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Collective Bargaining Agreement

Between

The Orchard Park Police Benevolent Association, Inc.

and

The Town of Orchard Park

January 1, 2007 - December 31, 2010

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PREAMBLE

This Agreement, made this ____st day of June, 2009, between the Town of Orchard Park, hereinafter referred to as the "Town", and the Orchard Park Police Benevolent Association, hereinafter referred to as the "Association".

WHEREAS, the Association is a Police Organization composed solely of Police Officers employed in the Town of Orchard Park Police Department, and

WHEREAS, both the Town and the Association recognize that the development and operation of a Police Department of top efficiency and highest quality is a common concern of the parties;

NOW, THEREFORE, in consideration of the foregoing, the parties hereby agree.

ARTICLE I. RECOGNITION

Section 1.1: **Definition.** The Town, having determined that the Association has been selected by the majority of the Police Officers in the Town of Orchard Park Police Department in the following described negotiating unit as its exclusive bargaining representative, recognizes the Association as the sole and exclusive representative for all full time Police Officers, excluding part-time or seasonal Police Officers in the unit composed of:

- A. Police Officers
- B. Detectives
- C. Any new ranks or positions created which are below the rank of Lieutenant, Captain or Chief of Police.

Section 1.2: **Certification.** Subject to the provisions of the Public Employee's Fair Employment Act, Article 14 of the Civil Service Law of the State of New York, the Town agrees it will not negotiate with any police organization other than the Association for the duration of this agreement.

Section 1.3: **No Strike.** The Association hereby confirms its position under the Civil Service Law, Article 14, whereby it does not assert the right to strike against any government, to assist or participate in any such strike or form of strike, or to impose an obligation upon its members to conduct, assist or participate in any such strike.

Section 1.4: **Rules & Regulations.** It is agreed to and understood that the Rules, Orders and Regulations of the Police Department, as they exist at the present time, are based upon those Regulations adopted by the Town of Orchard Park on March 6, 1991. Furthermore, these Codes and Rules have not and are not intended to have become or be diminished as a result of this negotiation, which produced this Agreement. In the event that changes are contemplated in said Rules, Orders and Regulations, which constitute mandatory subjects of bargaining under the Taylor Law, such changes shall be negotiated to the extent required by the Taylor Law.

ARTICLE II. MANAGEMENT RIGHTS

Section 2.1: **Management Rights.** The management of the Police Department and the direction of the working forces and the operation of the Police Force, including the hiring, promoting and retiring of Police Officers; the suspending, discharging or otherwise disciplining of Police Officers for just cause, any reduction or increase in the working forces, the scheduling of work, exclusive of those rights contained herein, and the control and regulation of the use of all equipment and other property of the Town, are the exclusive function of the Town Board; provided, however, that in the exercise of such functions, the Town Board shall observe the provisions of this Agreement and shall not discriminate against any Police Officer or applicant for employment because of his membership in or lawful activity on behalf of the Orchard Park Police Benevolent Association, Inc.

ARTICLE III. GRIEVANCE PROCEDURE

Section 3.1: **Definition.** A grievance under this provision shall mean any claim by a Police Officer in the unit covered by this Agreement based upon any claimed violation of this Agreement or any rules and regulations, including matters relating to working conditions, in effect over which the Town has control.

Section 3.2: **Procedure: Stage One** - Any Police Officer covered by this Agreement having a grievance will report it to a designated representative of the Association. The representative will then discuss it, informally, with the grievant's immediate supervisor within thirty (30) days of the occurrence or thirty (30) days of the date of discovery, with a view of resolving the grievance. A proposed resolution shall be discussed with the Chief of Police prior to any conclusion.

Stage Two - If the grievance is not resolved at stage one, it shall be reduced to writing, within fourteen (14) working days after denial at stage one, setting forth the facts upon which the claim is based: the date of the occurrence complained of: the sections of the Agreement or rules or regulations claimed to be violated, and the relief sought. Each written grievance must be signed by the grievant and presented to the Association representative for processing. The Association representative will then present the written grievance to the Chief of Police. Within five (5) working days thereafter, the Chief of Police will render a decision thereon, in writing, and present it to the representative of the Association.

Stage Three - If the grievance is not disposed of to the satisfaction of the Association at stage two and it wishes to further process the grievance, the authorized representative of the Association shall, within five (5) working days after the decision in stage two, file notice of appeal with the Town Board. Such notice of appeal shall also contain a statement of the prior proceedings and dispositions along with copies of the papers relating thereto. Within ten (10) working days after receipt of the notice of appeal, the Town Board shall schedule a hearing on the grievance, to be held within thirty (30) working days. Notice of such hearing will be given to the aggrieved member and the representative of the Association. The Town Board shall render its decision in writing within five (5) working days after said hearing.

Stage Four - If the Association is not satisfied with the decision of the Town Board at stage three, it may, through the authorized representative within fifteen (15) working days after receipt of the decision from the Town Board, serve written notice on the Town Board that it desires to have the grievance submitted to arbitration.

Section 3.3: **Suspension or Discharge.** Grievances involving suspension or discharge shall be instituted at stage three of the grievance procedure.

Section 3.4: **Arbitration.**

A. The Association or the Town will apply to the New York State Public Employment Relations Board for a list of five (5) arbitrators for each grievance to be heard. The Association and the Town shall select an arbitrator by each party alternately crossing off the name of an arbitrator until one remains, after commencing the procedure by a coin flip. The

name of the remaining person shall be designated as the arbitrator. Each party may reject one (1) entire list of potential arbitrators supplied by P.E.R.B.

B. The arbitrator will have no power to alter or amend the provisions of this Agreement or any applicable rules or regulations relating thereto.

C. The arbitrator will hear the matter promptly and will issue his decision not later than thirty (30) days from the date of the close of the hearing, or if oral presentations have been waived, then from the date of submission to him. The arbitrator's decision will be in writing and will set forth his findings of fact and conclusions of the issue.

D. The Association and the Town will share equally the costs of selecting the arbitrator and the fees and expenses of the arbitrator.

E. The decision of the arbitrator shall be final and binding on all parties.

Section 3.5: **Represented By Attorney.** The aggrieved Police Officer, the Association and the Town shall have the right, commencing with stage two herein, to be represented by an attorney.

Section 3.6: **Examination.** The aggrieved Police Officer, the Association and the Town shall have the right at all stages of the grievance procedure to confront and cross-examine all witnesses called against him; to testify and call witnesses on his own behalf. Each party shall be furnished with a copy of any verbatim transcript of the proceedings upon request and at the expense of the requesting party.

Section 3.7: **Stenographer.** Any party may provide for a stenographer or stenographic reporter at the party's expense. If mutually agreed upon, a stenographer may be hired at the joint expense of the parties.

Section 3.8: **Reprisal.** No interference, coercion, restraint, discrimination or reprisal of any kind will be taken by the Town or the Association against the Police Officer aggrieved or the Association representative or any other participant in the grievance procedure, or any other person by reason of such grievance or participation therein. Moreover, this paragraph shall not prevent the suspension from duty or termination of employment or any other disciplinary action from taking effect pursuant to Town Laws and regulations and/or the Civil Service Law, pending disposition of a grievance.

