in supplying its services; to determine whether and to what extent the work required in operating its business and supplying its services shall be performed by employees covered by this Agreement; to maintain order and efficiency in all its departments and operations, including the sole right to discipline, suspend, and discharge employees for cause, to hire, layoff, assign, transfer, promote and determine the qualifications of employees; to determine the schedule of its various departments and to determine the starting and quitting time
and the number of hours to be worked, subject only to such regulations governing the exercise of these rights as are expressly provided in this Agreement, or provided by law.

2. The above rights of the City are not all inclusive, but indicate the type of matters or rights which belong to and are inherent to the City. Any and all the rights, powers and authority the City had prior to entering this Agreement are retained by the City, except as expressly and specifically abridged, delegated, granted or modified by this Agreement.

3. Except, where expressly limited by a specific provision of this Agreement, the Chief of Police shall have the sole and exclusive right to direct and manage the Department of Police, including, but not limited to, the following rights: to determine the size, composition, and organization of the Department and any sub-units therein; to determine the facilities and equipment to be utilized and/or maintained; to determine the hours of work and work schedules; to determine what work is to be performed by the Department, its place of performance, and who is to perform it; to determine the assignment and job duties; to determine the rules and regulations governing the Department; to determine what training or instructional programs are necessary; to determine the methods, means, equipment and personnel by which any and all Departmental operations are to be conducted; to determine reasonable standards of performance; and to determine practices and procedures for the efficient, disciplined and orderly operations of the Department; and from time to time to change any and all of the above determinations.

ARTICLE IV

NO STRIKE

1. The Association agrees that it will not call, sanction nor encourage in any way any strikes, slow downs, concerted refusals to perform assigned work, or any other kind of job action which is designed to impede, or has the effect of impeding, normal efficient operations of the Department; nor shall the Association cause, instigate, encourage or condone any such actions.
ARTICLE V

COMPENSATION

1A. Appendix A, attached hereto and made a part hereof, displays the wage schedule to be paid for all classification represented by the Association as agreed upon by both parties.

2.75% cost of living increase in base pay effective April 1, 2003.

2.75% cost of living increase in base pay effective April 1, 2004.

The salary schedule for those hired prior to April 1, 2000 is as follows, for Police Officer's and Police/Youth Detectives, steps at 6 months, 1 year, 2 years and 4 years, for Sergeants, Detective Sergeants and Lieutenants, steps at 6 months, 1 year, 2 years and 3 years. In addition, the salary schedule for Police Officers hired after April 1, 2000 shall be steps at 1 yr, 3 yrs, 5 yrs & 6 yrs, as per Appendix A.

Promotions shall be at step to step. Upon promotion, an individual shall remain in the same Step, but shall receive the salary for the grade to which he is promoted. Such an individual must then remain at that Step for the period required in accordance with the agreed upon salary schedule. (For example, a police officer, hired prior to March 31, 2000, at Step C who is promoted to Sergeant will be placed at Step C on the Sergeant's salary schedule. He/She will then serve one (1) full year at Step C on the Sergeant's schedule before advancing to Step D on that schedule.)

Longevity payments although earned on the employees' anniversary date shall be made in the month of December of that year unless an employee resigns or retires in which case payment shall coincide with the payment of his or her last paycheck and shall be prorated from the employees' anniversary date to the date of termination.

Upon completion of 10 years continuous service $750
Upon completion of 20 years continuous service $1,250

The shift differential shall be $.50 added to the rates set forth in Appendix A when working shifts 3:00 P.M. to 11:00 P.M. and 11:00 P.M. to 7:00 A.M.

1C. Each employee, excluding sergeants & lieutenants, shall be entitled to eight (8) hours of paid compensatory time each year, which time cannot be scheduled if it would require the City to incur additional overtime expense. This compensatory time is
cumulative and may be carried beyond the calendar year and counts towards the maximum of 150 hours an individual may accumulate. Sergeants & Lieutenants shall be entitled to sixteen (16) compensatory hours with the same restrictions as detailed above.

1D. Effective April 1, 1999 those members who serve as Detective shall be granted twenty four (24) hours per year of paid compensatory time for being on call on weekends each year in addition to the time as detailed in paragraph 1C.

2. Temporary Assignments

a. Members who act as officers in charge will receive compensation on an hourly basis to be that of $1.50 per hour in addition to their hourly rate.

b. A temporary appointment to a higher paying position or special assignment shall be based on skill and ability, where skill and ability are equal, seniority shall govern. The City shall post a notice with respect to upcoming, non-mandated schools and vacancies for non-civil service promotions and special assignments to provide police officers with an opportunity at expressing their interest in being considered for the school, promotion, or vacancy. The City reserves its sole right to make assignments or appointments notwithstanding said notice provision.

3. Overtime Compensation

a. Regular Overtime

(1) Except as provided in paragraph 3a (2) immediately following, all employees shall be paid at the rate of time-and-one-half for all hours actually worked beyond forty (40) hours in a calendar week which commences on Sunday at 12:01 A.M. Personal leave, vacation, holidays, compensatory time, and sick leave shall be credited as hours worked in the calendar week for purposes of determining overtime. All other leave shall not be credited as hours worked.

(2) In lieu of overtime compensation, employees may elect to receive compensatory time for any overtime hours worked by notifying the Chief of Police in writing. Compensatory time shall be earned at the same rate as overtime pay would have been earned and delineated in the preceding paragraph. Each employee may accumulate compensatory time to a maximum of 150 hours. Compensatory time-off may be taken at the employee's request subject to the advance approval of the Chief of Police.
b. Call-In Pay

When an employee is called-in to work hours outside of his or her scheduled work shift he or she shall receive compensation at the rate of time-and-one-half for a minimum of two (2) hours with the following exceptions:

1. If an employee is called to work within two (2) hours of the start of his or her scheduled work shift and he or she continues to work without interruption through his or her normally scheduled eight (8) hour work schedule then no guarantee of minimum hours shall apply. If, however, the employee is released from work before the start of his or her scheduled eight (8) hour shift, then he or she shall be entitled to the two hour minimum guaranteed call-in time.

Examples - The employee's scheduled work shift is 3:00 P.M. to 11:00 P.M.

i. The employee is called in to work at 2:00 P.M. and is released at 2:30 P.M. then the employee is entitled to the two (2) hour pay.

ii. The employee is called in to work at 2:00 P.M. and is released at 10:00 P.M. then the employee is entitled to no minimum call-in pay.

iii. The employee is called in to work at 2:00 P.M. and is released at 11:00 P.M., which is the end of the scheduled work shift; the employee is not entitled to the two (2) hour minimum call-in pay.

c. Court Appearances

When an officer is required to make an appearance before a court or government administrative agency in the course of his employment during a time other than his or her regular work shift, he or she shall receive compensation at the rate of time-and-one-half for a minimum of two (2) hours except as follows:

(1) If the court appearance occurs within two (2) hours of the start of the employee's work shift and the department head does not release the employee before the start of the employee's work shift, then the court appearance time shall be treated as regular hours with no guaranteed minimum number of hours. (Had the department head released the employee before the beginning of the work shift, the employee would be entitled to two
(2) hours minimum pay at time-and-one-half.)

(2) If the court appearance occurs within two (2) hours after the end of the work shift and the department head had not released the employee between the time that the employee's work shift would have ended and the time the court appearance begins, then the court appearance time shall be treated as regular hours with no guaranteed minimum number of hours. (Had the department head released the employee at the end of the employee's work shift and before the time of the court appearance, the employee would be entitled to two (2) hours minimum pay at time-and-one-half.)

All overtime must be verified by an entrance on the police blotter and approved by the Chief of Police.

