

# Collective Bargaining Agreement

between

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SUPERVISOR'S OFFICE  
TOWN OF ORCHARD PARK

The Orchard Park Police Command  
Officers Association, Inc.

and

The Town of Orchard Park

January 1, 2011- December 31, 2015

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## Preamble

This Collective Bargaining Agreement, made this 7 day of March, 2012 , by and between the Town of Orchard Park, New York, hereinafter referred to as the “Town”, and the Orchard Park Police Command Officers Association, Inc., hereinafter referred to as the “Association”.

WHEREAS, the Association is a Police Organization composed solely of Police Lieutenants and Police Captains, hereinafter referred to as “members”, 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 Lieutenants and Captain(s) in the Town of Orchard Park Police Department as its exclusive bargaining representative, recognizes the Association as the sole and exclusive representative for all Officers above the Rank of Sergeant but below the rank of Assistant 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, evaluating, promoting and retiring of Police Officers; the suspending, discharging or otherwise disciplining of members for just cause, any reduction or increase in the working forces, the scheduling of work, assigning or directing employees in their 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 and/or the Chief of Police; provided, however, that in the exercise of such functions, the Town Board shall observe the provisions of this Agreement the proper chain of command through the Chief of Police or his designee and shall not discriminate against any member covered by this agreement or applicant for employment because of his membership in or lawful activity on behalf of the Orchard Park Police Command Officers Association, Inc.

## **ARTICLE III. - GRIEVANCE PROCEDURE**

Section 3-1: Definition: A grievance under this provision shall mean any claim by a member 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 member 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 nine (9) arbitrators for each grievance to be heard and shall utilize PERB's Voluntary Grievance Arbitration Rules to govern selection of the Arbitrator.

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 member, 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 member, 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 member 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: Members 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 member shall become a permanent part of his file.

Section 4-2: Personnel Files: Members in the unit covered by this Agreement shall have the right to view their personnel files; provided such member gives reasonable notice to the Town and views his file in the presence of the Chief of Police or his designee. Members covered by this Agreement shall have the right to initial all material in his present personnel file.

Section 4-3: 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 member employed by the Town for any negligent act or tort, provided the member, 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 member, 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: Unless otherwise agreed to by the parties, the interrogation of a member who is being investigated for disciplinary violation shall take place while the member is on duty.

Section 5-2: Identification of Investigating Officers: A member 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: A member must be informed of the nature of an investigation before any interrogation commences. The information must be sufficient to reasonably inform the member 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: A member will not be threatened with transfer, dismissal or other disciplinary action, as a means of obtaining information concerning incidents under investigation; however, it is understood that the Town may direct an employee to answer a question or be disciplined provided that the employee has been given his *Garrity* rights. A member will not be subject to abusive language or promised a reward as an inducement for answering questions.

Section 5-6: Right to Counsel: A member being questioned or under investigation has the right to have counsel and a representative of the Command Officers Association present with him during any interrogation.

Section 5-7: Recording of Interrogation: Any interrogation of a member 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: If a member is suspected in a criminal investigation, he must be advised of all his Miranda Rights.

Section 5-9: Furnishing Copies: A member 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: A member will not be given a polygraphic examination for any reason.

Section 5-11: Non-Waiver of Constitutional Rights: No member 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: 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: A member is not obligated to answer questions regarding a matter which may be the subject of criminal charges against the member.

Section 5-14: Disciplinary Charges: A member is not obligated to answer questions after disciplinary charges have been placed against the member either formally or informally regarding the matter for which charges have been placed.

## ARTICLE VI. - COMPENSATION

Section 6-1: Salary: Below are the new base rates schedule adopted which governs payment of base rates during the term of this Agreement: (The hourly rate shall be determined by dividing the annual salary by 2080).