Section 3.9: **Days Definition.** For purposes of implementing the grievance procedure, "days" means week days (Monday through Friday, except for Holidays).

ARTICLE IV. RECORD OF DISCIPLINE

Section 4.1: **Response.** Police Officers in the unit covered by this Agreement shall have the right to respond to any warning, reprimand, suspension or other disciplinary action and any unfounded complaints entered into their personnel records. Such response by the Officer shall become a permanent part of his file.

Section 4.2: **Personnel Files.** Police Officers in the unit covered by this Agreement shall have the right to view their personnel files; provided such Police Officer gives reasonable notice to the Town and views his file in the presence of the Chief of Police or his designee. Police Officers covered by this Agreement shall have the right to initial all material in his present personnel file and any new material prior to it entering his file.

Section 4.3: **Indemnification.** Indemnification: Notwithstanding the provisions of any general, special or local law, charter or code to the contrary, the Town shall be liable for and shall assume the liability to the extent that it shall save harmless any Police Officer employed by the Town for any negligent act or tort, provided the Officer, at the time of the negligent act or tort complained of, was acting in the performance of his duties and within the scope of his employment.

A Police Officer, although excused from official duty at the time, shall be deemed to be acting in the discharge of his duty when engaged in the immediate and actual performance of a public duty imposed by law, and such public duty performed was for the benefit of the citizens of the community wherein such public duty was performed, and the Town authority or agency, derived no special benefit in its corporate capacity.

Orchard Park Code: 23-9:

A. The Town shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court or in the amount of any settlement of a claim, including punitive or exemplary damages, provided that the act or omission from which such judgment or claim arose, occurred while the employee was acting within the scope of his public employment or duties; provided, further, that in the case of a settlement the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the governing body of the Town.

B. Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this article shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

C. Nothing in this Article shall authorize the Town to indemnify or save harmless an employee with respect to fines or penalties or money recovered from an employee pursuant to §51 of the General Municipal Law; provided however, that the Town shall indemnify and save harmless its employees in the amount of any costs, attorney's fees, damages, fines or penalties which may be imposed by the reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.

D. Upon entry of final judgment against an employee or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail, within thirty (30) days of the date of entry or settlement, upon the Supervisor of the Town; and if not inconsistent with the provisions of this Article, the amount of such judgment or settlement shall be paid by the Town.

ARTICLE V. BILL OF RIGHTS

Section 5.1: **Time of Interrogation.** Time of Interrogation: The interrogation of a Police Officer who is being investigated for disciplinary violation must be between 9:00 am and 5:00 PM, and preferably while the Officer is on duty.

Section 5.2: **Identification of Investigating Officer.** Identification of Investigating Officers: A Police Officer who is under investigation must be informed of the Officer in charge of the investigation, and the names of Officers who will be conducting any interrogation.

Section 5.3: **Information Regarding Investigation.** An Officer must be informed of the nature of an investigation before any interrogation commences. The information must be sufficient to reasonably inform the Police Officer of the nature of the investigation.

Section 5.4: **Length of Interrogation.** The length of an internal interrogation must be reasonable, with rest periods being called periodically, for personal necessities, meals, telephone calls and rest.

Section 5.5: **Coercion.** Coercion: A Police Officer will not be threatened with transfer, dismissal or other disciplinary action, as a means of obtaining information concerning incidents under investigation. A Police Officer will not be subject to abusive language or promised a reward as an inducement for answering questions.

Section 5.6: **Right to Counsel.** Right to Counsel: A Police Officer being questioned or under investigation has the right to have counsel and a representative of the Police Association present with him during any interrogation.

Section 5.7: **Recording of Interrogation.** Recording of Interrogation: Any interrogation of a Police Officer for a disciplinary violation must be recorded either mechanically or by stenographer, and there will be no "off the record" questions put to him.

Section 5.8: **Warning of Rights.** Warning of Rights: If a Police Officer is suspected in a criminal investigation, he must be advised of all his Miranda Rights.

Section 5.9: **Furnishing of Copies.** Furnishing Copies: A Police Officer under investigation will be furnished an exact copy of any statement he has signed, or of the proceedings that are recorded, either mechanically or by stenographer.

Section 5.10: **Polygraph.** Polygraph: A Police Officer will not be given a polygraphic examination for any reason.

Section 5.11: **Non Waiver of Constitutional Rights.** Non-Waiver of Constitutional Rights: No Police Officer will be required or requested to waive any constitutional rights granted to him under the United States or the New York State Constitution.

Section 5.12: Investigation. Investigation: The person being investigated must be advised whether he is a possible target or merely a witness of the matter being investigated.

Section 5.13: Criminal Charges. Criminal Charges: An Officer is not obligated to answer questions regarding a matter which may be the subject of criminal charges against the Officer.

Section 5.14: Disciplinary Charges. Disciplinary Charges: An Officer is not obligated to answer questions after disciplinary charges have been placed against the Officer either formally or informally.

ARTICLE VI. COMPENSATION

Section 6.1: Salary. Salary: Below are the new base rates schedule adopted which governs payment of base rates during the term of this Agreement:

A.) Police Officer:

	Effective 01/01/2007	Effective 01/01/2008	Effective 01/01/2009	Effective 01/01/2010
Starting Salary	\$51,332	\$53,026	\$54,829	\$56,887
				\$60,378
After 1 year of continuous service	\$54,484	\$56,282	\$58,196	
After 2 years of continuous service	\$57,635	\$59,537	\$61,561	\$63,870
After 3 years of continuous service	\$60,787	\$62,793	\$64,928	\$67,362
After 4 years of continuous service	\$63,940	\$66,050	\$68,296	\$70,857

The hourly rate shall be determined by dividing the annual salary by 2080.

B.) Detective:

A Detective shall be paid four and one quarter percent (4.25%) above the highest paid Officer in the bargaining unit.

Effective upon the first pay period following ratification by both parties to this Agreement a detective shall receive four and one-half percent (4.5%) above the highest paid

police officers base rate in the bargaining unit. Upon the completion of five (5) years of service as a detective, the rate shall be increased to four and three quarters percent (4.75%).

A Detective's hourly rate of pay shall be determined by adding the additional salary which is paid to a Detective to the Officer's annual salary and then dividing by 2080 hours.

The payment of wages will be done by dividing the annual salary in 2007 by 261, 2008 by 262, 2009 by 261, and 2010 by 261.

Section 6.2: **Shift Differential.** Shift Differential: Any unit member working second shift (presently 3-11 or 4-12) shall be paid \$0.35 per hour shift differential, and any unit member working third shift (presently 11-7 or 12-8) shall be paid \$0.50 per hour shift differential for the hours worked.

The present shift differential for 3 p.m. -11 p.m. or 4 p.m.-12p.m.at \$0.15 per hour and 11 p.m.-7 a.m. or 12 a.m. - 8 a.m. at \$0.25 per hour shall stay the same until the start of the first pay period following ratification by both parties to this Agreement.

The parties are working on a new work schedule. With the effective date of the work schedule OPPD12 shift differential shall be \$0.50 per hour for regularly scheduled hours actually worked between the hours of 6 p.m. and 7 a.m. In the event OPPD12 is terminated by either party to this Agreement, the work schedule and shift differential will revert back to the old schedule and the shift differential will be as set forth in the first paragraph (section 6-2).