4. Clothing Allowance

All police officers in the unit covered by this Agreement shall receive an annual uniform purchase and maintenance allowance of seven hundred dollars ($700.00). This amount is to be paid with the last paycheck in the month of April. In addition each employee covered by this agreement shall be eligible for $300 of reimbursable expenses, receipts required, related to the purchase of uniform items only. Receipts shall be submitted to the Personnel Office. Equipment for which the City is responsible includes: metal hat bands, hat shields, collar ornaments, badges, name plates, gun-belts, handcuff cases, belt stays, handcuffs, department issued sidearm, holster for department issued sidearm, magazine pouch for department issued sidearm, department issued baton, holder for department issued baton, soft body armor and reflective vests. Following their initial outfitting, individual officers shall be responsible for the purchase, replacement and maintenance of hats, shirts, department patches, pants, shoes and boots, sweaters, wind-breakers, winter coats and jackets, and rain coats to standards of condition and appearance as determined by the Police Chief.

5. The City will be responsible for the cost of cleaning employee uniforms contaminated by potentially infectious bodily fluids while on duty.

It is understood that any police officers who purchase or replace uniforms shall be required to purchase same from the existing stock of the City at prices paid by the City for such.

6. Police officers who are certified instructors, (Field Training Officer and Instructor Development School) will be paid an additional $.50 per hour while actually teaching or training City
of Batavia employees in the area which they are certified.

7. In the event of a layoff due to a cutback of personnel, appointment dates shall be the means of determining the person to be laid off, starting with the latest appointee and then proceeding up the list.

8A. Seniority shall be determined by the employee's length of service as a police officer in the department. Time spent in the armed forces on military leaves of absence or other authorized leaves, not to exceed one year, and time lost because of duty-connected disabilities shall be included.

8B. Seniority for Detective and Detective Youth shall be determined by the employee's time in rank for purpose of selecting shift assignments, vacations and days off.

8C. Seniority for purposes other than layoffs shall be determined first by rank then by the employee's length of service within the rank in the department. Lieutenants shall be senior to all Sergeants and all Sergeants shall be senior to all police officers. Time spent in the armed forces on military leaves of absence or other authorized leaves, not to exceed one year, and time lost because of duty-connected disabilities shall be included.

9. Seniority shall not accumulate if the employee should transfer from the Police Department to any other department in the City.

10. An employee shall forfeit his seniority rights only for the following reasons:
   1. He or she resigns
   2. He or she is dismissed and not reinstated
   3. He or she retires on regular service retirement

11. Tuition Reimbursement

   a. Upon completion of one (1) full year of service with the City of Batavia, employees shall be eligible for tuition reimbursement at accredited collegiate institutions, according to the following:

      i. Regular full-time employees shall be reimbursed for tuition, not to exceed $2,000, per fiscal year provided employee provides advance notification of
his intent to enroll for courses to the Police Chief by December 1st of the fiscal year proceeding the fiscal year in which the reimbursement will be paid. Tuition reimbursement shall be granted on the condition that employees receive a passing grade. If notification is received after the deadline, the tuition reimbursement will be delayed for one fiscal year.

ii. Part-time, seasonal, temporary and assigned employees shall not be eligible for reimbursement.

b. At least thirty (30) days prior to officially enrolling in a course, the employee shall consult with the personnel officer.

c. Prior to the end of the academic term for which reimbursement is requested, the employee shall present a copy of a paid receipt for reimbursement according to 11.a.i. payment shall not exceed $2,000.

d. The maximum amount that shall be reimbursed to an employee any given fiscal year shall be $2,000.

12. Physical Fitness Incentive:

a. Employees shall be eligible to receive $500 for the satisfactory completion of a physical fitness test. The test shall consist of a timed mile and one-half (1½) run, push-ups, and sit-ups. The standards shall be based on the New York State Troopers Physical Fitness Incentive Standards. (Appendix C) The minimum standard the employee must reach to receive the $500 is 30% of whatever age group the employee is in at the time of testing.

b. The testing shall be conducted under the supervision of the Personnel Bureau. The testing shall be scheduled to occur each year between Labor Day and Columbus Day. The testing shall be held at Van Detta Stadium in Batavia.

c. Members shall be compensated a maximum of two (2) hours for their participation in the physical fitness incentive program.

d. Members that do not meet the age group standards shall receive a $75 participation stipend.

e. A member will be permitted to defer the test until the 2004 testing period, if during the 2003 test period:
• She is pregnant or recovering from pregnancy.
• He/She is on extended sick leave and/or modified light duty for a period of at least 30 days.
• He/She is on Military Leave.

In that event, the test results obtained in 2004 will qualify the member for a retroactive incentive award for the 2003 testing period.

f. Members who do not meet the above criteria and cannot participate in the fitness testing during the regular testing period, due to an injury or illness may be permitted to take the fitness test on a designated date six weeks after the completion of the testing period.

Any member wishing to request this limited deferment must submit a memorandum detailing the reason for the request and must submit a physician’s note setting forth the nature and duration of the illness/injury to the Personnel Bureau prior to the end of the regular testing cycle. No additional make-up dates will be provided and no deferments other than set forth above will be granted.

ARTICLE VI

RATE STRUCTURE FOR NEW JOBS

1. When a new job classification is placed in the Police Department, the City will notify the Association of the proposed rate structure for the new position. In the event that the Association does not agree to the proposed rate structure, it shall be subject to negotiations.

ARTICLE VII

WORK DAY AND WORK WEEK

1. The standard work day shall be eight hours including meal break, if time permits, and the standard work week shall be forty (40) hours. Meal breaks shall be excluded from the work day for police officers while in attendance at training classes, schools, workshops, hearings, court and the like at which a meal break is provided.
2. The tour of duty will consist of three platoons and special assignments as required by the Chief of Police. The work hours of the three platoons shall be 7:00 A.M. - 3:00 P.M., 3:00 P.M. - 11:00 P.M., 11:00 P.M. - 7:00 A.M. Notwithstanding the platoon work hours as set forth in this section, the Chief of Police from time to time may temporarily reassign police officers to work shifts with hours other than those of the set platoons. Such reassignments shall not be made arbitrarily or capriciously, but shall be made in response to the City's bona fide needs for manpower re-allocations.

3. Police officers shall be assigned to a steady platoon with the police officer having the right, as far as practicable, of choosing his tour of duty on the basis of seniority. However, the Association recognizes the right of the head of the Department to assign men with less than three years seniority in rank in any shift. This shall be done annually by the second Sunday in January.

Vacancies which occur on a platoon during the year which the Chief determines to fill shall be filled on the basis of seniority. In such circumstance, if the vacation of the transferring officer conflicts with the scheduled vacation of any officer on the platoon to which transferred, such transferring officer shall re-select his vacation to avoid any such conflict without regard to seniority.

4. On the police officer's last day of work on his regularly scheduled shift, the officer at the discretion of the Chief of Police, may start and finish one (1) hour earlier than the regular work hours of his assigned platoon (as identified in Section 2 above). The officer may switch with any other officer on the platoon who is scheduled to work and is willing to switch to cover the one (1) hour early start.

ARTICLE VIII

HOLIDAYS

1. All members of the Association shall be given twelve and one-half paid holidays or if a member chooses he may take the holidays as time off providing it is in the best interest and safety of the City and at the convenience of the employee.

   New Year's Day  Labor Day
   Martin Luther King Day  Columbus Day
   Lincoln's Birthday  Veterans Day
Washington's Birthday  
Thanksgiving  
Good Friday  
½ day for Christmas Eve  
Memorial Day  
Christmas  
July Fourth

2. Pay for the above listed twelve and one-half days shall be compensated at the regular rate of pay once annually with the last paycheck in the month of November upon submission of a special payroll for said purpose by the head of the department. Night bonus shall be used in computing holiday pay only when member has worked the entire year on the evening or night shifts.

3. All members of the Association shall be paid or given time off for the holidays in Section 1 regardless of whether or not they are scheduled to work on that day.

