

**CITY OF MUNCIE, INDIANA
- AND -
AFSCME**

PREAMBLE

This Agreement is entered into by the City of Muncie, Indiana (hereinafter referred to as the City*) and the American Federation of State, County and Municipal Employees and Council 62, Local 3656 (hereinafter referred to as the Union*).

It is the purpose of this Agreement to maintain a harmonious relationship between the City and the Union, to provide for equitable and peaceful adjustment of differences. which may arise, and to establish wages, hours, and other conditions of employment.

The City and the Union recognize that it is in the best interest of parties. the employees, and the public that all dealings between them continue to be characterized by mutual responsibility and respect. To insure that this relationship continues and improves, the City and the Union and their respective representatives at all levels will apply the terms of this Agreement fairly in accord with its intent and meaning and consistent with the Union*s status as the exclusive bargaining representative of all employees in the bargaining unit. Each party shall bring to the attention of the employees in the bargaining unit, including new hires, their purpose to conduct themselves in a spirit of responsibility and respect and the measures they have agreed upon to insure adherence to the purpose.

The City will introduce new hires to the union representative on the job.

AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY OF MUNCIE, INDIANA, hereinafter called “the City.”

- and -

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES AND COUNCIL 62. LOCAL 3656, hereinafter called “the Union.*

ARTICLE ONE
RECOGNITION

Section 1.01 Recognition. The City hereby recognizes the Union as the exclusive collective bargaining representative of the City*s full-time employees as defined in Sections 1.02 and 1.03 hereof, for the purpose of collective bargaining with respect to wages, hours, and terms and conditions of employment.

Section 1.02 Bargaining Unit. The bargaining unit shall consist of all full-time employees of the City of Muncie, but excluding confidential, supervisory, and exempt employees defined as follows:

- (a) The term confidential* shall mean any employee whose unrestricted access to confidential personnel files or whose functional responsibilities or knowledge in connection with the issues involved in dealings between the City and its employees would make her/his membership in an employee organization incompatible with official duties. "Confidential" employees shall include, but is not limited to. Mayor*s Secretary, Deputy Mayor*s Secretary. and City Clerk*s employees, Clerks of the Court. Police Chiefs Secretary, and Fire Chiefs Secretary.
- (b) The term "supervisor* shall mean any individual having authority in the interest of City to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing of the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. "Supervisor" shall include, but is not limited to. all supervisors. managers. department heads, and assistant department heads.
- (c) The term "exempt" shall mean any employee who is exempt from the minimum wage and overtime pay requirements of the Federal Fair Labor Standards Act. The terms "employee" and "employees" as used in this Agreement mean only* those employees of the City who are in the bargaining unit defined above.

Section 1.03 Categories of Employment. For purposes of this Agreement, employees are hereby classified into the following categories:

- (a) Full-Time Employee. A full-time employee is one who is regularly scheduled to work for forty (40) or more hours per workweek and who is not a temporary employee.
- (b) Part-Time Employee. A part-time employee is one who is regularly scheduled to work for less than forty (40) hours per workweek and who is not a temporary employee.
- (c) Temporary Employee. A temporary employee is one who is hired for a specific project, a specific period of time, or to replace an employee on leave of absence, and whose employment will automatically terminate at the end of that project, period of time or other employee*s return to work.

Section 1.04 Part-Time and Temporary Employees. Notwithstanding anything in this Agreement. which could be. construed to the contrary, part-time and temporary employees shall

not be included as employees for any purpose under this Agreement.

Section 1.05 New Classifications. Any and all new job classifications in the bargaining unit shall be subject to the applicable terms and conditions of this Agreement.

ARTICLE TWO **UNION SECURITY**

Section 2.01 Open Shop. Membership in the Union is voluntary, and joining the Union is not a condition of employment. After completion of the one hundred eighty (180) day probationary period, employees become eligible for Union membership and may elect to join or not to join the Union. However, any* eligible employee who voluntarily becomes a member of the Union shall remain a member for the duration of this Agreement, except it is understood that any such employee may withdraw his/her membership at any time during the sixty (60) calendar day period immediately prior to the expiration date of this Agreement. Employees who elect not to join the Union shall not be obligated to pay any dues, fees or other amounts to the Union.

Section 2.02 No Intimidation or Coercion.

- (a) **By the City.** The City agrees that neither it nor any of its officers, supervisors agents will attempt to intimidate, threaten or coerce any employee into membership or non-membership in the Union or because of the employee*s membership or non-membership in the Union.
- (b) **By the Union.** The Union agrees that neither it nor any of its officers, agents, or members will or attempt to intimidate, threaten, or coerce any employee into membership or non-membership in the Union or because of the employee*s membership or non-membership in the Union.
- (c) **By an Employee.** No employee shall intimidate, threaten or coerce, or attempt to intimidate, threaten, or coerce any employee into membership or non-membership in the Union or because of the employee*s membership or non-membership in the Union.
- (d) **Interpretation.** The provisions of this Section 2.02 shall not be construed or interpreted as prohibiting the City, the Union or an employee from stating and explaining to any employee or employees in a courteous manner the advantages or disadvantages of Union membership and legal requirements applicable to the payment, tender or use of Union dues or initiation fees.

Section 2.03 Notice Statement. The Union shall provide in writing to the City Controller, within thirty (30) calendar days prior to the expiration of this Agreement, a listing of all employees who are members, prior to the contract ending date.

Section 2.04 Indemnification. The Union shall indemnify and save harmless the City against any and all suits, claims, demands, liabilities, expenses (including attorney fees and court

costs incurred by the City) that arise out of or by reason of any action taken by the Union for the purpose of inclusion or enforcement of this maintenance of membership clause.

ARTICLE THREE

DEDUCTION OF DUES

Section 3.01 Deduction of Dues. Upon receipt of a written, personally signed authorization form from a full-time employee who elects to pay dues to the Union pursuant to Article Three of this Agreement, the City shall deduct the dues and initiation fee payable to the Union from the wages due the employee. Such deductions shall be made monthly from the pay due to the employee on the first payday of each calendar month beginning with the first such pay period following the receipt by the City of the written authorization from the employee. By separate document, the City and the Union have agreed to the form and content of the authorization form to be used by employees for this purpose. The Union and the employee may change the amount of the initiation fee or monthly dues to be withheld from the employee*s wages by sending written notice signed by the employee to the City not less than fifteen (15) calendar days prior to the date of payment of wages from which the amount is to be deducted.