Section 6.3: **Call in Pay.** Call-in Pay: If an Officer is requested to report to the Police Station for duty or ordered to report for duty other than regularly scheduled hours (except for reasons of his own neglect) he shall be paid a minimum of two (2) hours pay the rate of time and one-half. Court appearances and training schedules will not be considered call-in, and this section will not apply in those instances.

In lieu of call-in pay, a Police Officer shall have the option of receiving earned compensatory time.

ARTICLE VII. LONGEVITY

Section 7.1: **Longevity** Each Police Officer in the unit covered by this Agreement shall be entitled to and will receive longevity payments according to the following schedule:

<u>Years of Continuous Service</u>	<u>Amount</u>
4	\$614.00
8	\$1,057.00
12	\$1,501.00

16	\$1,978.00
20	\$2,456.00
24	\$2,933.00
28	\$3,001.00

The computation of the years of service shall be based upon the date of hire and shall change on the anniversary date thereafter. There shall be seven (7) steps in the schedule, and the maximum longevity payment shall be capped at \$3001.00. .

ARTICLE VIII. COURT TIME

Section 8.1: **Minimum.** Police Officers in the unit covered by this Agreement shall be paid a minimum of four (4) hours at their straight time hourly rate for court appearances. Over four (4) hours, eight (8) hours at their regular straight time hourly rate will be paid. In the event that a Police Officer is not contacted within eight (8) hours with respect to a cancellation or adjournment of a scheduled court appearance, such Police Officer shall be paid for four (4) hours at his regular straight time hourly rate. The Officer shall have the option of receiving compensatory time in lieu of court pay.

Section 8.2: **Certification.** Verification of time in court shall be made by presenting the appropriate form to the Chief of Police. Said form is to be signed by the presiding judge.

Section 8.3: **Hourly Rate.** The hourly rate of pay for compensatory pay shall be computed by dividing a Police Officer’s annual salary by 2080.

Section 8.4: **Subpoenaed.** Any Police Officer in the unit covered by this Agreement who is subpoenaed or notified to appear and does appear as a witness before a Grand Jury, Civil Court, Family Court, MV Hearing or S.L.A. Hearing, with respect to a matter which such Police Officer was involved by virtue of the performance of his duties as a Police Officer for the Town, such Police Officer shall be paid the difference between any remuneration received for such appearance and his normal per diem rate for time actually spent, as outlined in Section 8-1.

Section 8.5: **Notification.** The Police Officer shall be required to:

- A. notify the Chief of Police at least five (5) working days prior to the day such appearance is to be required, or as soon as possible:

- B. provide the subpoena to the Chief of Police prior to the scheduled appearance, if one is issued:

C. cooperate with the Chief of Police in requesting excuse, delay or rescheduling the time for such appearance, where the absence of such Police Officer will adversely affect the operation of the Police Department: and

D. the Police Officer will report back for work on any day when excused.

ARTICLE IX. OVERTIME

Section 9.1: Time and One Half. Overtime pay at the rate of time and one-half (1 ½) the regular hourly rate of pay shall be paid to the Police Officers when required to work over a forty (40) hour work week.

Section 9.2: Mileage Reimbursement. If any Police Officer is required to use his personal automobile for official business, the Town shall reimburse said Police Officer on a per mile basis calculated at the established Internal Revenue Service rate in effect on January 1st of each year. The Town shall assume liability for the operation of said personal automobile during its use on official business.

Section 9.3: Work Week. Police Officers shall work a forty (40) hour week except in the event of strikes, riots, conflagrations or occasions when large crowds shall assemble, or any other emergency determined to be such by the Chief of Police, in which event said Police Officer shall be compensated in the manner described.

Section 9.4: Compensation Time. In lieu of overtime pay, a Police Officer shall have the option of receiving earned compensatory time off at the rate of time and one-half (1 ½). Compensatory time off may be taken in the minimum amount of one-half hour at the discretion of the Chief of Police or his designee. In the event a Police Officer's earned compensatory time off is not taken in the year earned, he may carry such time off from year to year....but in no event shall accumulated compensatory time ever exceed thirty-two (32) hours. If an Officer is paid for his compensatory time, it shall be at the rate earned.

Section 9.5: Overtime - Equal. The town shall make a reasonable effort to make overtime opportunities available on an equal basis to Officers capable of performing the work.

ARTICLE X. VACATIONS

Section 10.1: Schedule. Vacation periods with pay shall be granted to Police Officers in the unit covered by this Agreement as follows:

After 1 year of employment	2 weeks
After 5 years of employment	3 weeks
After 10 years of employment	4 weeks
After 18 years of employment	5 weeks

Section 10.2: **Bidding.** Vacation time shall not be accumulated or carried over. The yearly vacation period shall commence on January 1st and end on December 31st of the same Calendar year.

Police Officers shall be allowed to bid for vacation time during the last week of the Calendar year where said week laps over into the ensuing Calendar year.

Section 10.3: **Vacation Week.** For purposes of vacation, a vacation week shall commence at 7:00 am on any given Monday.

Section 10.4: **Unused Vacation.** In the event any Police Officer has unused vacation at the time of his retirement, or upon his death, he, in the event of his retirement, or his estate, in the event of his death, shall be entitled to a sum of money which is equal to the sum that such Police Officer would have been paid had he used that vacation time.

Section 10.5: **Allotment.** All Police Officers shall submit their vacation requests to the Chief of Police or his designee on December 1st of each year. Not more than two (2) Police Officers will be allowed on vacation during any given week. In addition, not more than one (1) Lieutenant and one (1) Detective will be allowed to take vacation during a given period.

Section 10.6: **Seniority.** Where two (2) or more requests for the same week are submitted, seniority shall determine the selection of Police Officers to that vacation period.

During the week in which the annual convention of the Police Conference of the State of New York is held, not more than two (2) Officers shall be allowed vacation leave. The two (2) Officers who are allowed to be on vacation during the convention week may be a combination of, a Detective and a Police Officer, or two Police Officers. This selection shall be determined by overall departmental seniority.

Section 10.7: **Bidding Rotation.** All Police Officers must bid their vacation period within two (2) working days after the Police Officer preceding him on the seniority list has made his bid. If an Officer is on vacation or sick leave, he shall arrange to have his selection made on his behalf. The most senior Police Officer must bid within two (2) working days after the posting of the vacation schedule which shall be posted on December 1st of each year. If an Officer is incapacitated, the effect of the delay will be discussed by the Association and the Chief.

Police Officers shall bid their vacation requests in increments which shall be no longer than two (2) weeks.

Section 10.8: **Additional Days.** An Officer may extend his vacation two (2) additional days during January through April and one (1) additional day during May through December, provided the Chief of Police approves. The Chief of Police may, at his discretion, allow one (1) additional day off during the May through December period. Such time off may only be approved if the requesting Officer has compensatory time off standing to his credit.

A request to extend vacation will not take precedence over other requests for time off, unless such request has been made prior to the posting of the work schedule.

Granted time off will be deducted from the Officer's accumulated compensatory time standing to his credit.