ARTICLE IX

VACATION AND SICK LEAVE

1. All members of the Association shall be allowed vacation leave with pay based on the following lengths of service:

<table>
<thead>
<tr>
<th>Length of Service</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>After one year</td>
<td>ten</td>
</tr>
<tr>
<td>After five years</td>
<td>fifteen</td>
</tr>
<tr>
<td>After ten years</td>
<td>twenty</td>
</tr>
<tr>
<td>After eighteen years</td>
<td>twenty-five</td>
</tr>
</tbody>
</table>

2. For the purpose of vacation schedule, be it here and now agreed that anniversary dates for all members shall be in accordance with the following schedule:

a. If a member's date of employment falls between the dates January 1 through June 30, his or her anniversary date of service shall be January 1.

b. If a member's date of employment falls between the dates July 1 through December 31, his or her anniversary date of service shall be July 1.

3. It is hereby agreed that the police officer will have vacation schedules by platoon. A vacation list shall be prepared by the head of every platoon and submitted to the head of the department for approval.

The Detective Bureau and the Detective Youth Bureau shall be considered separate platoons.
It is hereby agreed that the Sergeants and Lieutenants shall select vacation by seniority according to Article V, Paragraph 8C. The Sergeant or Lieutenant assigned to the Detective Bureau shall select vacation independent of other Sergeants or Lieutenants, but in coordination with other member of the Detective Bureau. A vacation list shall be prepared by the senior Lieutenant and submitted to the head of the department for approval.

4. Vacation will be picked by seniority, by platoon. The senior police officer from each platoon will have until February 1 each year to pick two (2) weeks vacation for the calendar year. Then, by seniority, each officer will have five (5) days to pick their two (2) weeks vacation for the calendar year.

The senior officer of each platoon will then have five (5) days to select another two (2) weeks vacation. Then, by seniority, each officer will have three (3) days to select another two (2) weeks of vacation.

Any remaining vacation will be picked on a first-in request basis. In the event two or more requests are submitted at the same time, seniority will prevail.

5. A member shall be entitled to be paid at the time of his or her retirement from the City's service for the monetary value of the unused vacation and holiday time standing to the credit of such member at the time of his or her retirement; in case of death in service of any member, such payment shall be paid his beneficiaries or estate. However, when a member is dismissed for cause, said member will not be entitled to be paid the monetary value of unused vacation.

6. (a) All members shall be entitled to sick leave with pay. Sick leave credit shall be earned at the rate of one and one-quarter days per month of service. Eight hours constitutes one day.

(b) Sick leave may be taken in one hour increments.

(c) Employees may annually convert available sick leave to cash at the following rates: for days 1-5, full dollar value, 6-50, $50, days 51-100, $75, and for days 101-250, $100. Employees must notify the Personnel Bureau by November 1st, of the intended amount to convert. The amount will be paid out in the first payroll in December.

(d) Effective April 1, 2003 employees shall have the
option of depositing the dollar value of redeemed sick days, if eligible, into a deferred compensation account in the first payroll in December.

(e) Sick Bank. Union is permitted to establish a sick bank whereby members of the collective bargaining agreement may donate sick leave days to a "bank" from which other members of the bargaining unit may withdraw sick leave days for use if they have inadequate sick leave to meet their needs. The City is not obligated to donate any sick leave to said bank. Administration of the sick bank is the responsibility of the Union and the City assumes no responsibility for its administration. The Union is responsible for reporting in writing to the City each time a sick leave bank transaction occurs. Said report shall identify by name and employees donating sick leave and the number of days donated and also the names of employees withdrawing days from the sick bank and the number of days withdrawn from each employee.

7. Upon the effective date of retirement and written request, the City shall credit the employee with the equivalent of one (1) day's base pay for each earned, unused sick day, said credit to be applied towards the cost of providing health coverage under the City's health plan to the employee after his or her retirement. Once said election is made, it cannot be withdrawn by the retiring employee or his/her surviving spouse. The charge against the credit will be made on a monthly basis calculated annually based on the actual costs of the preceding calendar year. Tier 1 members, at the time of their retirement, will receive the equivalent of 50 additional unearned sick days which may be applied only to the health credit option of this section. After exhausting his or her health credit, the former employee may elect to continue coverage at his or her own expense under the City's healthcare plan by submitting a written request to the personnel officer within 30 days after the health credit has been exhausted.

In the event the retiring employee is able to obtain health insurance coverage through a subsequent employer or through a spouse's plan, the retiring employee may elect by written request to discontinue coverage under the City's health program and preserve his or her health credit for use at some future date. Upon the death of the retiree, his or her remaining health credit shall accrue to his or her surviving spouse, if any.

8. When an employee who has been absent from work and claims sick leave of one or more shifts and if a pattern of abuse seems apparent to the Police Chief, the Police Chief will investigate and meet with the Union President to discuss the problem. If the
Police Chief finds, after investigating, that the employee has abused or misused sick leave, the City may bring disciplinary action.

9. Each member of the Association is permitted to use three days per year of sick leave for illness or injury of a member of the immediate family living in the same household as the employee.

10. Members absent from work due to injury or disability sustained in the course of their employment shall not be charged to sick leave time in accordance with Section 207-c of the NYS General Municipal Law. The City shall continue to provide the health insurance coverage (as delineated in Article XI of this Agreement) to employees absent from work under provisions of 207-c for a period of six (6) months provided that the employee continues to remain eligible to receive salary or wages under Section 207-c. At the expiration of this six (6) month period, the City may require the employee to be examined by a physician of the City's selection, at the City's expense, after which the City Manager shall make a determination based on the physician's report whether or not to continue the health insurance coverage. If City Manager determines that the insurance coverage is to be terminated, the employee shall be given thirty (30) day advance notice in writing. If the City Manager determines that the insurance coverage is to continue, the City has the right to have the employee re-examined at whatever time intervals the City deems appropriate in order for the City Manager to re-determine if insurance coverage should continue or cease. Termination of insurance coverage shall be subject to the written notice described above. Nothing contained in this paragraph shall be construed to diminish the City's rights under the NYS General Municipal Law under Section 207-c as now existing or hereinafter amended.

11A. Leaves of absence without pay are governed by the Civil Service Rules. The City Council, upon the recommendation of the City Manager or Department Head, may grant leaves of absence with or without pay for the purpose of attending extended courses of training at a recognized university or college and for other purposes that are deemed beneficial to the City service.

11B. Leaves of absence for child rearing, adoption, family medical and personal medical will be in compliance with the Family and Medical Leave Act of 1993.

12A. Members employed on January 1st in any year shall be entitled to four (4) personal leave days per year subject to the advance approval of the Chief of Police. All personal days may be taken regardless of staffing with only a two (2) hour minimum
notice except said leave may only be revoked for work-related emergencies. Personal leave may be utilized in one-half day increments or as one full day. Personal leave time is not cumulative, may not be carried beyond the calendar year, and is not convertible to cash or compensatory time.

12B. Unused personal leave may be converted to sick leave credit upon written request to the Chief by December 1st.

13. Time Off Requests: Time off requests, for single vacation days, regular compensatory time and holidays will be granted within two (2) business days of the request. Once the leave time has been granted, it shall not be revoked or cancelled by the City because of the use of FLSA compensatory time or sick leave by another member. The City further agrees that once granted, these days off will not be subject to conversion to FLSA compensatory time due to another time off request for the same day by another member. The Union agrees that the City may suspend any previously granted leave time in the event of an emergency situation or a legitimate crisis within the City of Batavia.

ARTICLE X

BEREAVEMENT LEAVE

Members of the Association may be absent up to three (3) regularly scheduled work days with pay for bereavement leave for the death of the employee's father, mother, sister, brother, wife, child, mother-in-law, father-in-law, brother-in-law and sister-in-law and up to one (1) day bereavement leave for employee's grandchild and grandparent, as well as any other family member living in the same household as the employee.