- A). A Patrol Lieutenant shall receive an annual salary calculated at 17% above the highest salary level established for a Police (patrol) Officer in the Orchard Park Police Department. Effective January 1<sup>st</sup>, 2014 the salary calculation shall be set at 18.5% above the highest salary level for a Police (patrol) Officer. Effective January 1<sup>st</sup>, 2015 the salary calculation shall be set at 20% above the highest salary level for a Police (patrol) Officer. The highest level salary for a Police (patrol) Officer shall be established as \$70,857 or the currently effective highest salary level rate established for a Police (patrol) Officer in the Orchard Park Police Department, whichever is higher.
- B). Upon ratification of this collective bargaining agreement members shall be entitled to a one time lump sum salary payment of \$1,400.00 to be paid in the first payroll of January 2013.
- C). It is agreed that for the first year of service for any person promoted to the position of Lieutenant the rate of pay will be set at 75% of the established spread above the highest salary level established for a Police (patrol) Officer. For the second year of service for any person promoted to the position of Lieutenant the rate of pay will be set at 85% of the established spread above the highest salary level established for a Police (patrol) Officer. Beginning the third year of service and beyond for any person promoted to the position of Lieutenant the rate of pay will be set at 100% of the established spread above the highest salary level established for a Police (patrol) Officer.
- D). A Detective Lieutenant shall receive an additional salary calculated at 4.5% above the salary of the Patrol Lieutenant. Upon the completion of five (5) years of service as a Detective Lieutenant, the rate shall be increased to four and three-quarters percent (4.75%) above the salary of the highest paid Patrol Lieutenant.
- E). A Captain shall receive an additional salary calculated at 5.6% above the salary of a Detective Lieutenant.

A Detective Lieutenant'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 2011 by 260, 2012 by 261, 2013 by 261, 2014 by 261 and by 262 in 2015.

Section 6-2: Shift Differential: Any unit member working second shift (presently 3-11 or 4-12) shall be paid \$.35 per hour shift differential, and any unit member working third shift (presently 11-7 or 12-8) shall be paid \$.50 per hour shift differential for the hours worked.

The parties are working on a new work schedule. With the effective date of the work schedule COA12 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., also known as second shift. For the purposes of this section, members working 6 a.m. to 7 p.m., also known as first shift, will not receive shift differential. In the event that schedule is terminated, 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: If a member 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 at 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 member shall have the option of receiving earned compensatory time.

**ARTICLE VII. - LONGEVITY**

Section 7-1: Longevity: Each member 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. The maximum longevity payment shall be capped at \$3,001.00.

**ARTICLE VIII. - COURT TIME**

Section 8-1: Minimum: Members 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 member is not contacted within eight (8) hours with respect to a cancellation or adjournment of a scheduled court appearance, such member shall be paid for four (4) hours at his regular straight time hourly rate. The member 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 member's annual salary by 2080.

Section 8-4: Subpoenaed: Any member 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 member was involved by virtue of the performance of his duties as a member for the Town, such member 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 member 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 member will adversely affect the operation of the Police Department: and

D. the member 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 member when required to work over a forty (40) hour work week except as enumerated in section 19-3 of this collective bargaining agreement.

Section 9-2: Mileage Reimbursement: If any member is required to use his personal automobile for official business, the Town shall reimburse said member on a per mile basis calculated at the established Internal Revenue Service rate in effect on January 1<sup>st</sup> 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: Members shall work a forty (40) hour week except as enumerated in section 19-3 of this collective bargaining agreement and/or 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 member shall be compensated in the manner described.

Section 9-4: Compensation Time: In lieu of overtime pay, a member 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. A member will be allowed to maintain a compensatory time accumulation during the course of each year not to exceed two hundred and forty (240) hours. In the event a member'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 carryover ever exceed one hundred twenty (120) hours.

Section 9-5: Overtime Equal: The town shall make a reasonable effort to make overtime opportunities available on an equal basis to members capable of performing the work.

## **ARTICLE X. - VACATIONS**

Section 10-1: Schedule: Vacation periods with pay shall be granted to members in the unit covered by this Agreement as follows:

After 1 year of employment	80 hours
After 5 years of employment	120 hours
After 10 years of employment	160 hours
After 15 years of employment	200 hours

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. Members 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 Weeks: For purposes of vacation, a vacation week shall commence at 6:00 am on any given Monday.