Section 10.9: Qualification. To be eligible for vacation benefits in any Calendar year during the term of this Agreement, the Police Officer must not have been absent from duty for more than one hundred twenty (120) days, exclusive of sick leave time, during the twelve (12) month period immediately preceding the beginning of the vacation period in a given year (January 1st).

Section 10.10: Vacation Sell Back. A Police Officer may notify the Chief of Police in writing if he or she desires to sell back to the Town up to ten (10) vacation days. Said notification shall be made prior to March 1st of the current year. Payment for any vacation days sold back to the Town shall be made on the first pay day following notification.

Section 10.11: Single Days. A Police Officer will be allowed to use up to two (2) weeks of vacation leave in single day increments, subject to prior approval by the Chief of Police or his designee.

ARTICLE XI. HOLIDAYS

Section 11.1: Schedule. In addition to regularly scheduled days off, every Police Officer in the unit covered by this Agreement will be entitled to the following holidays with full pay:

- | | |
|--------------------------|---------------------------|
| A. New Year's Day | H. Labor Day |
| B. Lincoln's Birthday | I. Columbus Day |
| C. Washington's Birthday | J. Veteran's Day |
| D. Good Friday | K. Thanksgiving Day |
| E. Easter Sunday | L. Christmas Day |
| F. Memorial Day | M. Election Day |
| G. Independence Day | N. Martin Luther King Day |

Section 11.2: Unused Holiday. Members of the Association shall notify the Chief of Police by December 15th if they request reimbursement for any unused holiday credits provided in Section 11-1.

Section 11.3: The holidays of Christmas and Thanksgiving shall be established as Super Holidays. An officer working between the hours of 6:00:01 a.m. on said holiday and 7:00:00 the following day/date shall receive compensation at a rate of one and one-half (1 ½) his

or her normal hourly rate, for hours actually worked. Any member working overtime due to call-in shall receive pay at a rate of time and one-half (1 ½) for hours actually worked.

ARTICLE XII. MEDICAL INSURANCE

Section 12.1: Health Insurance. The Town shall provide, at no cost to the police officer (except as set forth herein), coverage under the following medical insurance policies in accordance with the terms and conditions set forth below:

Blue Cross/Blue Shield PPO881 coverage (with National Access Coverage) that is in effect on June 1, 2008 with prescription drug coverage of \$1/10/25. New hires only shall have the option of selecting Blue Cross/Blue Shield PPO881 or Community Blue POS-203 with prescription drug coverage of \$1/10/25 as set forth below:

New Hires:

Option 1:

If the new employee chooses the medical insurance with the most costly premiums, he shall contribute 10% towards his or her premium for health insurance for the first five (5) years of employment. In year six (6) through ten (10) the employee shall contribute 5% towards his or her premium for health insurance. Beginning the first of the month of the eleventh (11th) year of employment, he or she shall be entitled, without contribution, to the same medical insurance plan as the employees hired before _____ (date of this agreement here). New employees choosing this option may switch to Option 2 during any open enrollment period in which event the terms of Option 2 shall then apply, credit being given for the years he or she participated in this option.

Option 2:

If the new employee chooses the least costly plan (currently the POS-203 Plan), they shall be entitled to medical coverage as set forth in said plan, with \$1/10/25 prescription, without contribution by said employee, for the first ten (10) years of employment. Beginning the first of the month of the eleventh (11th) year of employment, he or she shall be entitled, without contribution, to the same medical insurance plan as the employees hired before _____ (date of this agreement here). New employees choosing this option may switch to Option 1 during any open enrollment period, in which event the terms of Option 1 shall then apply, credit being given for the years he participated in this option.

To the extent permitted by law, these contributions shall be made by pre-tax payroll deduction, and/or, at the employee's option, on a pre-tax basis through the IRC Section 125 Flexible Spending Plan.

In the event that the health insurance company unilaterally changes the coverage in the above plans, including the drug formulary, the Town is not responsible to maintain the removed or altered coverage. Notwithstanding the foregoing, the Town will not request any changes in coverage. If the health insurance carrier no longer makes available the \$1/10/25 drug coverage, the Town will purchase the prescription drug levels most equivalent (but not worse when the plans are viewed in their totality) to the current level of benefit coverage offered by the health

insurance carrier. If the Union disagrees that the prescription drug coverage is most equivalent, the issue is subject to the grievance and arbitration procedure.

For employees whose spouses do not qualify for the benefits provided under Section 12-4 of this Agreement, in the event of death of an active Town employee receiving coverage under this section including employees on leave (disability or 207-c or other leave), such coverage will be extended four (4) months to the employee's surviving spouse.

Any officer having dependent children and in turn carrying family medical coverage may enroll his or her domestic partner in said family plan in accordance with and to the extent permitted by the NYS Domestic Partner criteria and the guidelines set forth by the insurance provider. In the event the officer has no dependent children, said officer should retain single coverage and pay any difference in premium to include domestic partner coverage.

Health Reimbursement Account (105-h)

The Town shall provide a 105(h) - Health Reimbursement Account, debit card of one hundred (\$100) dollars per month for each full-time employee who is employed by the Town and is receiving Town health insurance. The effective starting date of the 105(h) - Health Reimbursement Account shall be the first of the month that the terms of the tentative agreement have been ratified by both the parties and the terms become effective including the adoption of the 105(b) plan document, which shall be accomplished as soon as possible, but in no event later than thirty (30) days following such ratification. Any unused amount(s), remaining balance(s) at the end of each month on the employee's debit card will be carried over to the next month or the next calendar year should there be any unused amount(s), remaining balance(s) on December 31st. The Health Reimbursement Account may be used by the employee for any expenses outlined in the 105(h) plan document. All retired officers shall continue to have access to the accumulated balance in their 105-h account for the purposes set forth in the established 105-h plan.

IRC Section 125 Flexible Spending Account

The Town shall provide an IRC Section 125 Flexible Spending Account program allowing for employee contribution as provided by the plan on a pre-tax basis.

In the event an officer chooses to retain medical coverage through his or her spouse or partner, other employment of the employee or a private insurance plan, the officer shall be compensated as follows;

Family Plan - \$2400.00 annually/\$200.00 monthly

Single Plan - \$ 800.00 annually/\$100.00 monthly

The officer shall notify the town, in writing, during the Town's annual option period, and shall provide written verification of medical coverage elsewhere. The officer will have his or her full benefits restored as a result of death of dependent, a court action requiring him or her to do so, loss of dependent benefit or other employment or private insurance or at said time the officer chooses to do so in conjunction with the town's annual option period, to be effectuated as soon

as possible, but in no event later than the first pay period of the month following his/her election to return to Town coverage. At said time, the officer, if a new hire within the meaning of this Article, shall have his or her choice of said health insurance plans that are set forth in Section 12-1. Benefits contained herein shall be made at the first pay period following the effective date of the annual option period ending, as the case may be, and shall be pro-rated on a monthly basis.

The Town reserves the right to change health insurance plans and/or companies but not before consultation and discussion with the Union at least 90 days before such change, and provided the new plan is equivalent or better in coverage, which determination shall be made with consideration given to any commitment by the Town to self-insure certain benefits. If the Union disagrees that the plan is equivalent or better, the issue is subject to the grievance and arbitration procedure. A Police Officer shall not be provided with health insurance coverage by the Town if the Police Officer is provided with equivalent coverage elsewhere, without cost to the Officer. If said insurance is terminated, the Officer will be provided coverage as provided herein. The Town shall have the option of providing two (2) single health insurance policies instead of a family plan, for married employees who have no dependant children when permitted by the health insurance company. In the event a family plan is needed due to dependents, the change from single to family will be accomplished as soon as possible.