A request to schedule the use of bereavement leave time beyond the date of interment should be submitted as soon as possible and may be granted in the discretion of the Chief of Police or his designee.

ARTICLE XI

JURY DUTY

1. A regular full-time employee who loses time from his job because of jury duty, as certified by the Clerk of the Court, shall be paid by the City his full daily salary provided he turns over to the City all stipends received for serving on the jury.
2. The employee must notify the City or its designee immediately upon receipt of a summons for jury service.

3. Adequate proof must be presented of time served on jury.

4. All employees shall be absent from work only during the times actually required by the courts.

ARTICLE XII

RETIREMENT BENEFITS

1. The City agrees to establish, provide and maintain a twenty year 384D retirement plan and benefits of Section 375i, 384f, g and h for those older policemen who do not wish the twenty year retirement plan. (Non-contributory). Also 341k and 302d.

ARTICLE XIII

INSURANCE

1. The City shall provide members with healthcare coverage through the City's self-funded program or an alternative health care provider with an Administrator to be selected by the City. The City of Batavia shall retain its sole right to change health care plan as long as the benefits are at a similar or greater level; however the City shall consult with the union before making any change. The coverage will be similar to the City of Batavia Employee Health Benefit Plan Summary Plan Description dated April, 1992 including any subsequently negotiated and agreed upon amendments to the plan. The maximum benefit for Room and Board (Semi-Private Rate) will be 365 days. Specifically relating to the City's self-insurance plan, the annual major medical deductible shall be $200 per individual and $325 per family and the prescription drug co-pay shall be $5.

Payment will be made for 100% of reasonable charges by a physician for one (1) routine annual physical exam up to $50 excluding routine laboratory and radiology tests. Specifically relating to the City's self-insurance plan, the maximum benefit for diagnostic laboratory will increase from $100 to $125.

The City shall also provide dental coverage through the self-funded program. On April 1, 1992, the City will adjust the Dental Plan Benefits to be the same as the Schedule of Benefits to be the
same as the Schedule of Benefits for CSEA Dental Plan as stated in Appendix E.

Effective April 1, 2000, the City and the PBA agree that all employees hired after April 1, 2000 will pay, through biweekly payroll deductions 10% of the premium or premium equivalent cost of the Batavia Employee Health Benefit Plan. The contributions shall pertain to any benefit plan offered by the City.

** The City and the PBA agree, without prejudice that all employees hired before April 1, 2000 shall not contribute toward the cost of the premium or premium equivalent. This paragraph (XIII **) and only this paragraph shall remain in effect until March 31, 2005 at which time this paragraph shall sunset and be rendered null and void. At this time, the health care contribution shall be subject to negotiations.

Specifically relating to the City's self-insurance plan, Employees may, at their own expense, purchase medical coverage for dependent, full-time students between the ages of 19 and 23.

2. The City shall provide each member with a $20,000 death benefit self-insured by the City. The City shall provide at its expense additional life insurance coverage in the form of a group term insurance policy with conversion rights at retirement in the amount of $25,000.

3. The City will pay $1,500 annually to each Police Department employee whose spouse has medical insurance with any carrier through his/her job if the City employee voluntarily waives his/her right to city paid medical insurance. This program shall be administered to conform with the City's In-Lieu Payment Plan for Medical Insurance. The annual payment will be made in two equal payments on June 15 and December 15.

ARTICLE XIV

RECIPROCAL RIGHTS

1. The City recognizes the right of the members to designate representatives of the Association to appear on their behalf to discuss salaries, working conditions, grievances and disputes as to the terms and conditions of this contract and visit members during working hours upon notice to their superior officers. Such police representatives shall also be permitted to appear as public hearings or boards of inquiry upon request of the members and on notice to the supervisor in charge of the station house.
2. The Association shall have the right to post notices and communications on the bulletin board maintained on the premises and facilities of the City. The officers and agents of the Association shall have the right to visit the employer's facilities for the purpose of adjusting and administering the terms and conditions of this contract.

3. Members who are designated or elected for the purpose of adjusting grievances or assisting in administration of this contract shall be permitted a reasonable amount of time free from their regular duties to fulfill those obligations which have as their purpose the maintenance of harmonious and cooperative relations between the City and the police officers and the uninterrupted operation of government. This will be done on notice, in writing, to the head of the department listing details of absence in brief.

Members designated for contract negotiations shall be limited to two (2) police officers and the officers shall be limited to two (2) hours each of free time per negotiation session.

4. A maximum of two (2) members who are designated to represent the police officers shall have the right to attend statewide conventions and meetings of the police conference to which they belong.

ARTICLE XV

GRIEVANCE PROCEDURE

Any employee having a grievance in connection with his employment shall present it to the Employer in the manner set forth in this Article. A grievance shall be any claim of violation, misinterpretation, or misapplication of any provision of this Agreement.

Step I

a. The employee shall discuss the grievance with the steward and the immediate supervisor within three (3) working days of the occurrence of the grievance or the Employee's knowledge thereof.

Working days shall be defined as Monday through Friday.

b. If the matter is thereby not disposed of, it will be submitted in written form by the employee or Union representative to the Police Chief who will give his answer in written form within five (5) working days.
**Step II**

a. If the Police Chief's answer is not satisfactory, the grievance may be referred by the Union President, or his designee to the City Manager, or his designated representative, and a meeting will be arranged to discuss the grievance or grievances within five (5) working days from the date the grievance is received. The Manager will give an answer in writing within ten (10) working days of the meeting.

b. The Union representatives may meet at a place designated by the Employer on the Employer's property immediately preceding the meeting with the representative of the Employer.

c. The Union President, or his representative, shall be granted time off by his Supervisor (platoon officer) from his job without loss of pay to investigate a grievance which he is to discuss with the Employer provided, however, it does not interfere with immediate work assignment and such time shall not exceed two (2) hours in a working day.

**Step III**

a. If Step II fails to produce a settlement of the dispute, either the Union or the City may take the dispute to arbitration upon service of written notice to the other party of its intention to do so. This notice must be served within ten (10) calendar days from the receipt of the Step II answer, or the date when the Step II answer was due, otherwise, the right to arbitrate such dispute shall be deemed waived and the grievance shall be considered resolved on the basis of the City's last response with no further appeal.

b. The parties shall establish, by mutual agreement, a panel of five (5) arbitrators. The panel may include fewer than five (5) arbitrators but under no circumstances may the panel fall below three (3). In the event that an arbitrator is unable to continue serving on the panel, the parties shall appoint a replacement by mutual agreement. If the parties are at anytime unable to agree on a panel of at least three (3) arbitrators, all arbitration proceedings shall be conducted in accordance with the rules of procedure of the New York State Public Employment Relations Board.

c. Each party may, during January, strike one (1) member from the panel by notifying the other party in writing no later than January 31st. No strikes from the panel will be allowed after January 31st.

In no event may the parties utilize a strike which will bring the panel below three (3) people.

Arbitrators will be selected on a rotating basis beginning
d. The selected arbitrator shall hear the matter promptly and will issue his decision not later than thirty (30) calendar days from the date of the close of the hearings, or if oral hearings have been waived, then from the date of the final statements and proofs are submitted to the arbitrator. The decision of the arbitrator shall be final and binding on the Union, the City and the Grievant. The arbitrator shall have no authority or power to render a decision or award inconsistent with statutory or appellate decision or law.

e. The arbitrator's decision shall be in writing and will set forth his findings of fact, reasoning and conclusions on the issues. The arbitrator's decision shall be final.

f. The authority of the arbitrator shall be limited to matters of interpretation or application of the express provisions of this Agreement and the arbitrator shall have no power or authority to alter, add to or subtract from, or otherwise modify the terms of this Agreement as written. The arbitrator shall confine himself to the precise issues submitted for arbitration and shall have no authority or power to determine any other issues not submitted to him. He shall confine his decisions and awards solely to the interpretation and application of this Agreement.

g. Expenses for the arbitrator's services in the proceeding shall be borne equally by the City and the Union. However, each party shall be responsible for compensating its own witnesses. Either party may request a transcript of the proceedings. In the event a transcript is made, each party shall pay for its copy of the transcript. The party that first requested a transcript shall pay for the arbitrator's copy.