Section 10-4: Unused Vacation: In the event any member 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 member would have been paid had he used that vacation time.

Section 10-5: Allotment: All members shall submit their vacation requests to the Chief of Police or his designee on December 1st of each year. Not more than one (1) Lieutenant and one (1) Captain will be allowed to bid the same scheduled vacation day off.

Section 10-6: Seniority: Where two (2) or more requests for the same week are submitted, time in rank shall determine the selection of Lieutenants and/or Captain(s) 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 members must bid their vacation period within two (2) working days after the member preceding him on the seniority list has made his bid. If a member is on vacation or sick leave, he shall arrange to have his selection made on his behalf. The most senior Lieutenant and/or Captain 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 a member is incapacitated, the effect of the delay will be discussed by the Association and the Chief. Members shall bid their vacation requests in increments which shall be no longer than two (2) weeks.

Section 10-8: Additional Days: A member 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 member 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 member'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 member 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 member 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 member 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 member 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 Holidays: 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: Holiday Stipend: In addition to the entitlement to the holidays listed in section 11-1, the parties agree that the Town will pay each member that is actively employed with the Town as of December 1<sup>st</sup> the following amounts:

2012:	\$3,000
2013:	\$2,500
2014:	\$2,000
2015 and thereafter:	\$2,000

Section 11-4: Holiday Hours: The hours of a unit member's holidays shall equate to the number of hours in the unit member's scheduled work day.

## **ARTICLE XII. - MEDICAL INSURANCE**

Section 12-1: Health Insurance. The Town shall provide, at no cost to the member (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 PPO811 coverage (with National Network) 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 PPO811 or Community Blue POS203 with prescription drug coverage of \$1/10/25 as set forth below:

For the duration of their employment with the Town, any employee hired by the Town after March 1, 2012 shall contribute five percent (5%) of the health insurance premium equivalent in effect each year.

Effective January 1, 2014, unit members hired by the Town prior to March 1, 2012 shall contribute five percent (5%) of the health insurance premium equivalent in effect each year.

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 member 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 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 month that the terms of the tentative agreement, between the Town and the Orchard Park Police Benevolent Association, Inc., have been ratified by both parties and the terms become effective including the adoption of the 105(h) 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 31<sup>st</sup>. 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 member shall notify the Town, in writing, during the Town's annual option period, and shall provide written verification of medical coverage elsewhere. The member will have his or her full benefits restored as a result of death of dependant, a court action requiring him or her to do so, loss of dependant benefit, or other employment or private insurance or at said time member 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 member, if a new member 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 member shall not be provided with health insurance coverage by the Town if the member is provided with equivalent coverage elsewhere, without cost to the member. If said insurance is terminated, the member 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 dependent 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. Blue Cross/Blue Shield PPO811 coverage (with National Network) shall be provided at no cost to any member hired prior to January 1, 1999, with a prescription co-pay of \$1/10/25 including the current practice of the Town's covering the difference in coverage between the PPO811 plan and Traditional Blue shall be provided upon retirement at no cost to any member hired prior to August 2009.

B. Blue Cross/Blue Shield PPO811 coverage (with National Network) shall be provided to all members upon retirement at no cost to any member hired from January 1, 1999 to August 2009. In the event that a member, hired after August 2009 should choose to elect the PPO811 plan (with National Network Coverage) upon retirement, he will pay the difference between the highest cost HMO and the PPO 811 plan.

C. 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 coverage's provided, the COA 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.

D. The Town shall make available Domestic Partner Coverage.

Section 12-2: Effective immediately the Employer agrees to provide, at no cost to the employee, coverage under the CSEA Employee Benefit Fund Horizon Dental Plan or, if such plan is eliminated, an equivalent plan. In the event that the insurer unilaterally changes 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: A member 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 member 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 member'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 member'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 member until the spouse remarries or during such time as she is provided with equivalent coverage; but such benefit will only be provided to the member'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 were hired to the department after August 2009, 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 members 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 member 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.