Section 3.02 Insufficient Wages. The City shall not be obligated to make any dues deductions of any kind from any full-time employee who, during any pay period involved, shall have failed to receive sufficient wages to equal the deductions required by law (including any garnishment or similar Court order), and the normal dues and initiation fee deduction. When sufficient wages are not available after allowing for deductions required by law (including garnishment or similar court order), no dues or initiation fee deduction shall occur for that pay period. If in any pay period sufficient wages are not so available for deduction of the normal dues and initiation fee deduction, the union dues and initiation fee shall be deducted in the next pay period in which sufficient wages do exist.

Section 3.03 Termination of Dues Deduction. The City shall be relieved from making such dues and initiation fee deductions from an employee upon: (a) termination of his/her employment; (b) his/her transfer or promotion to a position other than one covered by this Agreement; (c) his/her assumption of part-time or temporary employee status; (d) his/her layoff from work; or (e) his/her being on an unpaid leave of absence. Notwithstanding the foregoing, upon the return to work of the employee from any of the foregoing enumerated absences, the City will resume the obligation of making said deductions, with the exception of, there shall be no deductions for terminated employees, for employees who assume part-time or temporary employee status or for employees who are transferred or promoted to a position other than one covered by this Agreement.

Section 3.04 Sending Dues to Union. Each calendar month, the City shall remit to the Union all deductions of dues made from the wages of employees the preceding calendar month together with a list of the names of all employees for whom such deductions were made. The deducted dues and list shall be sent to: AFSCME Council 62, 1424 North Pennsylvania, and Indianapolis, Indiana.

Section 3.05 Duplicate Payment. In cases where a deduction is made which duplicates a

payment already made to the Union by an employee, or where a deduction is not in conformity with the provisions of this Agreement or the Union Constitution or Bylaws, the Union shall promptly refund the amount to the employee.

Section 3.06 City Liability. The City shall not be liable to the Union by reason of the requirements of this Article Three for the deduction, remittance, or payment of any sum other than that constituting an actual deduction made from an employee's wages earned.

Section 3.07 Indemnification. The Union shall indemnify and save harmless the City against any* and all suits, claims, demands, liabilities and expenses (including attorneys fees and any court expenses incurred by the City) that arise out of or by reason of any action taken by the City for the purpose of attempting to comply with the provisions of this Article Three.

Section 3.08 People. The employer agrees to deduct from the wages of any employee who is a member of the Union, a People deduction as provided for in a written authorization. Such authorization must be executed by the employee and may be revoked by the employee at any time by giving written notice to the employer. The employer agrees to remit any deductions made pursuant to this provision promptly to the Union, together with an itemized statement showing the names of each employee from whose pay such deductions have been made and the amount deducted during the period covered by remittance.

ARTICLE FOUR

RECOGNITION OF CITY

Section 4.01 General. Except as expressly modified by a specific provision of this Agreement, all the authority, rights and powers which the City had prior to the signing of this Agreement and prior to the inception of any relationship, legal or other, between the City and the Union and the City and Its employees are retained by the City and remain exclusively and without limitation the rights of the City and shall not be subject to the parties* grievance and arbitration procedure. Only express modifications contained in specific provisions of this Agreement constitute limitations upon such authority, rights and powers. Only those express modifications are subject to the parties* grievance and arbitration procedure. No provision or group of provisions of this Agreement and no relationship between the parties shall be construed to constitute or create any implied limitations on such authority, rights or powers of the City.

Section 4.02 Specific Rights. Examples of the authority, rights and powers which are hereby vested in the City, with only such modifications as may be expressly stated in a specific provision of this Agreement, include, but are not limited to, the following: the right to schedule, adjust and assign work and hours to employees; to direct and control the workforce; to assign and require overtime work; to determine the quantity and type of equipment to be used; to hire, promote and layoff employees; to discipline or discharge employees for just cause; to discharge probationary employees, temporary employees or part-time employees for any reason whatsoever; to utilize drug and/or alcohol screening of employees for alcohol, controlled substances, narcotics and prescription drugs whenever the City has a reasonable suspicion and to utilize such screening for applicants for employment; to utilize searches of employees* lockers, lunch boxes, purses, packages and similar containers for alcohol, controlled substances, narcotics

and prescription drugs whenever the City has reasonable suspicion: to determine the work to be done by the City's employees; to determine the job descriptions of City employees; to determine the location of facilities; to determine the size and composition of the workforce including the number of employees assigned in any particular department or job; to determine the amounts and kind of supervision necessary or desirable; to temporarily shut down City operations or a portion thereof; to establish or change work rules and safety standards, provided such rules and standards are not arbitrary or capricious: the establishment, maintenance and change of standards of quality and of performance: the determination of employee qualifications, ability and competency; the determination of the duties to be included in any job: and, to determine the creation, continuance, termination, change or consolidation of jobs or departments or of partial or total operations.

If the City does not exercise rights inserted to it, or if it exercises such rights in a particular way it shall not be deemed a waiver of the City's right to exercise such rights or of the City's right to exercise such rights in other ways not in conflict with the express terms of a specific provisions of this Agreement.

Section 4.03 Recognition of Employee's Legal Rights. In addition to the other rights expressly granted an employee under this Agreement, the City expressly recognizes the legal rights of all of its employees, including, without limitation, an employee's right to free speech. to protection under the Federal Polygraph Protection Act, to review their personnel file and other rights granted under the United States Constitution and the Indiana Constitution.

Section 4.04 Contracting Out. The City may contract out work in the event:

- (a) The work cannot be done economically, expeditiously or capably by bargaining unit employees, or
- (b) The City does not base the equipment or facilities to perform the work.

Within ten (10) working days of the tentative decision of the City, the Mayor shall: inform AFSCME a District Council 62 and Local No. 3656 of the City's decision, in writing.

Within ten (10) working days of receipt of the City's notice by the Union. representatives of the District. the Local and the Mayor, and/or his designees, shall meet and negotiate issues related to the City's tentative decision. Following this negotiation between the parties, the Mayor may declare a bargaining impasse.