Miscellaneous Provisions:

(A.) The Traditional Blue Cross Blue Shield plan shall be provided at no cost to any Officer hired prior to January 1, 1999 with a prescription copy of \$1/10/\$25, who is enrolled in said plan no later than December 31, 2001.

(B.) The Traditional Blue Cross Blue Shield plan shall be provided to all Officer's hired prior to August ____, 2009, pursuant to the provisions of Option 1, however, in the event such Officer should choose to enroll in the Traditional Blue Cross Blue Shield plan after January 1, 2002 but prior to June ____, 2009, he or she will pay the difference in cost between the highest cost HMO and the Traditional plan, except as provided in paragraph C below.

(C.) The Traditional Blue Cross Blue Shield plan shall be provided to all members upon retirement at no cost to any Officer hired prior to January 1, 1999. In the event that an Officer, hired after January 1, 1999, should choose to elect the Traditional Blue Cross Blue Shield plan upon retirement, he will pay the difference between the highest cost HMO and the Traditional plan. The benefits of this paragraph are pursuant to the provisions contained in Option 1 and Section 12-3.

(D.) In the event the Town should want to adopt HMO plans that are one (1) level below the highest cost HMO's available, and self insure for the difference in coverages provided, the PBA agrees to open negotiations during the term of this agreement for the purpose of establishing a claims procedure of the self insured portion of benefits. In no event will the benefits be less than those currently enjoyed.

(E.) The Town shall make available Domestic Partner Coverage

Section 12.2: Dental Insurance. Effective immediately, the Employer agrees to provide, at no cost to the employee, coverage under the CSEA Employee Benefit Fun Horizon

Dental Plan or, if such plan is eliminated, an equivalent plan. In the event that the insurer unilaterally changes the coverage, the Town is not responsible for maintaining the removed or altered coverage. Notwithstanding the foregoing, the Town shall not request any changes in coverage. The Town reserves the right to change dental insurance plans and/or companies but not before consultation and discussion with the Union at least 90 days before such change, and provided the new plan is equivalent or better in coverage, which determination shall be made with consideration given to any commitment by the Town to self-insure certain benefits. If the Union disagrees that the plan is equivalent or better, the issue is subject to the grievance and arbitration procedure.

Section 12.3: Retirement. A Police Officer who retires from this department with a New York State service or work related disability pension, (not a resignation or discharge), shall continue to receive, at no cost to the Police Officer, health insurance as provided in Section 12-1 until such member becomes eligible for Medicare, but not before age 65. In the event a member is not eligible for Medicare by age 65, the provisions of this section shall be provided until such member becomes eligible for Medicare. For continued health insurance coverage as provided in Section 12-1 after the age of sixty five (65), the Police Officer's remaining unused sick leave days, as provided in Section 15-7, computed at his daily rate of pay at the time of his/her retirement shall be used to pay the monthly premium rates. This benefit may be deferred, at the Police Officer's request, until notice to the Town of Orchard Park to commence this benefit on the first day of the month following. The benefits of this section (12-3) shall be provided for the surviving spouse of a retired Officer until the spouse remarries or during such time as she is provided with equivalent coverage; but such benefit will only be provided to the Officer's 65th birthday, at which time the benefit will be continued by applying the value of the deceased retiree's accumulated sick time. Retired employees who, as active employees were contributing toward their monthly health insurance premiums, shall continue to do so during retirement, provided that they so contribute, in total (during employment and retirement), only for the number of years, and at the same percentage as set forth under Section 12-1 of this Agreement. All retired officers shall continue to have access to the accumulated balance in their 105-h account for the purposes set forth in the established 105-h plan.

Section 12.4: Surviving Spouse. The benefits provided for in Section 12-3 shall be provided for the surviving spouse of a Police Officer who has completed twenty (20) years of service with the Town, however had not retired prior to his or her death. Said coverage may be suspended during such time as he or she is provided with equivalent coverage or is remarried.

Section 12.5: Retirement Prior to February 28, 2011.

Any officer giving notice by December 31, 2010 that he will retire no later than February 28, 2011 shall be granted, by the Town, a one-time lump sum of \$1,200 that shall be paid into his 105-h account. This provision is not intended to survive the expiration of the collective bargaining agreement on December 31, 2010.

ARTICLE XIII. LIFE INSURANCE

Section 13.1: **Schedule.** The Town shall provide twenty thousand dollars (\$20,000.00) group term life insurance for every Police Officer in the unit covered by this Agreement, at no cost to the Police Officer. Police Officer's shall have the option to convert to Family Whole Life Policy at the Police Officer's expense.

ARTICLE XIV. RETIREMENT

Section 14.1: **Plans.** The Town will provide and maintain non-contributory retirement plans pursuant to the following provisions of the New York State Retirement and Social Security Law: the benefits provided in Section 384 (f), (g) and (h), commonly known as the 1/60th 25 Year Retirement Plan; the benefits pursuant to Section 375 (I) commonly known as the Improved Retirement Benefits; the benefits provided pursuant to Section 3.02 (9)(d); and the benefits pursuant to Section 384 (d) more commonly known as the 20 Year Retirement Plan; Section 384 (e) more commonly known as the 1/60 20 Year Plan; and the benefits pursuant to Section 443 (f) more commonly known as the final year average salary plan.

Section 14.2: **Open Window 384 (e).** Section 384 (e) shall be available to eligible Police Officers for enrollment between 12/31/94 and 12/31/95. (effective January 1, 2003 section 14-2 shall be removed from the collective bargaining agreement and all the benefits of section 14-1 shall be provided to all members).

ARTICLE XV. SICK LEAVE

Section 15.1: **Accumulation.** A Police Officer in the unit covered by this Agreement shall earn sick time allowance for illness at the rate of one and one-half (1 ½) days per month, which sick time shall be accumulated to a maximum of two hundred twenty (220) days.

Section 15.2: **Disposal of Sick Leave Credits.** Disposal of Sick Leave Credits: In order to qualify for any sick leave benefit, a Police Officer who is unable to report for duty by reason of illness or physical disability shall immediately and not less than two (2) hours prior to his scheduled tour of duty, notify the Police Department of that fact and shall state the nature of his illness or disability. When the Police Officer is unable to report in his own behalf, a responsible person may make the report.

Every absence in excess of three (3) days shall be certified by a licensed physician, said certification to be presented to the Chief of Police or his designee. Prior to returning to work, after any sick leave in excess of three (3) days, the Police Officer shall present a release from a licensed physician indicating his ability to perform his required duties. In the absence of such said report, unless waived by the Chief of Police for good cause, time lost shall not be considered sick leave, and such Police Officer shall receive no benefits therefor.

Section 15.3: **Abuse.** Any abuse of sick leave privileges shall result in appropriate disciplinary action.

Section 15.4: **Workman's Compensation.** Police Officers in the unit covered by this Agreement, who are required to attend Worker's Compensation hearings during hours when they are on duty, shall do so without loss of salary and without charge to sick leave.