### **ARTICLE XIII. - LIFE INSURANCE**

Section 13-1: Schedule: The Town shall provide twenty thousand dollars (\$20,000.00) group term life insurance for every member in the unit covered by this Agreement, at no cost to the member. Members shall have the option to convert to Family Whole Life Policy at the member'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.

### **ARTICLE XV. - SICK LEAVE**

Section 15-1: Accumulation: A member 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. For the purpose of employees that work a non eight (8) hour per day schedule, sick leave days shall be converted into hours by dividing one (1) day by eight (8).

Section 15-2: Disposal of Sick Leave Credits: In order to qualify for any sick leave benefit, a member 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 member 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 member 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 member shall receive no benefits therefore.

Section 15-3: Abuse: Any abuse of sick leave privileges shall result in appropriate disciplinary action.

Section 15-4: Workman's Compensation: Members 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 member(s) 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: Leave of absence with pay not to exceed six (6) 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 member's household shall also be included for purposes of this section. A member 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. The days off shall be eight (8) hour days if the member works

an eight (8) hour schedule, ten (10) hour days if the member works a ten (10) hour schedule or twelve (12) hour days if the member works a twelve hour schedule.

Section 15-7: Sick Leave Redemption: At the time when a member retires, the member shall be compensated for seventy five percent (75%) of the member's accumulated sick time as provided for in section 15-1. At his or her choice, the member 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 (2) year period, following his or her retirement year.

The value of the member'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 a member's surviving spouse of a member 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 member 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 cannot be conducted at a time other than such member's regularly scheduled working hours. The Town agrees that personal leave shall be granted as requested for whatever reason except where valid emergencies exist not permitting same. The days off shall be eight (8) hour days if the member works an eight (8) hour schedule, ten (10) hour days if the member works a ten (10) hour schedule or twelve (12) hour days if the member works a twelve hour schedule.

Section 16-2: Unused: Personal leave days and Administrative 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 - 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 will be granted annually to each member in the unit covered by this agreement that works an eight (8) hour per day schedule. In the event that an employee move to a non-eight (8) hour per day schedule 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.

Section 16-5: Administrative Personal Leave Days: Non-cumulative administrative leave days of not more than two (2) days annually, with full pay will be granted to each member 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 cannot be conducted at a time other than such member's regularly scheduled working hours. The Town agrees that administrative leave days shall be granted as requested for whatever reason. The days off shall be eight (8) hour days if the member works an eight (8) hour schedule, ten (10) hour days if the member works a ten (10) hour schedule or twelve (12) hour days if the member works a twelve hour schedule.

## **ARTICLE XVII. - DEATH IN FAMILY**

Section 17-1: Definition: Definition: Leave of absence with pay, not to exceed four (4) days up to and including the date of the funeral, will be granted to members in the unit covered by this Agreement in the event of a death occurring in such member's immediate family. The days off shall be eight (8) hour days if the

member works an eight (8) hour schedule, ten (10) hour days if the member works a ten (10) hour schedule or twelve (12) hour days if the member works a twelve hour schedule. 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 17-2: Travel Days: 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 17-3: 208B 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 members of qualified rank to indicate their desire to be considered for the filling of such vacancy. Such members shall so indicate by affixing their names to such posting. Such vacancies shall be filled by appointing members possessing the necessary qualifications and experience.

### **ARTICLE XIX. - TOURS OF DUTY**

Section 19-1: Bidding: Each member shall bid his tour of duty and days off based upon time in rank and on a semi-annual basis with the bidding period to follow the PBA schedule bidding period as closely as possible.

Day off requests and approvals shall be posted at least forty five (45) days in advance of the beginning of the month requested.

In the event that there is a 12 hour schedule in effect, bidding shall be semi-annual.