**ARTICLE XVI**

**DISCIPLINE**

The provisions of Section 75 of the NYS Civil Service Law shall be the procedures used for redressing disciplinary action for any employee who may be subject to disciplinary charges. The City reserves the right to suspend a member without pay for matters that are grounds for an immediate dismissal.
ARTICLE XVII

WORKING CONDITIONS

1. Whenever working methods or conditions, over and above normal police risks, are considered detrimental to the members represented by the Association, the Association's President shall request within five (5) working days a meeting with City representatives.

2. All employees shall be employed, promoted, demoted, transferred, recruited, laid-off, terminated, compensated, and/or selected for training without regard to race, religion, sex, age, color or natural origin.

3. The City shall have the responsibility of insuring that seniority practices, job classifications and descriptions, rates for new jobs, promotion practices, etc. do not have a discriminatory effect.

4. The City of Batavia shall save harmless and indemnify any officer or employee of the City from financial loss resulting from a claim filed in any court of competent jurisdiction for damages arising out of an act done or the failure to perform any act, while on or off duty, provided such officer or employee, at the time of the alleged act or failure to perform any act, was acting in the performance of his or her duties and within the scope of employment.

5. Members shall be prohibited from smoking while on duty in accordance with the Local Law enacted by City Council prohibiting smoking in all City buildings.

6. A Policeman's Bill of Right: The purpose of this Article is to adopt a "Bill of Rights" for member of the Batavia Police Department below the rank of sergeant, setting down guidelines to be followed by sergeants, lieutenants and the Chief of Police in the conduct of investigations arising from citizen complaints only.

   a. The City will provide a police officer a written notice in advance of an investigation arising out of a citizen complaint. Written notice shall include the name of the complainant, nature of the complaint, and sufficient information to reasonably apprise him of the allegations.

   i. Police officer shall be given the identity of all persons present during interview and the officer in charge of the investigation.

   ii. Officer shall be informed of the nature of investigation and given sufficient information to
apprise officer of allegations made against him before the interview commences. (Nature does not include details or description of evidence.)

b. The officer against whom a citizen complaint has been lodged may, at his or her option, have PBA officer present during any time a sergeant, lieutenant or the Chief of Police interrogates said police officer about a citizen complaint. The officer shall be advised of the upcoming interrogation at least eight (8) hours in advance.

i. Officer shall be given copies of all reports he completed regarding the incident in question before the interview commences (officer must view the reports in the presence of the interviewer and return the reports at the end of the interview).

ii. Police officer may have present at the interview a PBA representative and an attorney. (PBA representative and attorney may not speak during the interview, nor may they leave during the interview. Interview need not be delayed for arrival of the attorney.)

iii. At the completion of the interview the police officer may make a statement or the attorney may pose questions to the officer.

iv. The police officer has a right to have a copy of any statements reduced to writing, free of charge. (Copies will be made available within a reasonable length of time after the interview, not necessarily immediately after the interview.)

c. Interrogations may be conducted at anytime with the employee's consent, otherwise interrogations shall be conducted between the hours of 7:00 A.M. and 6:00 P.M. Only officers under investigation who are not duty during the interrogation shall be compensated for their time.

d. If in the course of the investigation of the citizens' complaint, the officer's action is found to be a violation of the law, the officer shall be notified in writing at the time.

i. No police officer under investigation shall be threatened with transfer, dismissal or any other disciplinary punishment. (Advising an
officer of possible administrative or other sanctions is not a threat.)

ii. Any police officer subject to an investigation shall not suffer any reprisals directly or indirectly for exercising his rights under this section.

e. PBA will designate a Union representative/steward for each shift.

7. Personnel Files. All police officers in the unit covered by this Agreement shall be provided with a copy of any written warning, reprimand, suspension or other disciplinary action and an opportunity to respond to same in writing. In addition, such officers shall be provided the opportunity, upon reasonable notice, to review any file maintained by the City or Chief containing documentation relative to such disciplinary action and an opportunity to respond to same in writing.

8. Truth Verification - No police officer shall be required to take a truth verification test.

9. Right to Require Performance

Any waiver of any particular right or benefit enumerated in this contract shall be in writing and shall not constitute a continuing waiver. Any breach or default of the contract or failure to exercise a right or benefit shall not constitute a waiver of the right or benefit.

10. Staffing: The Union and the City acknowledge that the staffing levels in the Batavia Police Department do have an impact on the safety of the police officers and the quality of services delivered to the community.

The City of Batavia has set certain position goals and shall attempt to maintain those goals during the term of this agreement. The position goals shall be as follows:

<table>
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<tr>
<th>SHIFT</th>
<th>POSITION GOALS</th>
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<tbody>
<tr>
<td>1st</td>
<td>7 uniformed personnel assigned to road patrol</td>
</tr>
<tr>
<td>2nd</td>
<td>7 uniformed personnel assigned to road patrol</td>
</tr>
<tr>
<td>3rd</td>
<td>7 uniformed personnel assigned to road patrol</td>
</tr>
<tr>
<td>Detective</td>
<td>5 detectives, 1 Sergeant</td>
</tr>
</tbody>
</table>

The above is recognized as a level of positions within the Police Department. The intent of the language is not to establish shift or daily staffing levels. (For example, one uniformed personnel
who calls in sick on a particular shift does not require calling in overtime to fill that vacancy.)

In the case of a vacancy due to voluntary termination or retirement, the City agrees to make a new appointment to fill such vacancy. If such vacancy has not been filled within 180 days and positions fall below the established position goal, each officer affected shall receive a premium pay of 1.25% above their normal hourly rate.

ARTICLE XVIII
RULES

1. The City shall have the right to make such reasonable directions, rules and regulations as may be deemed necessary by the City for the conduct and management of the affairs of the City, and the Association agrees that the Employees shall be bound by and obey such directions, rules and regulations insofar as the same do not conflict with the terms of this contract and such rules should be posted in the Police Office.

ARTICLE XIX
CITY OF BATAVIA
ALCOHOL AND CONTROLLED SUBSTANCE TESTING POLICY

POLICY

It is the policy of the City of Batavia to provide safe, dependable, and economical service to its citizens and to provide safe working conditions for its employees and to comply with the requirements of federal law and regulations related to the Drug Free Work Place Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. It is also the policy of the City of Batavia to provide healthy, satisfying, working environments for its employees.

To meet these goals, it is the policy of the City of Batavia to ensure that its employees are not impaired in their ability to perform assigned duties in a safe, productive and a healthy manner, to create a work place environment free from the adverse effects of alcohol and controlled substance abuse or misuse; to prohibit the unlawful manufacture, distribution, dispensing, possession or use of alcohol and controlled substances; and to encourage employees to seek professional assistance when personal problems, including alcohol and controlled substance dependency, adversely affect their ability to perform assigned duties.

PURPOSE

The purpose of this policy is to assure worker fitness for duty and
to protect employees and the public from the risks posed by the use of alcohol and controlled substances. It is also the purpose of this policy to comply with all applicable federal and state regulations governing workplace alcohol and controlled substance abuse programs mandated under the above-noted acts. These acts mandate urine drug testing and breathalyzer alcohol tests for safety-sensitive positions and prevent performance of safety-sensitive functions when there is a positive-test result. The federal law has also established standards for collection and testing of urine and breath specimens, the reporting of certain drug-related offenses, protective measures for certain employees tested, for the preservation of confidentiality and for certain reporting.