Section 15.5: **207C.** Work related sick leave benefits shall apply to Police Officers in the unit covered by this Agreement to the extent required by Section 207-c of the General Municipal law. Where a work related injury resulting in disability occurs an injured employee shall have available to him, in addition to the benefits provided by Section 207-c of the General municipal Law, all other contractual benefits which would have been available to him had his disability arisen off the job.

Section 15.6: **Illness in Immediate Family.** : Illness in Immediate Family: Leave of absence with pay not to exceed three (3) days per year, non-accumulative, to be applicable to sick leave benefit for illness in immediate family. Immediate family for the purpose of this paragraph shall include spouse, son, daughter and step children. A mother and father who reside in the Police Officer's household shall also be included for purposes of this section. A Police Officer who is unable to report for duty by reason of illness in the immediate family shall immediately, and not less than, one (1) hour prior to his or her scheduled tour of duty, notify the Police Department of that fact and shall state who in the family is ill and in need of his or her attention.

Section 15.7: **Sick Leave Redemption.** Sick Leave Redemption: At the time when a Police Officer retires, the Officer shall be compensated for Seventy Five (75%) of the Officer's accumulated sick time as provided for in Section 15-1. At his or her choice, the officer may choose to have said funds payable as follows:

- a. 100 % or any portion thereof payable upon retirement
- b. Any portion diverted to January of each year, of a two year period, following his or her retirement year.

The value of the Officer's remaining sick time, Twenty Five percent (25%), shall be applied to continue health insurance after the age of sixty-five (65) as provided in Section 12-3. The Benefits provided herein shall be available to an officer's surviving spouse of an officer who had completed fifteen (15) years of service.

ARTICLE XVI. PERSONAL LEAVE

Section 16.1: **Schedule.** Non-cumulative personal leave of not more than four (4) days annually, with full pay will be granted to each Police Officer in the unit covered by this Agreement for personal business not specifically covered elsewhere in this Agreement. Personal business shall be deemed to include only business of such nature that it can not be conducted at a time other than such Police Officer's regularly scheduled working hours.

Applications for such personal leave shall be submitted to the Chief of Police not less than three (3) days prior to the requested absence except in cases of emergency. Not more than one (1) Police Officer in the unit covered by this Agreement shall be granted personal leave in any twenty-four hour period unless such limitation is waived by the Chief of Police. The Town

agrees that personal leave shall be granted as requested for whatever reason except where valid emergencies exist not permitting same.

Section 16.2: **Unused.** Personal leave days not used may be added to accumulated sick leave.

Section 16.3: **Units.** Personal leave may be utilized in units of not less than four (4) hours.

Section 16.4: **Reduced Schedule Abatement Days.** Reduced Schedule Abatement - Personal Leave Days: Subject to the provisions contained in section 16-1, 16-2 and 16-3, in addition to the personal leave days set forth in section 16-1, two (2) additional days effective January 1, 2002 and two (2) additional days effective January 1, 2003, for a total of four (4) days, will be granted annually to each Police Officer in the unit covered by this agreement. In the event that the PBA and Town agree to a reduced working days schedule, (a schedule consisting of fewer working days than a five (5) days on two (2) days off schedule), this section 16-4 shall be eliminated effective the end of the year of implementation of the reduced working days schedule. In the event a reduced working days schedule is implemented on a date other than January 1, the personal leave days provided herein will be prorated for the period of time in which the new schedule is not implemented.

ARTICLE XVII. DEATH IN FAMILY

Section 17-1: Leave of absence with pay, not to exceed four (4) consecutive days from date of death, will be granted to Police Officers in the unit covered by this Agreement in the event of a death occurring in such member's immediate family. Immediate family, for the purpose of this paragraph shall include parent, parent in-law, spouse, son, daughter, step-children, brother, sister, grandparent, grandparent in-law, grandchild, brother in-law, sister in-law, son in-law or daughter in-law.

Section 17.1: **Definition.** For any out of state death in the family, as enumerated in the above paragraph, one (1) day travel time with pay will be granted.

Section 17.2: **Travel Day.** Death benefits: The Town hereby agrees that Section 208(b) of the General Municipal Law is hereby adopted by the parties and made part of this Agreement.

ARTICLE XVIII. NON-CIVIL SERVICE VACANCIES

Section 18.1: **Posting.** The Town shall establish qualifications for non-civil service job classifications created after the effective date of this Agreement. When the Town determines that a vacancy exists in such non-competitive job classification, notice of such vacancy will be conspicuously posted for a period of at least ten (10) calendar days for the purpose of providing Police Officers of qualified rank to indicate their desire to be considered for the filling of such vacancy. Such Police Officers shall so indicate by affixing their names to such posting. Such vacancies shall be filled by appointing Police Officers possessing the necessary qualifications and experience.

ARTICLE XIX. TOURS OF DUTY

Section 19.1: Bidding. Each Officer shall bid his tour of duty and days off based upon department seniority and on a semi-annual basis as provided:

September - February

March - August

Day off requests and approvals shall be posted at least forty five days in advance of the beginning of the month requested. Any new appointee who completes his training during a half-year shall bid his or her schedule, based upon seniority, by filling any deleted schedule that would have been filled. The DARE Officer shall bid the OPPD schedule in accordance with departmental seniority and shall work said schedule when not assigned as DARE. Police Officers bidding vacation or relief schedules shall cover all vacation and day off schedules. Police Officers working regular tours of duty shall not be required to work a relief tour until all relief Police Officers are assigned. .

Section 19.2: Shift Trading. Shift Trading: Police Officers within the bargaining unit may trade shifts with each other. Also Detectives within the bargaining unit may trade shifts with another Detective. A notice of the trade shall be submitted to the Chief of Police or his designee at least twelve (12) hours prior to the trade taking place. Said notice shall contain the signatures of each person involved. These trades shall be made with the understanding that for the purpose of computing overtime and shift differential, all hours worked pursuant to this trade shall be considered as hours worked by the Officer originally scheduled to work such hours. The Officer actually working waives any consideration of such hours for overtime compensation. An Officer shall not work, as a tour of duty due to a shift swap, more than two (2) 16 hour periods during a work week. It is agreed that shift swapping, which results in a sixteen (16) hour period shall not occur on consecutive days. Police Department required or sponsored activities, in addition to an Officer's normal tour of duty, shall not be considered in conjunction with any shift exchange and in particular the "consecutive days" requirement.

Section 19.3: Scheduling - OPPD12

Bid - Biannual based by unit, then seniority

3 week blocks as follows:

Week 1: 3 days on (36 hours) - 4 days off

Week 2: 3 days on (36 hours) - 4 days off

Week 3: 4 days on (48 hours) - 3 days off

Complete details shall be determined in committee form such as the application of holidays, comp time, personal leave time, vacation, etc. The Town and the Union expressly agree that the foregoing schedule represents and is intended to be a 21-day work period within the meaning of Section 7(k) and that, accordingly, upon establishment of the OPPD12 schedule and for the

duration of the OPPD12 schedule, employees shall not be statutorily entitled to overtime pay except insofar as they work in excess of the Section 7(k) threshold. Notwithstanding the foregoing, for the duration of the OPPD12 schedule, employees shall be entitled to overtime or compensatory time under Article IX of this Agreement to the extent that they work in excess of 36 hours in Week 1, 36 hours in Week 2, or 48 hours in Week 3.