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.

Section 19-2: Shift Trading: Members within the bargaining unit may trade shifts with each other. 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 member originally scheduled to work such hours. The member actually working waives any consideration of such hours for overtime compensation. A member 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 a member'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: - COA12

It is agreed that the members of the ASSOCIATION will work a 12 hour schedule that follows the two week rotation as indicated, with the shift times running from 6 a.m. to 6 p.m. for first shift and 6 p.m. to 6 a.m. for second shift.

It is agreed that the COA12 schedule represents an 84 hour work period every two weeks. The additional 4 hours are to be paid at the straight time rate or compensatory time off. These additional four (4) hours are part of unit members' regular schedule; as such, 84 hours shall be paid for every 14-day work period, provided the member worked the hours or took paid time off with sufficient accruals for the number of hours off."

In addition, the Detective Lieutenant will work an additional four (4) hours every two weeks, which will be paid at the straight time rate or compensatory time off, provided the COA12 schedule remains deployed.

It is agreed and understood that the initial implementation of this new schedule (COA12) shall be on a trial basis. The Command Officers Association agrees that written notice to the Town of the COA's intent to terminate this trial and revert back to the previous schedule must be provided no later than six (6) months following implementation of this schedule.

Contractual Overtime: Any time worked in excess of a 12 hour shift is to be paid at the overtime rate. Any time worked on a member's scheduled Regular Day Off ("RDO") shall be paid at the overtime rate. All forms of paid time off will be counted as hours worked for the purpose of contractual overtime.

Statutory Overtime: The Town and the Union expressly agree that the COA12 schedule represents and is intended to be a fourteen (14) day work period within the meaning of section 7 (k) of the Fair Labor Standards Act and that, accordingly, employees shall not be statutorily entitled to overtime pay except insofar as they work in excess of the section 7 (k) threshold.

The Detective Lieutenant Shall work an 8 hour per day, 40 hour per week schedule. The parties agree that following the implementation of this Agreement, the current Detective Lieutenant and Chief of Police may agree upon an alternate schedule for the Detective Lieutenant that will consist of at least 2080 hours per year. Such alternate schedule must then be approved by the Town Board and the Association. Once such an alternate schedule has been approved, it may not be changed while the current Detective Lieutenant holds that position until a new schedule is mutually negotiated and agreed upon by the parties. Any employee appointed to the position of Detective Lieutenant after March 1, 2012 shall work the eight (8) hour schedule set forth above. However, such new Detective Lieutenant shall be allowed the same opportunity to negotiate an alternate schedule set forth herein subject to the same approvals and conditions set forth above.

The ASSOCIATION and the Chief of Police shall discuss issues brought forth in relation to the COA 12 hour schedule. No grievance may be field until the ASSOCIATION and the Chief of Police have made a recommendation to resolve the issue(s).

WEEK 1							
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Platoon 1 - Days	RDO	RDO	12	12	RDO	RDO	RDO
Platoon 2 - Days	12	12	RDO	RDO	12	12	12
Platoon 1 - Nights	RDO	RDO	12	12	RDO	RDO	RDO
Platoon 2 - Nights	12	12	RDO	RDO	12	12	12

WEEK 2							
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Platoon 1 - Days	12	12	RDO	RDO	12	12	12
Platoon 2 - Days	RDO	RDO	12	12	RDO	RDO	RDO
Platoon 1 - Nights	12	12	RDO	RDO	12	12	12

Platoon 2 - Nights	RDO	RDO	12	12	RDO	RDO	RDO
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**ARTICLE XX. - CHANGE OF SCHEDULE**

Section 20-1: Exceptions: Members 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: In the event that a member 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 member 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 member 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 member's off duty hours.

**ARTICLE XXIII. - CLOTHING ALLOWANCE**

Section 23-1: Uniform: The following articles of clothing shall be furnished and issued by the Town for each uniformed member 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. 1 winter jacket;
- C. 1 raincoat;
- D. 1 hat;
- E. 4 pairs trousers;
- F. 1 light weight jacket;
- G. 3 ties;

Section 23-2: Damaged: Non-uniformed members 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 member in the unit covered by this Agreement shall receive a supplemental annual uniform allowance consisting of \$750.