The City shall submit any subcontracted work to a public bidding process and will afford the Union and employees all opportunities to participate in the bidding for any such work,

The City shall within ten (10) working days of:

- (1) The Union's notice that it does not wish to submit a bid proposal; or
- (2) The award of any bargaining unit work to a subcontractor, whichever event comes

first, negotiate the effects of the decision to contract out such work upon bargaining unit employees.

Section 4.05 Successors. This section 4.05 shall be binding upon all successors, contractors, or subcontractors to the extent permissible by applicable law.

Successors, contractors, or subcontractors shall be required to give preferential hiring consideration to employees holding positions covered by contracts entered into within the City. Any employees not selected for hire by* said successors, contractors, or subcontractors shall be given the option to exercise contractual bumping rights pursuant to Article Thirty-Five, or to undergo training by the City at no expense to the employee for positions currently open or available in the bargaining unit, or positions which become open and available following election of the employee*s option during the period of the employee*s layoff, unless otherwise mutually agreed to between the Mayor and AFSCME Council 62.

ARTICLE FIVE **RECOGNITION OF AGREEMENT**

Section 5.01 Complete Agreement. This Agreement constitutes the entire agreement between the parties. Unless expressly stated to the contrary elsewhere in this Agreement, or as required by law, the City and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively, with respect to any subject or matter referred to or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated or signed this Agreement. This Agreement may, however, be modified by mutual agreement of the parties, provided, that all such modifications are in writing and properly executed. Any amendments shall be numbered, dated and signed by the parties and shall be subject to all provisions of this Agreement.

Section 5.02 Prior Agreement; Past Practices. This Agreement supersedes and voids all prior agreements, if any, written or oral, or established by custom, practice or precedent. Further, this Agreement supersedes any* work practices or work rules in conflict with the specific provisions of this Agreement. The City agrees to meet with the Union before implementing any new work practice or work rule or changing or abolishing any work practice or work rule, prior to implementation; provided, however, the City reserves the right to make the final decision,

Section 5.03 No Interruption. Because the services performed by the employees covered by this Agreement are essential to the administration and the public welfare, the Union and each employee, individually or collectively, will not during the life of this Agreement encourage, cause, condone, support or take part in any strike, including a sympathy strike. The term "strike" includes any work stoppage, work interruption, work interference, slowdown, sickout, sit-down, sympathy strike, alleged unfair labor practice strike, picketing (informational or otherwise), boycott, refusal to cross picket lines, or any other activity or attempt at activity which could interrupt, interfere with, or limit the performance of services by any employee or by

the City, whether at the City*s primary facility or any other location. The City will not engage in a lockout during the term of this Agreement.

The City shall have the right to discipline (including discharge) any employee who instigates, participates in, or gives leadership to an action which is in violation of this Section 5.03.

Section 5.04 Union Responsibility in Case of Interruption. In the intent of a work stoppage or any other interference with the City*s business in violation of Section 5.03 of this Agreement, the Union immediately upon being notified of the violation shall exert its best efforts in good faith through its appropriate officers and representatives to cause the employees involved to return to work and to cease the interference and shall inform the City of the action taken by the Union,

ARTICLE SIX

PROBATIONARY EMPLOYEES

Section 6.01 Probationary Employees. Full-time employees shall be considered to be probationary for a period of one hundred eighty (180) calendar days, commencing with the first day of work after being last hired as a full-time employee in the bargaining unit: provided, however, any calendar day on which an employee is on layoff, on disciplinary suspension, or is absent from work shall not count as one (1) of the one hundred eighty (180) calendar days of his probationary period (e.g., if an employee is laid off for five (5) calendar days during his probationary period, his probationary period shall automatically be extended for an additional five (5) calendar days).

A full-time employee serves only one (1) probationary period even though he may change departments within the bargaining unit. However, if an employee*s full-time employment within the bargaining unit terminates for any reason and the employee is rehired as a full-time employee at a later time, he will serve a new probationary period from the date he is rehired as a full-time employee in the bargaining unit (the date of his “last hire”).

Section 6.02 Effect of Probationary Status. During the full-time employee*s probationary period, the employee shall be covered by the provisions of this Agreement except that at any time during the probationary period, the City may discipline or discharge the employee for any reason the City deems sufficient, Discipline or discharge of a probationary employee shall not be subject to the grievance and arbitration procedure. In addition, during the probationary period, the probationary employee shall not be entitled to use any vacation days, sick days, extended sick days (paid or unpaid) or personal days. In the event a probationary employee requires unpaid time off, he/she may request such time in accordance with the provisions of Article Twenty-Eight.

ARTICLE SEVEN

SENIORITY

Section 7.01 General.

- (a) **Kinds of Seniority.** Full time employees shall accrue two (2) kinds of seniority: (1) City-wide Seniority; and (2) Department Seniority.
- (b) **City-Wide Seniority.** City-wide Seniority is defined as all continuous full-time employment in a bargaining unit position beginning on the last date on which the full-time employee began to work as a full-time employee in a bargaining unit position with the following exception: in the event a full-time employee in a bargaining unit position is transferred into a non-bargaining unit position, and he/she returns to a bargaining unit position within twelve (12) calendar months following such transfer, the employee shall retain his/her previous City-wide seniority. City-wide Seniority shall not accrue in a non-bargaining unit position.
- (c) **Department Seniority: Department.** Department Seniority is defined as all continuous full-time employment in any department at the City beginning on the last date on which the employee began to work as a full-time employee in a bargaining unit position within the Department with the following exceptions: (i) in the event a full-time employee in a bargaining unit position is transferred to a non-bargaining unit position, and he/she returns to a bargaining unit position within twelve (12) calendar months following such transfer, the employee shall retain his/her previous Department seniority in all departments where the employee has worked; or (ii) in the event a full-time bargaining unit employee is transferred to another bargaining unit position within another Department, said employee's seniority in the former Department shall be frozen. Department-wide Seniority shall not accrue in a non-bargaining unit position. The term "department" throughout this Agreement shall mean the *Controller's Office, Building Commissioner's Office, Animal Shelter, Police Department (Civilian), Fire Department (Civilian), Department of Parks and Recreation, Street and Sign Department, Engineering Department, Beech Grove Cemetery, and Department of Community Development.*

Section 7.02 Existing Employees. For full-time employees employed by the City on the effective date of this Agreement, the parties by separate memorandums have agreed to each such employee's applicable and relative City-wide Seniority and Department Seniority as of the effective date of this Agreement.