The PBA shall establish a committee of five members (three appointed by the PBA, and two appointed by the Chief) which would include the Chief of Police or his designee. The committee shall discuss issues brought forth in relation to OPPD12. No grievance may be filed until this committee has made a recommendation to resolve the issue.

Either party may opt out of the OPPD12 schedule and revert back to the schedule that was in place on January 1, 2008, upon 90 days' notice, but in no circumstances sooner than the next bidding process. If either party opts out, the parties will revert back to the prior schedule at the start of the next bidding period. If neither party gives notice of the intent to opt out by August 29, 2010, the OPPD 12 shall become permanent.

ARTICLE XX. CHANGE OF SCHEDULE

Section 20.1: **Exceptions.** Officers in the unit covered by this Agreement shall not be required to change the working schedule they have chosen in the manner provided for herein, except in the event of strikes, riots, conflagrations or occasions when large crowds shall assemble, or any other emergency determined to be such by the Chief of Police.

ARTICLE XXI. OUT OF RANK PAY

Section 21.1: **Compensation.** In the event that a Police Officer in the unit covered by this Agreement is specifically assigned by the Chief of Police and/or the Town to a higher classification on a temporary basis, such Police Officer will be compensated for all time actually worked in such higher classification at the minimum rate of such higher classification. Unless so specifically assigned to such higher position, a Police Officer shall not be accountable for all of the responsibilities of such higher position.

ARTICLE XXII. IN-SERVICE TRAINING

Section 22.1: **Compensation.** Any member of the bargaining unit specifically required to attend in-service training (i.e., training under the direction of the Town of Orchard Park Police Department) shall be compensated for such time at his regular straight time rate of pay if the training takes place during the regularly scheduled tour of duty, and at the rate of time and one-half (1 ½), if the in-service training takes place during the Officer's off duty hours.

ARTICLE XXIII. ARTICLE XXIII - CLOTHING ALLOWANCE

Section 23.1: **Uniform.** The following articles of clothing shall be furnished and issued by the Town for each uniformed Police Officer in the unit covered by this Agreement and replaced by the Town when deemed necessary by the Chief of Police:

- A. 3 winter and 3 summer shirts and patches;

- B. 4 pairs trousers;
- C. 1 winter jacket;
- D. 1 light weight jacket;
- E. 1 raincoat;
- F. 3 ties;
- G. 1 hat;

Section 23.2: **Damaged.** Non-uniformed Police Officers in the unit covered by this Agreement shall be compensated for clothing actually damaged or destroyed while in the course of their duties and as a result of carrying out same.

Section 23.3: **Allowance.** Every Police Officer in the unit covered by this Agreement shall receive a supplemental annual uniform allowance consisting of \$475.00. Starting in 1996 the uniform allowance shall be \$525.00.

Section 23.4: **Pro Rated.** New hires and Officers terminating employment with the Town shall receive a clothing allowance prorated on a monthly basis for that calendar year.

Section 23.5: **Payment.** Said clothing allowance shall be payable in a lump sum payment the first pay period in March.

ARTICLE XXIV. EQUIPMENT ALLOWANCE

Section 24.1: **Schedule.** The following equipment shall be purchased and provided by the Town and replaced when deemed necessary by the Chief of Police:

- A. Revolver and ammunition;
- B. Holster and belt;
- C. Cartridge case;
- D. Whistle;
- E. Flashlight and batteries;
- F. Night stick;
- G. Handcuffs & handcuff carrying case;
- H. Badge & Shield
- I. Collar insignia.

ARTICLE XXV. EDUCATION OPPORTUNITIES AND TUITION REIMBURSEMENT

Section 25.1: **Tuition, Books, Fees.** The Town shall pay the full cost of tuition, books and fees only, for Officers specifically authorized by the Town Board (the denial of which authorization shall not be subject to the grievance procedure herein) to attend schools or seminars relating to police service courses, provided:

A. Officers shall advise the Chief of Police, in writing as to their desire to attend such courses and details as to the nature of such courses, and the dates, times, places, and costs of such course, and

B. Officers shall submit to the Board appropriate documentary evidence of the costs of tuition, books and fees for such courses.

Section 25.2: **Notification.** Notification of such courses shall be posted in order to provide the Police Officers in the unit covered by this Agreement with the opportunity to advise the Town of their interest in being considered for such courses.

ARTICLE XXVI. ASSOCIATION RIGHTS

Section 26.1: **Time.** The representative of the Association who is designated or elected for the purpose of adjusting grievances or assisting in the administration of this Agreement shall be granted a reasonable amount of time from his regular duties for the purpose of processing grievances on behalf of Police Officers in the unit covered by this Agreement. The PBA President may attend meetings of the Western New York Police Association, held in Erie County, without loss of any wages or benefits, unless departmental manpower requirements prevent same. Approval for such time off shall be cleared and received from the Chief of Police.

Section 26.2: **Conventions, Conferences.** Two members of the Association designated to represent its members shall have the right to attend state wide conventions and meetings of the Police Conference and shall be allowed three (3) days per year without loss of pay for the purpose of attending same. If an Officers scheduled tour of duty includes all four (4) days of the conference he shall be entitled to four (4) days without loss of pay or benefits. The Town agrees to pay the necessary and ordinary expenses incurred by such delegates. Such Police Officers shall obtain approval one (1) week in advance from the Chief of Police for such attendance so as to allow for efficient operation and schedule adjustment.

Section 26.3: **Bulletin Board.** The Association shall have the right to post notices and communications limited to Association business on a bulletin board designated by the Town for such purposes at a location agreed upon by the Town and the Association on the premises and facilities of the Police Department. Each notice or communication must be signed by an Officer of the Association before posting.

ARTICLE XXVII. DUES DEDUCTION

Section 27.1: **Authorization.** The Town agrees to deduct from the salaries of the Police Officers in the unit covered by this Agreement on the Police Department payroll, the dues of the Association, as such Police Officers individually and voluntarily authorize in writing.

Section 27.2: **Dues Amount.** The Association shall certify to the Town, in writing, the current rate of its membership dues: in the event of any change of the rate of its membership dues during the duration of this Agreement, the Association shall give the Town thirty (30) days notice prior to the effective date of such change.

Section 27.3: **Schedule.** Deductions referred to in the paragraph above shall be made biweekly commencing with the first pay period following the effective date of this Agreement and in every pay period thereafter during the term of this Agreement. No later than thirty (30) days prior to the first such period, the Association shall provide the Town with a list of, and the original signed payroll deduction authorization cards of, those Police Officers in the unit who have voluntarily authorized such dues deductions for the Association.

Section 27.4: **Additional Deductions.** Additional deduction authorizations submitted at least thirty (30) days prior to any pay period shall be honored and deductions shall be made accordingly.

Section 27.5: **Transmitted Quarterly.** The Town shall transmit to the Association all dues deducted on a quarterly basis.

Section 27.6: **Save Harmless.** The Association shall defend and save the Town harmless against any and all claims, suits or other forms of liability that shall or may arise by reason of action taken or not taken by the Town to comply with the terms hereof, or in reliance on a certification issued by the Association.