APPLICABILITY

This policy applies to all safety-sensitive employees who perform safety-sensitive functions as these persons and activities are defined in the Omnibus Transportation Employee Testing Act and its implementing regulations, including but not limited to persons who are required to possess a CDL license for the operation of a commercial vehicle and other safety-sensitive positions in the jurisdiction.

DEFINITIONS

Commercial Vehicle - as defined in the statutes requiring commercial drivers' license.

Delay - any failure to immediately report to the test site to participate in the required testing under this policy.

POLICY ADMINISTRATOR

Unless otherwise designated by the City Manager in writing, the City Manager will be designated as the controlled substance and alcohol policy administrator for the City of Batavia. Any inquiries concerning this policy, its application, its administrator, or its interpretation will be made to the policy administrator.

The City Manager will designate a position to be identified to the public and to employees whose incumbent is the primary person responsible for implementation and administration of this policy under the supervision of the City Manager, if the person is not the chief administrator of the jurisdiction.

The policy administrator will develop and maintain a current list of the positions that are governed by this policy. The list will be available for inspection in the Manager's office of the City. Individuals who are applying for positions with the City of Batavia
and affected employees will be notified of the positions that are covered by this policy.

**ALCOHOL AND CONTROLLED SUBSTANCE PROHIBITIONS**

An employee is prohibited from the operation of a commercial motor vehicle and/or from engaging in any work related functions, for alcohol related conduct: 1) while consuming alcohol; 2) while having a blood alcohol concentration of 0.02 or greater; 3) within four (4) hours of consuming alcohol; 4) after refusing to submit to an alcohol test; and 5) from consuming alcohol within eight (8) hours after an accident as specified in this policy.

An employee is prohibited from the unauthorized use of a controlled substance at any time, whether on or off duty.

An employee is prohibited from the unauthorized possession of alcohol while on duty and of controlled substance at any time, whether on or off duty.

Any employee whose job performance requires the possession of a valid CDL and who loses the CDL for a violation of or as a consequence of the law will be subject to disciplinary action up to and including termination from service. The employee will notify the City Manager and the employee's immediate supervisor of the loss of the CDL. Failure to notify the City Manager of the loss of the CDL will result in immediate termination from service.

Any employee who is consuming a prescribed or authorized controlled substance or other substance of any kind whose side effects may inhibit or impair the employee's performance will provide written notice to the City of such consumption upon reporting for a drug test. Failure to report will be cause for disciplinary action up to and including termination from service.

**CONTROLLED SUBSTANCE AND ALCOHOL TESTING PROVISIONS**

Employees subject to this policy will be subject to controlled substance and alcohol testing including the following types of tests: pre-employment testing (for controlled substance only), random testing (except as provided herein), reasonable suspicion testing; post-accident testing; return to work testing; and follow-up testing to rehabilitation programs.

**Pre-Employment Testing**

Pre-employment urine drug testing will be required of all applicants for positions covered by this policy as a condition of the application procedure. Future employment as defined will be considered as if the application was for original entry into
service for purpose of this policy. Receipt of satisfactory test results is required prior to commencement of employment and/or engaging in safety sensitive functions, and failure of a controlled substance test disqualifies an applicant from appointment to employment for a period of at least 120 days. Evidence of the absence of controlled substances dependency from a Substance Abuse Professional (SAP) and negative controlled substance tests will be required prior to further consideration for any employment, including reports from prior employers by an employee's written authorization.

Reasonable Suspicion Testing

Reasonable suspicion testing will be used to determine fitness for duty evaluations, including appropriate urine and/or breath testing when there are objective observable reasons to believe that a controlled substance or alcohol use is adversely affecting an employee's job performance or that the employee has violated this policy. Reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the effects of substance use. Reasonable suspicion observations and reports can only be made by supervisory or management personnel who are trained to detect the signs and symptoms of controlled substance and alcohol use and who may reasonably conclude that an employee may be adversely affected or impaired in the employee's work performance due to the use of the controlled substance or alcohol. The observing supervisor or manager, whether or not the person is the employee's immediate supervisor, is required to complete the appropriate required documentation concurrently with the observation and consideration to impose reasonable suspicion testing.

Reasonable suspicion testing will be required and completed whenever possible within two (2) hours of the observation, but in any case no later than before eight (8) hours after the observation for breath alcohol testing and thirty-two (32) hours for controlled substance testing.

Post Accident Testing

Post accident testing will be required to test employees after a vehicular accident has occurred in which a fatality has occurred, or when a traffic citation is issued after an accident, or testing may be required where injury to a person requires transport to a medical treatment facility, or disabling damage to one or more vehicles requires towing from the accident site to occur. Testing will include both breath and urine drug testing of the employee(s).

Post accident testing will be required and completed whenever possible within two (2) hours of the accident occurrence, but in any case no later than before eight (8) hours after the accident for breath alcohol testing and thirty-two (32) hours for controlled substance testing.
substance testing. An employee involved in an accident will refrain from alcohol consumption for eight (8) hours following the accident.

Random Testing

Random testing will be conducted on all persons covered by this policy. Random testing will be unannounced and conducted with unpredictable frequency throughout the year, using an established scientifically-based selection method. Testing will be conducted whenever and as ordered by appropriate supervisory personnel, but no less frequently as required by federal law and regulations, and in such numbers as is minimally determined under the regulations.

Call-In Testing

Members will not be subject to random testing for any portion of a shift that they were not scheduled to work. That does not preclude the City from conducting a reasonable suspicion test, under the conditions stated in this Policy, if the need arises.

Return to Work Testing

Return to work urine drug and alcohol testing for all employees covered by this policy will be required for all employees who previously tested positive on a controlled substance or alcohol test. To return to work, the employee must test negative and be evaluated and released to return to work by a SAP before begin permitted to return to work.

Follow-up Testing

Follow-up testing of employees returning to work will be required for employees to submit to frequent unannounced random urine drug and breath alcohol testing for at least six (6) times in the following twelve (12) months after return to work, which random testing may be continued for a period of up to sixty (60) months from the employee's return to work date.

Any employee questions the results of a required urine drug test under this policy may request that an additional test be conducted. The test must be conducted on a split sample that was provided at the same time as the original sample and the test analysis will be conducted at a different qualified laboratory than where the original test was conducted. All costs for employee-requested testing will be paid by the employee unless the second test invalidates the original test. An employee's request for a re-test must be made to the Medical Review Officer (MRO) within seventy-two (72) hours of the notice to the employee of the initial test result. Requests made after the seventy-two (72) hour limit will only be accepted if the delay was due to documentable facts that
were beyond the control of the employee.

The method of collecting, storing and testing the split sample required under this policy will be consistent with the procedures established in 49 CFR Part 40.

**Failure to Test**

Any employee who fails to submit to the required testing under this policy is considered to have tested positive and will be subject to all the consequences that follow related to positive testing.

Any employee ordered to test will report immediately to the test site upon being ordered to submit to testing. No delay of any type may be granted or taken. Delay in reporting by the employee will be treated as a refusal to test and will subject the employee to all of the consequences that follow related to positive testing. Failure to provide a sufficient sample or for providing an adulterated sample will be considered as a refusal to test and will subject the employee to all of the consequences that follow.

**TESTING CONTROLS**

**ALCOHOL:** Federal Regulations require breath testing to be done on Evidential Breath Testing devices approved by the National Highway Safety Administration. An initial screening test is conducted first. Any result that is less than 0.02 blood alcohol concentration is considered negative. If the blood alcohol concentration is 0.02 or greater, a second confirmatory test must be conducted. Any employee who tests with a blood alcohol concentration of 0.02 or greater will be removed from service for at least twenty-four (24) hours.