Section 7.03 Termination of Seniority and Employment

- (a) **City-Wide Seniority: Department Seniority: Employment.** A full-time employee's City-wide Seniority, Department Seniority and employment shall terminate for any of the following reasons:
 - (1) If the employee resigns;

- (2) If the employee is discharged for just cause or otherwise in accordance with the provisions of this Agreement;
- (3) The employee fails to report to work on the date stated at the time of layoff or in a notice of recall which notice shall be received by the employee no later than seven (7) working days before the date the employee is required to return to work;
- (4) If an employee has the following amount of seniority and is on long-term layoff for the following period of time:

City-Wide Seniority as a Full-Time Laid Off for the Following

Employee	Period
Less than two (2~ years City-Wide Seniority	Six (6) months
Two (2) years up to five(5)years of City-Wide Seniority	Twelve (12) months
Greater than five (5) years of City-Wide Seniority	Eighteen (18) months

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|---|----------------------|
| Less than two (2~ years City-Wide Seniority | Six (6) months |
| Two (2) years up to five(5)years of City-Wide Seniority | Twelve (12) months |
| Greater than five (5) years of City-Wide Seniority | Eighteen (18) months |
- (5) If an employee fails to report to work for two (2) or more consecutive workdays, without reporting off;
 - (6) If the employee fails to report to work after a leave of absence (paid or unpaid) expires; or
 - (7) If the employee fails to report to work after a leave of absence (paid or unpaid) has been disapproved or revoked.

- (b) **City-Wide Seniority: Department Seniority.** In addition to the reasons stated in this Section 7.03, a full-time employee*s City-wide Seniority and Department Seniority shall terminate in the event the employee: (1) transfers or is promoted to a position other than one covered by this Agreement and fails to return to a bargaining unit position within 12 months following the promotion or transfer; or (2) assumes part-time or temporary employee status.

Section 7.04 Breaking Ties. Where two (2) or more full-time employees have equal City-wide Seniority or Department Seniority at the time the seniority must be determined, the seniority order of such employees shall be determined by the last four (4) digits of their Social Security number (highest number most senior). Once such employees* relative seniority is thus determined, those employees shall retain that relative position on the respective seniority list until the seniority is broken through differing accrual or termination of the seniority or of employment.

Section 7.05 Seniority Lists.

(a) City-Wide Seniority List. A City-wide Seniority list stating the name of each full-time employee in the bargaining unit and for each employee the date of last hire as a full-time employee in the bargaining unit shall be prepared by the City and shall be posted by the Union representative or his designee on the Union bulletin board(s) within each department. These lists shall be updated by the City upon request, but no more than four (4) times per calendar year.

(b) Department Seniority List. A department seniority list, stating for each department the name of each full-time employee in the job classification and for each employee the date of last hire in the department, shall be prepared by the City. These lists shall be updated by the City upon request, but no more than four (4) times per calendar year.

(c) Reporting Alleged Errors. In the event an employee believes the list as posted is in error, the employee must grieve the error within the time period stated in Section 33.02; failure to grieve within that time period shall be deemed to be agreement as to the accuracy of the information on the list as posted and the City may conclusively rely on that information.

Section 7.06 Definition of “Year of Seniority”. As used in this Agreement, the phrase “year of seniority” means three hundred sixty-five (365) days of seniority.

Section 7.07 Use of Seniority.

(a) City-Wide Seniority. City-wide Seniority shall be used to determine an employee*s probationary period and otherwise as set forth in this Agreement.

(b) Department Seniority. Department Seniority shall be used as necessary to determine layoffs within a Department as required by Article Thirty-Five and recall rights on layoff as required by Article Thirty-Six.

Section 7.08. Length of Service. Length of service means all continuous service with the City as a full-time employee commencing with the date on which the employee began to work as a full-time employee after being last hired. Length of service as a full-time employee terminates upon termination of the employee*s employment as a full-time employee with the City.

ARTICLE EIGHT
HOURS OF WORK

Section 8.01 Generally. Nothing in this Agreement shall be construed as a guarantee of hours of work per day or per workweek or of days of work per workweek. The City will make reasonable efforts to provide to full-time employees eight (8) hours* work per day and forty (40) hours* work per week. “Hours work” shall include paid breaks, as well as hours actually worked, and excludes all other paid time off.

Section 8.02 Workweek: Payday.

- (a) Workweek. The workweek is Sunday through Saturday. The normal workweek for full-time employees is eight (8) hours per day, five (5) days per workweek.
- (b) Payday. The pay period is two (2) weeks, beginning on Sunday and ending on the Saturday two (2) weeks later, Employees are paid every other Friday for wages earned during the preceding pay period.
- (c) Time Cards. Each employee is responsible for punching their own time card at the appropriate time clock. Time cards must be reviewed and approved by the employee*s department head or his/her designee.

Section 8.03 Break and Meal Periods. Full-time employees shall receive a paid meal period of one (1) hour during a shift lasting at least eight (8) hours. Full-time employees shall also receive two (2) paid breaks of ten (10) minutes each during a shift lasting at least eight (8) hours. An employee must clock in and out for their meal periods when time clocks are available in the Department.

The time during which the break periods and meal periods are to be taken is to be established from time to time by the employee*s immediate supervisor.

Section 8.04 Shifts. Each department head may establish shifts within his or her department as necessary. Shift hours may vary from season to season.

Section 8.05 Shift Posting, The City agrees to make reasonable efforts to notify employees at least seven (7) calendar days before the start of a new work schedule.

Section 8.06 Call-Out. The City may call out employees to work at times other than the employee*s regularly scheduled shift if it is necessary for the efficient operation of the City.

ARTICLE NINE **JOB CLASSIFICATIONS**

Section 9.01 General. The job classifications established in Section 9.02, below. are for the purposes of establishing rates of pay, qualifications to perform the work required of a particular job classification, job posting and short-term and long-term layoff. The establishment of such job classifications shall not be interpreted or construed, in any way. as restricting the rights of the City as set forth in Article Five of this Agreement, including, but not limited to. the rights to determine the continuance or termination of jobs or operations. to determine the type of equipment to be used, and to determine job descriptions. The usual duties included in any job classification shall not in any way be construed as a requirement that only the employees in that job classification are permitted to perform. or to assist in the performance, of the usual duties of that job classification or that an employee may not be required to perform, or to assist in the performance, of the duties of another job classification. Subject to Article Ten (Temporary Transfers), any employee in any job classification may be assigned to perform, or to assist in the performance, of any of the duties of another job classification.