Section 27.7: **Agency Fee.** Any present or future employees represented by the Town of Orchard Park Police Benevolent Association who are not Association members and who do not make application for membership, shall have deducted from their wage or salary after completion of their probationary period, the amount equivalent to the dues levied by such employee organization. The Town shall make such deductions and transmit the sum so deducted to such employee organization, provided, however, the employee organization has established and maintained a procedure providing for the refund to any employee demanding the return of any part of an agency shop fee deduction which represents the employee's pro rata share of expenditures by the organization in aid of activities or causes only incidentally related to terms and conditions of employment.

The employee organization shall indemnify and hold harmless the Town and its Officials or employees from any cause of action, claim, loss or damages incurred as a result of the Town's deduction of an agency fee from any employee. The employee organization shall have no right or interest in any agency fee deduction until such collected monies are actually paid to the employee organization. Upon the forwarding by mail of payment of the agency fee deduction to the last known address of the employee organization, the Town, its Officers and employees shall be relieved from all liabilities to deduct such fees and deliver such deductions to the employee organization.

ARTICLE XXVIII. MISCELLANEOUS PROVISIONS

Section 28.1: **Legislative Action.** IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING

LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

Section 28.2: **Whole Agreement.** This Agreement may not be modified in whole or in part by the parties except by an instrument in writing duly executed by both parties and no departure from any provision of this Agreement by either party or their Officers, agents, representatives or members of the negotiating unit shall be construed to constitute a continuing waiver of the right to enforce any provision of this Agreement.

Section 28.3: **State/Local Benefits.** The Town agrees that it will not alter or revoke any benefits accruing to members under presently effective State/Local laws except to the extent modified by this Agreement.

Section 28.4: **Work Schedule Changes.** Upon posting of the work schedule by the Chief of Police, any scheduled days off granted under the provisions of the Collective Bargaining Agreement cannot be canceled by the Chief of Police. Also, said scheduled days off can not be canceled by the requesting Officer unless forty eight (48) hours notice is given. The scheduled days off shall be posted at the time of posting of the shift schedule.

Section 28.5: **Seniority.** Effective January 1, 1989, Police Officers appointed to the Orchard Park Police Department shall have their seniority based on the date of appointment to the Orchard Park Police Department.

Section 28.6: **Past Practice.** This Agreement will supersede conflicting rules, regulations or past practices, heretofore existing. Established past practices not specifically covered herein shall continue in full force and effect.

Section 28.7: **Residency.** All Police Officers shall reside within the Town of Orchard Park. After twelve (12) years of service with the Town of Orchard Park Police Department, an Officer may reside anywhere within a thirty (30) mile radius of the Police Station, excluding Canada.

Section 28.8: **Negotiations.** It is mutually agreed that the first negotiation meeting will be held no later than twenty (20) calendar days after the Town or Association receives notification of the parties intent to enter into negotiations. At this meeting each side shall set forth the sections to be revised and the proposed revisions thereto. In no event shall negotiations commence before September 1st of the termination year.

Section 28.9: **Stadium Overtime.** Stadium Overtime: Any Officer scheduled to work more than four (4) consecutive hours of overtime for a stadium event shall take pay for all time worked and not accumulated compensatory time.

Section 28.10: **Time Reimbursement.** Time Reimbursement: Any days or time sold in conjunction with the Collective Bargaining Agreement shall be based on the hourly rate as set forth in section 6-1.

Section 28.11: Chief Scheduling. Scheduling: The Chief of Police will not count as manpower. The Captain shall compliment manpower levels and will be counted as manpower. It is agreed that the Saturday minimum manpower level shall be established as one (1) less than on Mondays including a "uniformed" desk officer from the patrol division. The detective working the day shift on Saturdays shall be considered as manpower on any Saturday that precedes, falls on or follows a holiday. On any other day, Detective duties and manpower levels, as they relate to the Detective division, shall remain as they were prior to this agreement.

Section 28.12: Disability Insurance Deduction. Disability Insurance Deduction: The Town shall provide, at no tax consequence to the town, the payroll deduction services necessary for the purpose of providing disability insurance to an officer covered herein. Said deductions shall be pre or after tax dependent upon the plan agenda chosen by the OPPBA.

Section 28.13: Dispatcher Agreement. See Appendix B.

ARTICLE XXIX. DURATION AND SIGNATURE

Section 29.1: Duration. This Agreement shall become effective as of January 1, 2007, and shall continue in full force and effect until midnight December 31, 2010.

THE TOWN OF ORCHARD PARK

THE ORCHARD PARK POLICE
BENEVOLENT ASSOCIATION, INC.

By _____
Supervisor

Mary Travers Murphy John M. Mariano.

By _____
President

**APPENDIX A
DISPATCHER AGREEMENT**

1. The Town of Orchard Park (hereinafter referred to as the "Town") and the Orchard Park Police Benevolent Association (hereinafter referred to as the "OPPBA" or "Union") agree that coterminous with the collective bargaining agreement currently being negotiated, the Town may assign civilian dispatchers (hereinafter referred to as "dispatchers") to perform the work of police dispatcher/clerk, as set forth herein. The Town agrees that the performance of such work by dispatchers shall not destroy the exclusivity the Union enjoys to such work, except as set forth below in paragraph 6. Notwithstanding the above, the Town agrees that the following duties shall continue to be performed only by Police Officers:

- A. All criminal/reportable complaints and investigations that require the complaint be followed up at a later time when practicable;
- B. Handling of evidence;
- C. All test operations;
- D. All personnel complaints;
- E. All prisoner processing and handling.

2. The Town agrees to assign Police Officers to work within the Police Department while performing Police Officer duties, in their own schedule/shift whenever an Officer is recovering from a non-work-related injury or illness, provided doing so is in conformity with the orders of the Officer's physician. Should an Officer be assigned in this manner and another Officer become ill or injured, another temporary position shall be established to accommodate such Officer as follows:

(1) at any posted schedule/shift to accommodate Officers normally assigned to the midnight shift; or

(2) at a day shift or afternoon shift to accommodate Officers normally assigned to the afternoon or day shift.

3. The Town agrees that in the event of layoffs, or reduction in work force, dispatchers/clerks shall be laid off ahead of any Police Officers.

4. The Town agrees Police Officers shall not be required to work in a supervisory capacity vis-à-vis dispatchers/clerks.

5. Should a Police Officer be required to substitute for a dispatcher/clerk for a period of more than three and one half hours, the minimum manpower level shall be reduced by a corresponding amount.

6. The Town and the Union agree that the Town shall be allowed to assign one dispatcher/clerk, in accordance with this agreement, who will work together with a Police Officer on the day and afternoon shifts. Such work by the dispatcher/clerk shall in no way be construed as relinquishment of the Union's exclusivity to the work. The parties further agree the Town shall be allowed to assign one dispatcher/clerk to work alone on the midnight shift. The Union agrees that such work by the dispatcher/clerk on the midnight shift extinguishes its exclusivity to such work during such shift.

7. The parties agree that upon ratification of this agreement by the membership of the Orchard Park Police Benevolent Association it shall become part of the collective bargaining agreement.