Any employee who is found to have engaged in prohibited alcohol conduct under this policy will be immediately removed from work-related activity. The employee will not be permitted to resume work until the employee is (1) evaluated by a SAP, and (2) complies with the rehabilitation contract if such is required, and (3) has tested negative in a follow-up test.

**CONTROLLED SUBSTANCE:** Controlled substance testing is conducted by analyzing an employee's urine specimen performed at a laboratory certified and monitored by the U.S. Department of Health & Human Service for the following controlled substances:

1) Marijuana (THC metabolite)
2) Cocaine
3) Amphetamines
4) Opiates (including heroin)
5) Phencyclidine (PCP)
The testing for controlled substances is a two-stage process. First a screening test is conducted. If the test is positive for one or more of the controlled substances, a confirmatory test is conducted for each identified controlled substance. The confirmatory test is a gas chromatography/mass spectrometry (GS/MS) analysis.

Any employee who test positive on the confirmatory test will be interviewed by the City of Batavia Medical Review Officer (MRO). The employee will be immediately removed from work-related activity. The employee will not be permitted to resume work until the employee is (1) evaluated by a SAP, and (2) complies with the rehabilitation contract if such is required, and (3) has tested negative in a follow-up test.

EMPLOYMENT ASSESSMENT

An employee whom tests positive for the presence of controlled substances or alcohol above the minimum thresholds set forth in the federal regulations will be evaluated by a SAP. The SAP will evaluate who tests positive to determine what assistance, if any, the employee needs in resolving problems associated with the controlled substance or alcohol.

Assessment by a SAP does not protest an employee from disciplinary action or guarantee continued employment or reinstatement by the City of Batavia. The City of Batavia disciplinary policy provides guidance to the discipline that may be imposed, unless otherwise stated in this policy.

REHABILITATION EFFORT

Any employee who is determined to be in need of assistance for a controlled substance or alcohol-related problem under this policy by the SAP may be permitted to enter into a rehabilitation plan approved by the City of Batavia, provided the employee agrees to adhere to the terms of the rehabilitation contract with the City of Batavia.

The rehabilitation contract will include the following terms and conditions to be adhered to by the employee who is granted rehabilitation assistance:

1. The employee will agree to undertake and successfully complete the rehabilitation assistance plan established for the employee by the SAP or by a rehabilitation professional accepted by the City of Batavia; and

2. The employee agrees to refrain from any violation of this policy and the use of controlled substances and alcohol
consistent with the plan of rehabilitation and this policy; and

3. The employee provides a release of all medical records for use and review by the City of Batavia relating to the rehabilitation assistance plan for the assistance undertaken and compliance; and

4. The employee agrees to unannounced random testing for the City of Batavia determined periods of time subsequent to the employee's relating to work consistent with this policy; and

5. The employee agrees to submit to return to work testing demonstrating that the employee is negative under controlled substance and/or alcohol tests standards; and

6. The employee agrees that any future controlled substance or alcohol violations will be considered as a resignation of the employee from service without recourse.

CONTRACTUAL SUPPORT PROFESSIONALS

The City of Batavia will secure a contract with an appropriately certified testing laboratory to conduct the controlled substance testing analysis and reporting required under this policy and under federal regulations in conformity with the standards established under federal regulations. The City of Batavia may contract for the required alcohol testing or may perform the testing using qualified City of Batavia personnel who utilize appropriate testing equipment.

The City of Batavia will engage the services of an independent contractor to serve the City of Batavia as the MRO properly credentialed and trained in compliance with the federal regulations, who will not be an employee of the City of Batavia. The MRO will, as part of the engagement contract, maintain all relevant records and provide the required reports that the City of Batavia needs to comply with the federal reporting requirements.

The City of Batavia will appoint a SAP for the providing of services under this policy and in compliance with the federal regulations.

EDUCATION AND TRAINING

The City of Batavia will provide all employees with a copy of this policy and materials related to the effects of the use and/or abuse of alcohol and controlled substances. The City of Batavia will also provide information to employees regarding treatment and rehabilitation available. Employees will be required to confirm receipt of this policy and any revisions and of the educational
materials in writing noting the date of receipt and acknowledgment by signature witnessed by the supervisor providing the materials.

The City of Batavia will develop and provide training for all supervisors and managers who are responsible for the administration and enforcement of this policy. The training, at a minimum, will include at least sixty (60) minutes of program on the physical and behavioral effects on personal health, safety and on the work environment and performances indicators on the effects of alcohol use and abuse, the side effects of abuse, and the consequences of prohibited work-related activity involving alcohol consumption. The training will include an overview of this policy and its implementation and application to employees. The training, at a minimum, will include at least sixty (60) minutes of program on the physical and behavioral effects on personal health, safety and on the work environment and performance indicators of controlled substances uses and abuse, the side effects of controlled substance abuse, and the consequences of prohibited activity involving controlled substances. Training will also include a component related to objective observation for reasonable suspicion testing, documentation and record keeping.

CONFIDENTIALITY

All records developed and/or acquired pursuant to this policy will be maintained under strict confidentiality by the City of Batavia, the testing laboratory, the MRO, and the SAP, when and as applicable. The records will be maintained separately from other personnel records kept by the City of Batavia and will be kept in a secured location with other medical records. Materials will not be released to others without the written consent of the affected employee, except under provisions provided in the federal regulations, as needed with regard to the rehabilitation contract, in litigation or quasi-judicial and administrative proceedings related to positive test results and/or to matters initiated by an employee.

DISCIPLINARY ISSUES

Unless otherwise specified in the policy, the City of Batavia's policies related to disciplinary action will be followed when imposing discipline for violation of this policy.

The acceptance by an employee of the rehabilitation assistance plan and contract does not serve as a bar to imposing disciplinary action related to violations of this policy.

Any supervisor or manager who knowingly permits an employee to violate this policy or engage in work activity while consuming alcohol or a controlled substance or fails to enforce this policy will be subject to immediate termination from employment.
This policy does not displace any other penalties that may be imposed or be incurred as a result of violation of the City of Batavia's policy or state and federal laws, or as provided in the workers' compensation laws.

COORDINATION WITH OTHER LAWS AND POLICIES

This policy will be administered in compliance with other federal, state and local laws related to employee health and welfare policies, leave policies, benefit programs and other related policies of the City of Batavia. In the case of apparent conflicts between this policy, other policies, and applicable laws, the City Manager will make the appropriate rulings to resolve the potential conflicts, whenever possible.

In the event that any part of this policy is judicially determined to be in conflict with any law or to be in violation of any law or is rendered ineffective because of some state or federal legislative enactment, that part(s) will be void, but the remainder of the policy will remain in effect. Parts that are void or voided will be replaced as soon as possible so as to maintain the full effect of this policy and/or bring it into compliance with relevant laws.

AMENDMENTS

This policy is subject to amendment by the City of Batavia from time to time. Amendments that are made will be provided to employees upon adoption and will become effective as provided by the City Manager.
1. This contract shall become effective as of April 1, 2003 and shall terminate on March 31, 2005.

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

3. If any section, subsection, sentence, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, each by his duly authorized officials and representatives, the day and year first above written.

CITY OF BATAVIA, NY

City Clerk-Treasurer

Council President

City Manager

BATAVIA POLICE BENEVOLENT ASSOCIATION

PBA President

Dated:
# APPENDIX A

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<th>Yrs.</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
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APPENDIX B

PROPOSED ARBITRATORS

1. Douglas J. Bantle
   P.O. Box 306
   Mendon, New York 14506

2. Mona Miller
   2201 East Avenue
   Rochester, New York 14610

3. Wade Newhouse
   University of Buffalo
   Buffalo, New York

4. Thomas Rinaldo
   305 Elmwood Avenue
   Buffalo, New York 14222

5. Howard G. Foster
   Intern Dean
   University at Buffalo
   School of Management
   160 Jacobs Management Center
   Buffalo, New York 14260

6. James B. Atieson
   465 Ruskin Road
   Amherst, New York 14226
### APPENDIX C

**Fitness Program Norms: Mile & Half Run - Female**

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http://10.81.29.200/EmoBenefits/PhysicalFit/PushupsMale.html

9/16/02
### Fitness Program Norms: Situps - Male

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# Fitness Program Norms: Mile & Half Run - Male

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MEMORANDUM OF AGREEMENT

In order to address the issue of the appointment of transfers to the City of Batavia Police Department, the PBA and the City of Batavia hereby supplement their negotiated Agreement for the period April 1, 2003 through March 31, 2005, by further agreeing to the following transfer placement schedule.