Section 9.02 Job Classification. When the City wishes to create new positions or reclassify current positions within the bargaining unit, the City will provide the Union with a copy of such proposed changes at least fourteen (14) calendar days prior to implementation of the proposed changes. The Union shall have ten (10) calendar days within which to review* and comment on the proposed modifications as to job requirements and wage scale. Should the Union disagree with the proposed job requirements and/or wage rate, a conference between the appropriate representative of the City and the Union shall be convened to discuss the matter.

ARTICLE TEN **TEMPORARY TRANSFERS**

Section 10.01 Temporary Transfers. The City may temporarily transfer an employee to another job classification. A transfer shall be considered to be temporary if it is for a period not to exceed ninety (90) consecutive calendar days or less. Provided however, in the event the purpose of the temporary transfer is to fill a vacancy left by an employee being on extended sick leave, then in such an event the temporary transfer may be for a period not to exceed one hundred eighty (180) consecutive calendar days or less. The Union shall be notified within five (5) days of the effective date of a temporary transfer. Being assigned to assist or to help an employee in another job classification for a period of time not to exceed one (1) day does not constitute a temporary transfer to that other job classification. Temporary transfers shall be made in increments of not less than one (1) day.

Section 10.02 Pay during Temporary Transfer,

- (a) **Full-Time Employees Who Have Completed Their Probationary Period.** If a full-time employee who has completed his/her probationary period is temporarily transferred to a job classification paying a lower job rate of pay than his/her regular job classification, he/she will continue to receive the job rate of pay of his/her regular job classification for the duration of the temporary transfer.

If a full-time employee who has completed his/her probationary period is temporarily transferred to a job classification paying a higher job rate of pay than his/her regular job classification, he/she will receive the job rate of pay of the job classification to which he/she is so transferred for the duration of the temporary transfer.

- (b) **Full-Time Employees Who Have Not Completed Their Probationary Period.** A full-time employee who has not completed his/her probationary period who has been temporarily transferred to another job classification will continue to receive the hire-in rate of pay of his/her regular job classification for the duration of the temporary transfer during the term of his/her probationary period. After the expiration of said probationary period, Section 10.02(a) shall apply.

Section 10.03 Accrual of Department Seniority. A full-time employee who is temporarily transferred to another Department will continue to accrue Department Seniority in

his/her regular Department for the duration of the temporary transfer rather than in the Department to which he/she is temporarily transferred.

ARTICLE ELEVEN

JOB OPENINGS

Section 11.01 Posting Full-Time Job Openings. Whenever the City, in its sole discretion, determines a full-time job opening exists in a bargaining unit job classification, the City shall post a written notice of the opening within the City for a period of three (3) workdays to give City employees the first opportunity to apply for the job. Employees who want to apply for the posted job must complete a Job Interest form and submit it to the City's personnel office within the three (3) workday posting period. Job Interest forms may be obtained from the City personnel office. The City shall provide the Union President with a copy of each job posting when it occurs. Vacancies or newly-created positions within the bargaining unit shall be posted when they occur in the Personnel Department and in all other City Departments.

Section 11.02 Award of Job. The posted job shall be awarded to the full-time employee within the Department who meets the qualifications for the position. In the event two (2) employees are equally qualified for the job, as determined by the City, the full-time employee with the most Department Seniority shall be awarded the posted job. In the event no such qualified employee exists within the Department, then the full-time employee within the City who meets the qualifications for the position shall be awarded the job. If two (2) employees are equally qualified for the job as determined by the City in its sole discretion, the full-time employee with the most City-wide Seniority will be awarded the job. To be qualified, the employee must have the qualifications, education, work experience, training, skills, licenses, certificates, ability, competency, and other job-related requirements, such as good judgment or ability to work with other people, to perform the job in a satisfactory level as determined by the Personnel Director.

Throughout the period of this Agreement, employees displaced (by reason of layoff) from jobs they occupied for thirty (30) or more calendar days shall receive preferential rights for consideration of award of said jobs in the event those jobs become open and available pursuant to the bid procedure herein.

Section 11.03 Failure to Award. In the event no City full time employee applies for a job vacancy posted pursuant to Section 11.01 or is qualified for said job, the City may thereafter fill the opening at its sole discretion.

Section 11.04 Prohibition against Second Change. If a full-time employee is awarded a job pursuant to the job posting procedure set forth in Article Eleven. He/she may not apply for another job posted pursuant to this Article Eleven, for a period of at least one hundred eighty (180) calendar days after the effective date of the change.

ARTICLE TWELVE

AUTHORIZED UNION BUSINESS

Section 12.01 Notices. The Union agrees that its President or a person duly empowered to act in the President's behalf shall keep the Mayor and Personnel Director advised in writing of the representatives of the Union who are authorized to deal with the City. A current list of union officers and stewards shall be provided at least annual on July 1 each year and within 30 calendar days when any change occurs in the union officers or stewards, The Union agrees further that such notifications and authorizations shall designate the Union representative or representatives to whom notices, information, certifications and services by City representatives, as are provided for in this Agreement, shall be directed or furnished.

Section 12.02 Promotion, Transfer or Temporary Assignment. When the City desires either to promote or transfer an employee who is a duly certified area representative of the Union to a management position, and the proposed change would have an effect on the employee's status as an officer of the Union, the City agrees to give the designated Union representative written notice of such impending promotion or transfer as far in advance as possible, but must notify the Union at least five (5) calendar days before the effective date of the change.