Section 23-4: Pro Rated: *[New hires and]* Members 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. Service Weapon and ammunition;
- B. Ammunition case;
- C. Flashlight and batteries;
- D. Handcuffs & handcuff carrying case;
- E. Collar insignia.
- F. Holster and belt;
- G. Night stick;
- H. Badge & Shield

#### **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 members 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. Members 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. Members 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 members 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 and/or processing grievances and/or assisting in the administration of this Agreement shall be granted a reasonable amount of time from his regular duties, without loss of wages or benefits, for said purposes on behalf of members in the unit covered by this Agreement. The COA 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 a member's 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 members 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 members in the unit covered by this Agreement on the Police Department payroll, the dues of the Association, as such members 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 members 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 Command Officers 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 provisions of this agreement requiring legislative action to permit its implementation by amendment of Law or providing the additional funds therefore 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 cannot be canceled by the requesting member 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 with said seniority remaining in full force and effect as it applies to all benefits herein except as it applies to those provisions specifically identified herein which are controlled by time in rank.

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 members shall reside within the Town of Orchard Park. After twelve (12) years of service with the Town of Orchard Park Police Department, a member 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 thirty (30) 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: Any member 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: 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: Scheduling: The Chief of Police and Detective Lieutenant 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.

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 purposes of providing disability insurance to a member covered herein. Said deductions shall be pre or after tax dependent upon the plan agenda chosen by the COA.

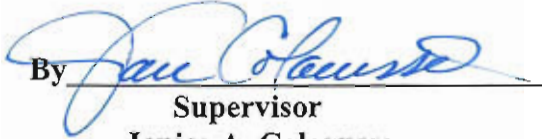
Section 28-13: Bargaining Unit Civil Service Vacancies: The Town Board will vote on a successor to any vacancy in command staff positions included in the bargaining unit within 90 days from the date of vacancy.

Section 28-14: Dispatcher Agreement: *See Appendix A.*

**ARTICLE XXIX. - DURATION AND SIGNATURE**

Section 29-1: This Agreement shall become effective as of March 2, 2012 and shall continue in full force and effect until midnight December 31, 2015.

**THE TOWN OF ORCHARD PARK**

By   
Supervisor  
Janice A. Colarusso

**THE ORCHARD PARK POLICE  
COMMAND OFFICERS ASSOCIATION, INC.**


By   
President  
Mark F. Pacholec

APPENDIX A

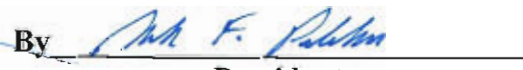
DISPATCHER AGREEMENT

1. The Town agrees to assign unit members to work within the Police Department while performing unit member duties, in their own schedule/shift whenever a unit member is recovering from a non-work-related injury or illness, provided doing so is in conformity with the orders of the unit member's physician. Should a unit member be assigned in this manner and another unit member become ill or injured, another temporary position shall be established to accommodate such unit member as follows:
  - (1) at any posted schedule/shift to accommodate unit members normally assigned to the midnight shift; or
  - (2) at a day shift or afternoon shift to accommodate unit members normally assigned to the afternoon or day shift.
2. The Town agrees that in the event of layoffs, or reduction in work force, dispatchers/clerks shall be laid off ahead of any COA members.
3. The parties agree that upon ratification of this agreement by the membership of the Orchard Park Police Command Officers Association it shall become part of the collective bargaining agreement.

**THE TOWN OF ORCHARD PARK**

By   
\_\_\_\_\_  
Supervisor  
Janice A. Colarusso

**THE ORCHARD PARK POLICE  
COMMAND OFFICERS ASSOCIATION, INC.**

By   
\_\_\_\_\_  
President  
Mark F. Pacholec