- All qualified transfer candidates with a minimum of 18 months of experience as a police officer, or equivalent, shall be placed at the one year salary increment on the PBA salary schedule.

The following individuals shall be placed at the one year salary increment, and have their salary be retroactive to their original date of hire:

Dave DiPasquale
Mike Kibler

The following individual shall be placed at the three year salary increment and have the time employed credited towards the next salary increment:

Frank Klimjack

Dated Batavia, New York
October 17, 2003

CITY OF BATAVIA

Matthew Coppler
City Manager

PBA

Matthew Baldwin
PBA President
MEMORANDUM OF AGREEMENT

In order to address the issue of taxability of employee unused sick leave upon retirement, the PBA and the City of Batavia hereby supplement their negotiated Agreement for the period of April 1, 2003 through March 31, 2005, by further agreeing to allow the annual option for retiring employees to convert unused sick leave to cash at 50%. All PBA employees who retire after January 1, 2003 must use their accumulated sick leave to purchase medical coverage as specified in Article IX, section 7.

This Agreement shall be in effect until December 31, 2003 and will automatically be renewed for an additional calendar year unless either part request to terminate the Agreement prior to December 31 of each year.

If at any time the IRS regulations and/or tax laws are amended such that the option of receiving credits for future health insurance benefits becomes a non taxable benefit regardless whether the employees have the options upon retirement of receiving cash or receiving credits towards future health insurance benefits, for accumulated sick leave, then this Agreement will be void, and both cash option and health insurance credit option would be available to employees upon retirement.

Dated: Batavia, New York
October 22, 2003

CITY OF BATAVIA

Matthew Coppler
City Manager

PBA

Matthew Wm. Baldwin
PBA President
MEMORANDUM OF AGREEMENT

In order to address compensation due to PBA members John Peck and Rob Yaeger, the PBA and the City of Batavia hereby supplement their negotiated Agreement for the period April 1, 2003 through March 31, 2005, by further agreeing to compensate PBA members John Peck and Rob Yaeger for their performance dating back to April 2003. PBA member Peck will receive an amount not to exceed $860.70, and PBA member Yaeger will receive an amount not to exceed $833.47.

This agreement shall be in only for the length of this agreement, and shall not be considered a part of any future agreements.

Dated Batavia, New York
January 15, 2003

CITY OF BATAVIA

Matthew Copple
City Manager

PBA

Frank J. Klimjack
PBA President
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Had 43.25 Overtime Hours

$2.79 * 43.25 = $120.70

OIC pay was paid from approximately 4-27 to 7-13 or 10 weeks

$1.85 * 400 hours = $740

Yaeger

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Had 33.5 Overtime Hours

$2.79 * 33.50 = $93.47

OIC pay was paid from approximately 5-1 to 7-13 or 10 weeks

$1.85 * 400 hours = $740
MEMORANDUM OF AGREEMENT

In order to address the issue of the appointment of Detective Sergeant Darryl Sehm to Temporary Chief of Police, the PBA and the City of Batavia hereby supplement their negotiated Agreement for the period April 1, 1999 through March 31, 2003, by further agreeing to suspend Detective Sergeant Sehm's membership in the PBA up until the point that he is no longer desirous of holding the position of Temporary Chief, or until he, or someone else, is permanently appointed as the Chief of Police. As Temporary Chief, Detective Sergeant Sehm will be required to act as the head of the Department and as such will be required to make decisions that may be grievable under the current and future bargaining agreements.

This agreement shall be in effect on September 21, 2003 and until such time as a permanent selection for Chief has been identified. If Detective Sergeant Sehm is not selected to be the permanent Chief of Police, he shall be given the opportunity to resume his duties as Detective Sergeant. His appointment as Temporary Chief of Police shall not impact on his seniority status for determining shift or vacation selection. Detective Sergeant Sehm shall be placed at Grade XIV, Step D of the Non-Union salary schedule for the purposes of determining his salary. This appointment shall not affect any benefits that Detective Sergeant Sehm has previously earned.

Dated: Batavia, New York
September 19, 2003

CITY OF BATAVIA
Matthew Coppler
City Manager

PBA
Matthew Baldwin
PBA President
MEMORANDUM OF AGREEMENT

In order to address the issue of the appointment of Lt. James Henning to Acting/Interim Chief of Police, the PBA and the City of Batavia hereby supplement their negotiated Agreement for the period April 1, 1999 through March 31, 2003, by further agreeing to suspend Lt. Henning's membership in the PBA up until the point he is no longer desirous of holding the position of Acting/Interim Chief, or until he, or someone else, is permanently appointed as the Chief of Police. As Acting/Interim Chief, Lt. Henning will be required to act as the head of the Department and as such will be required to make decisions that may be grievable under the current and future bargaining agreements.

This agreement shall be in effect until such time as a permanent selection for Chief of Police has been identified. If Lt. Henning is not selected to be the permanent Chief of Police, he shall be given the opportunity to resume his duties as a Lt.. His appointment as Acting/Interim Chief of Police shall not impact on his seniority status for determining shift or vacation selection. Lt. Henning shall be placed at Grade XIV Step D for the purposes of determining his salary. This appointment shall not affect any benefits that Lt. Henning has previously earned.

Dated Batavia, New York
July 15, 2003

CITY OF BATAVIA

Matthew Copper
City Manager

PBA

Matthew Baldwin
PBA President
MEMORANDUM OF AGREEMENT

In order to address the issue of the payment of earned compensatory time, the PBA and the City of Batavia hereby supplement their negotiated Agreement for the period April 1, 2003 through March 31, 2005, by further agreeing to the following:

Members may convert earned compensatory time into cash annually, up to the contractual limit of 150 hours.

Compensatory time will be converted to cash at the individual members' current hourly rate.

Members that wish to convert their earned compensatory time must notify the Personnel Office no later than March 15th of their intentions.

The converted compensatory time will be issued in a check in the first payroll of April.

Dated Batavia, New York
January 23, 2004

CITY OF BATAVIA

City Manager

PBA

Frank Klimjack
PBA President
MEMORANDUM OF AGREEMENT

In order to address the issue of the appointment of Detective Sergeant Darryl Sehm to Temporary Chief of Police, the PBA and the City of Batavia hereby supplement their negotiated Agreement for the period April 1, 2003 through March 31, 2005, by further agreeing to suspend Det. Sgt. Sehm’s membership in the PBA up until the point he is no longer desirous of holding the position of Temporary Chief, or until he, or someone else, is permanently appointed as the Chief of Police. As Temporary Chief, Det. Sgt. Sehm will be required to act as the head of the Department and as such will be required to make decisions that may be grievable under the current and future bargaining agreements.

This agreement shall be in effect until such time as a permanent selection for Chief of Police has been identified. If Det. Sgt. Sehm is not selected to be the permanent Chief of Police, he shall be given the opportunity to resume his duties as a Detective Sergeant. His appointment as Temporary Chief of Police shall not impact on his seniority status for determining shift or vacation selection. This appointment shall not affect any benefits that Det. Sgt. Sehm has previously earned.

Dated Batavia, New York
May 7, 2004

CITY OF BATAVIA

Matthew Copple
City Manager

PBA

Frank Klimjack
PBA President