Section 12.03 Unpaid Union Leave of Absence. Upon request to the employee's immediate supervisor, a union leave of absence, without pay, may be granted by the City for an employee who is an officer of the Union, or the Union representative to pursue Union business for reasonable lengths of time. The employee's request shall state the time and date the leave will begin and the approximate time and date the leave will end, The supervisor shall act in good faith in making a decision to grant or not grant the requested leave, and the supervisor shall respond to the employee requesting such leave, which answer shall include the reason for denying any such request. This unpaid leave of absence includes time spent by a member of the Union's negotiating committee in negotiations with the City or for attending joint Union and City committee meetings or conferences which occur outside of the employee's regularly scheduled work hours. No payment shall be made for excused absence for grievances, except as otherwise provided in Article Thirty-Three. The Union officer or Union representative shall be those bargaining unit members which the Union has authorized in writing to the City in Article Thirty-Eight.

Section 12.04 Conventions and Training. Union officers shall be afforded time off without loss of pay to attend Union conferences, conventions and seminars. The amount of time off so taken shall not exceed a total of fifteen (15) days during each calendar year for the Union. Only Union officers shall be permitted to use time off with pay under this Section 12.04. "Union officers" as used in this Section 12.04 shall mean President, Vice President, Recording Secretary, Treasurer, Chief Steward and elected delegates.

ARTICLE THIRTEEN

COLLECTIVE BARGAINING

Section 13.01 Bargaining Representatives. In the event the parties begin negotiations

or discussion pursuant to Section 45.01 or 45.02, each party shall notify the other in writing of its authorized representatives.

Section 13.02 Wages. While this Agreement is in effect, the City shall not pay wages to any bargaining unit employees participating on the Union*s bargaining committee for work which they miss while participating in negotiations.

Section 13.03 Facilities. The parties shall agree in writing on a meeting place for collective bargaining purposes, and the parties shall equally share the cost of this facility.

ARTICLE FOURTEEN

WAGES

Section 14.01 Wages. From January 1, 2006, through December 31, 2006, all bargaining unit employees shall receive a one and one-half percent (1 ½ %) annual pay increase for the calendar year 2006. From January 1, 2007, through December 31, 2007, all bargaining unit employees shall receive a two percent (2%) annual pay increase for the calendar year 2007. From January 1, 2008, through December 31, 2008, all bargaining unit employees shall receive a two and one-half percent (2 ½ %) annual pay increase for the calendar year 2008. However, the parties hereto agree that the Mayor has the ultimate authority to set wages for all City employees, including all bargaining unit employees, and the Common Council of the City of Muncie, Indiana, has the authority to reduce such wages.

ARTICLE FIFTEEN

SHIFT PREMIUM

Section 15.01 Shift Premium. Any full-time employee scheduled to work the second shift in its entirety shall be paid an additional twenty cents (\$0.20) per hour, Any full-time employee scheduled to work the third shift in its entirety shall be paid an additional thirty cents (\$0.30) per hour, Shift premium shall not be gained or lost as a result of an extension of a shift caused by working more than eight (8) hours in a day.

ARTICLE SIXTEEN

OVERTIME

Section 16.01 Overtime. Overtime is all authorized time (rounded to the nearest one-quarter (1/4) hour) worked by an employee which is in excess of forty (40) hours of work (as defined in Article Eight) in a workweek. Overtime shall not be offered to part-time employees unless all eligible full-time employees within the bargaining unit have been offered said overtime first.

Section 16.02 Overtime Pay. All overtime worked by an employee shall be paid at the rate of one and one-half (1 ½) times the employee*s regular hourly rate of pay. Shift premium

and longevity allowance shall be included in the calculation of the employee's regular hourly rate of pay as required by the Fair Labor Standards Act when determining the overtime pay premium.

Section 16.03 Performance of Overtime Work. Overtime shall be performed only upon assignment or with prior approval of the employee's immediate supervisor or department head.

Section 16.04 Overtime Roster. The employees with the most Department seniority within the Department who are qualified to perform the job will be offered overtime first, with right of refusal and so on down the seniority list. The employee(s) with the least Department seniority within a Department who is/are qualified to perform the job shall be required to work the overtime if the more senior qualified employees do not accept the overtime. Employees not actively working when it is decided overtime is needed will be called and offered overtime as if they were working. Employees with seniority who cannot be reached, will have one (1) hour prior to the end of the shift to exercise their right to overtime. Notwithstanding the preceding, employees not actively working will not be called for overtime if daily schedules are extended for less than three (3) hours.

Section 16.05 Extreme Emergency Overtime. In the event of an extreme emergency, all full-time employees regardless of classification, shall be offered overtime based on City-Wide Seniority. Examples of extreme emergency include, but are not limited to natural disasters or civil disorders.

ARTICLE SEVENTEEN

CALL-OUT PAY

Section 17.01 Call-Out Pay. In the event a full-time employee is called out to perform work outside the employee's normal hours of work, the employee is paid at the employee's hourly rate of pay for the time involved in actually performing work (including travel time) while on the call-out with a three (3) hour minimum except if the employee is recalled within a twelve (12) hour time frame. In such an event, the original three (3) hour minimum continues to apply. In addition, if the employee is called out to perform work at more than one job or location, the same three (3) hour minimum applies (e.g., if the employee is called out and the employee goes from job A to job B, to job C, to job D and it takes him three (3) hours, the employee is paid his hourly rate of pay times 3 hours).

ARTICLE EIGHTEEN

LONGEVITY ALLOWANCE

Section 18.01 Eligibility. Subject to the provisions of this Article Eighteen, a full-time employee shall be eligible to receive a longevity allowance, calculated in accordance with the provisions of this Article Eighteen, provided the employee has achieved at least five (5) years of City-wide Seniority.

Section 18.02 Required Seniority: Amount of Longevity Allowance. Subject to the provision of this Article Eighteen, a full-time employee shall be eligible to receive a longevity allowance after achieving five (5) years of City-wide Seniority, as follows:

<u>Seniority</u>	<u>Amount of Allowance Per Hour Worked</u>
Beginning with the fifth (5th) through the ninth (9th) Year of City-wide Seniority	\$0.10 per hour worked
Beginning with the tenth (10th) through the fourteenth (14th) Year of City-wide Seniority	\$0.15 per hour worked
Beginning with the fifteenth (15th) through the nineteenth (19th) Year of City-wide Seniority	\$0.20 per hour worked
Beginning with the twentieth (20th) Year of City-wide Seniority	\$0.25 per hour worked

Subject to the provisions of this Article Eighteen, a full-time employee becomes eligible to receive the applicable longevity allowance beginning with the first full workweek after the date he achieves the necessary City-wide Seniority.

ARTICLE NINETEEN

HOLIDAYS

Section 19.01 Holidays Observed. The City observes the following thirteen (13) holidays:

- New Year*s Day
- Martin Luther King*s Birthday
- President*s Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day
- New Years Eve

During election years, two (2) extra days are provided for the primary and general elections.

Except as otherwise provided in Section 19.02, below*, the holidays set forth above are

observed on the dates established by the Mayor.

Section 19.02 Holiday Pay.

- (a) **Full-Time Employees.** Eligible full-time employees will receive their hourly rate of pay for their regularly scheduled hours of work on the day observed as the holiday. To be eligible to receive holiday pay, a full-time employee must have worked his or her full scheduled hours of work (both straight-time and overtime) on his or her last scheduled workday before the holiday and his or her first scheduled workday after the holiday unless the employee*s absence on such a day is due to one of the following reasons: (1) approved vacation; (2) approved personal days; (3) approved funeral leave; (4) jury duty; (5) witness duty; (6) military leave; or (7) approved paid extended sick leave.
- (b) **Other Employees.** Ineligible full-time employees are not entitled to receive holiday pay.

Section 19.03 Work on a Holiday. The City may require any employee to work on any day observed as a holiday. An employee w*ho works on a holiday will be paid one (1) time his or her regular rate of pay for all hours worked on the holiday in addition to holiday pay. A full-time employee w*ho works overtime hours (as defined in Article Sixteen of this Agreement) on a holiday will be paid one and one-half (1½) times his or her regular hourly rate of pay for the overtime hours in addition to holiday pay.

If a Department is not regularly scheduled to work on the holiday, the work will be offered as stated in Section 16.04.

ARTICLE TWENTY

VACATION

Section 20.01 Amount of Paid Vacation. Subject to the provisions of this Article Twenty, full-time employees shall be entitled to paid vacation benefits as follows:

<u>City-wide Seniority as a Full-Time Employee</u>	<u>Amount of Vacation</u>
After the first one hundred eighty (180) days of City-wide Seniority	Fits (5) days during the second (2nd) one hundred eighty (180) days of City-wide Seniority
Beginning the second (2nd) through the fourth (4th) Year of City-wide Seniority	Ten (10) days each year through the fourth (4th) Year of City-wide Seniority
Beginning the fifth (5th) through the ninth (9th)	Fifteen (15) days each year through

Year of City-wide Seniority	the ninth (9th) Year of City-wide Seniority
Beginning the tenth (10th) through the nineteenth (19th) Year of City-wide Seniority	Twenty (20) days each year through the twentieth (20th) Year of City-wide Seniority
Beginning the twentieth (20th) Year of City-wide Seniority	Twenty-five (25) days each year

A full-time employee becomes entitled to use his or her appropriate number of vacation days on the anniversary date he or she achieves the necessary City-wide Seniority.

Section 20.02 When Vacation Must Be Taken: Non-Accumulation. Vacation days must be taken during the year of City-wide Seniority after the anniversary date on which they become available for use. For example, if a full-time employee is hired on March 11, 1997, March 11 is his/her anniversary date. The employee completes three (3) years of City-wide Seniority on March 11, 2000; the employee must take the ten (10) days of vacation during his fourth (40) year of City-wide Seniority, from March 11, 2000, through March 10, 2001.

Full-time employees are encouraged to take the vacation days which become available to them. Earned and accrued vacation pay which is not used or taken by the employee during the year it becomes available is lost and is not paid off. However, any employee who on December 31, 2005, had accrued vacation from prior years of service shall retain that accrued vacation and may use it in subsequent years.

Section 20.03 Vacation Pay; Time of Payment.

- (a) Vacation Pay. One (1) earned vacation day is equal to eight (8) hours. Pay for time off which is charged to vacation will be at the employee's straight-time hourly rate of pay or the actual, scheduled straight-time hours not worked,
- (b) Time of Payment. Vacation pay is paid on the usual payday for the payroll period in which the vacation is taken.

Section 20.04 Minimum Increment of Use. Vacation benefits must be used and charged against available vacation in increments of not less than one-half (1/2) day.

Section 20.05 Scheduling Vacations. For a full-time employee to take and receive paid vacation, the vacation time must be scheduled by the employee as far in advance as possible, preferably at least five (5) working days prior to start of the vacation, An effort will be made to meet individual preferences as to vacation times consistent with the needs of the City and the Department. In all cases, however, the work requirements of the City and The Department must take priority in scheduling vacation. The employee's department head may cancel vacation weeks previously scheduled if he or she determines there is an emergency. Supervisors may limit the number of employees in their Department who are on vacation at any one time to no more

than ten percent (10%) of the workforce in the Department.

In case of a conflict between full-time employees in the same department for specific vacation week times, time submission of the request will be the determining factor, with the earlier request taking precedence over a later request. Provided, however, in the event there is a conflict between full-time employees who submit their request at the same time, seniority shall be the determining factor, with the greater department seniority taking precedence over the lesser department seniority.

In the event a Department establishes all or part of its vacation scheduling at the beginning of a calendar year, nothing in this Section 20.05 prohibits the Department from establishing the vacation schedule on a rotating seniority basis.

If a full-time employee is absent without advance approval by the employee's department head, the employee generally will not be permitted to charge the hole against available vacation and will be subject to disciplinary action. The employee's department head may, however, allow time off which was not scheduled in advance to be charged against available vacation if the department head, in the department head's discretion, judges the circumstances to have been an emergency.

Section 20.06 Holidays During Vacation, If a holiday is observed during a full-time employee's approved vacation, the holiday will be paid as a holiday and the day will not be charged to the employee's available vacation.

Section 20.07 Termination of Employment. A full-time employee shall be entitled to receive the cash equivalence of his or her available but unused vacation (including any extended vacation) existing at the time of termination of employment.

Section 20.08 Change of Employment Status. In the event of a full-time employee's employment status changes to be a part-time or a temporary employee, the employee shall be entitled to receive the cash equivalence of his/her available but unused vacation existing at the time of termination of employment.

Section 20.09 Probationary Full-Time Employees. Probationary full-time employees are not entitled to vacation benefits. They may, however, request an unpaid special leave of absence as stated in Article Twenty-Eight.

ARTICLE TWENTY-ONE

PERSONAL DAYS

Section 21.01 Amount of Paid Personal Days. Subject to the provisions of this Article Twenty-One, full-time employees shall be entitled to twelve (12) personal days as follow*:

City-wide Seniority as a Full-Time Employee
After the first one hundred eighty (180) days of

Amount of Personal Days
Six (6) days during the second one hundred

City-wide Seniority eighty (180) days of City-wide Seniority
After the first (1~) and subsequent years of City- Twelve (12) days during the second (2''~)
and
wide Seniority greater years of City-wide Seniority

A full-time employee becomes entitled to use his/her appropriate number of personal days on the anniversary date he/she achieves the necessary seniority.

Section 21.02 Non-Accumulation. Personal days may not be accumulated from year of seniority to year of seniority. Personal days which are not taken during the year of seniority for which they become available for use are lost and may not be used thereafter. The employee is not entitled to receive the cash equivalence of any such lost of personal days. However, any personal days not taken during a calendar year will be added to the employee*s extended sick leave bank, provide it does not exceed the maximum accumulation permitted for extended sick leave. Full-time employees shall receive a notice with their paycheck during the month following their anniversary date informing them of how many unused personal days were remaining and the total paid extended sick leave days currently available.

Section 21.03 Use Personal days may not be used by a probationary full-time employee. Personal days may be used as personal days for such purposes as the employee chooses.

Section 21.04 Minimum Increment of Use. Personal days must be used in increments of not less than four (4) hours.

Section 21.05 Personal Day Pay; Time of Payment.

- (a) **Personal Day Pay.** One (1) personal day is equal to eight (8) hours. Pay for any time off which is chargeable to available but unused personal days will be at the employee*s straight-time hourly rate of pay for the actual scheduled straight-time hours not worked.
- (b) **Time of Payment.** Personal day pay is paid on the usual payday for the payroll period in which the personal day time is taken.

Section 21.06 Scheduling; Notification.

- (a) **Scheduling.** For an employee to use personal day benefits, the personal day must be scheduled with and approved by the employee*s department head in advance. Time off should be requested as far in advance as possible, but at least twenty-four (24) hours in advance. An effort will be made to meet individual preferences as to personal day time off consistent with the needs of the Department. In all cases, however, the work requirements of the Department must take priority over the scheduling of personal days. The employee*s department head may cancel previously scheduled personal time off if he or she determines an emergency requires the cancellation. If an employee is absent without advance approval by his or her department head, the employee generally will not be permitted to

charge the personal time against personal days and will be subject to disciplinary action. The employee's department head may, however, allow personal time off which was not scheduled in advance to be charged against personal days if the employee's department head, in his or her discretion, judges the circumstances to be unforeseen.

In case of conflict between employees for specific personal day, time off subject to the needs of the Department and the City, the time submission of the requests will be the determining factor, with the earlier request taking precedence over a later request.

In the event a Department establishes all or part of its personal day scheduling at the beginning of a calendar year, nothing in this Section 21.06 prohibits the Department from establishing the personal day schedule on a rotating seniority basis.

- (b) Notification - Illness. To be eligible to use and to receive personal day benefits due to the illness of the employee or the employee's immediate family member, the employee must notify his or her department head as soon as possible, but at least within one (1) hour after the time the employee is scheduled to report to work. For each consecutive day thereafter, the employee must notify his or her department head prior to the start of work on each day involved so long as he or she is unable to work, unless other arrangements have been made between the employee and his/her department head. Failure to notify the department head will result in no pay for the day involved. If an employee fails to notify his or her department head, the employee generally, will not be permitted to charge the sick time against personal days and will be subject to disciplinary action.

Section 21.07 Termination of Employment. An employee shall be entitled to receive the cash equivalence of his/her available but unused personal days existing at the time of termination of employment.

Section 21.08 Change of Employment Status. In the event a full-time employee's employment status changes to be a part-time or temporary employee, the employee shall be entitled to receive the cash equivalence of his/her available but unused personal days, if any existing on the date of the change.

Section 21.09 Probationary Employees. Probationary full-time employees are not entitled to paid personal day benefits. They may, however, request unpaid special leave as stated in Article Twenty-Eight.

ARTICLE TWENTY-TWO

PAID EXTENDED SICK LEAVE

Section 22.01 Amount of Paid Extended Sick Leave. Subject to the provisions of this Article Twenty-Two, all full-time employees shall be entitled to paid extended sick leave

benefits at the rate of accrual of one-fifth (1/5) day of paid extended sick leave per every pay period worked.

Paid extended sick leave accrues for paid time off as well as hours actually worked; it does not accrue for unpaid time off.

Section 22.02 Maximum Accumulation and Supplemental Health Care Premium Benefits.

- (a) An employee may not accumulate more than seven hundred and twenty (720) hours of paid extended sick leave during his/her employment with the City of Muncie. However, any employee who on December 31, 1992, accumulated more than the 720 maximum number of hours shall retain such hours for paid extended sick leave purposes.
- (b) Beginning January 1, 1999, an employee who retires from the City of Muncie, may use any paid extended sick leave in excess of the maximum accumulation as set forth in paragraph (a) above, for the purpose of supplementing any health care benefit premium or the retiring employee may opt to receive the cash equivalent of said excess paid extended sick leave, The retiring employee shall have the option to determine whether the benefit will be paid on an interval or a one-time basis by the City. If the retiring employee selects the interval option, the City shall retain the right to disburse such benefits on an annual or lesser time period basis,

For example, a 60 year old employee who earns \$10.00 per hour at the time he or she decides to retire has accumulated 800 hours of paid extended sick leave benefits. The employee will be entitled to receive a one-time cash payout of \$800.00 (800 hours minus 720 hours x \$10.00) or \$800.00 payable until the age of 65 (Medicare eligibility date) in installments of \$160.00 each year as health insurance premium benefit supplemental payments for five (5) years.

Section 2203 Available but Unused Personal Day Benefits. In the event an employee has available but unused personal day benefits, those available but unused benefits remaining at the end of each year of City-wide seniority will be added to the employee*s available but unused paid extended sick leave benefits. Full-time employees shall receive a notice with their paycheck in the month following their anniversary date informing them of how many unused personal days and were remaining and their new paid extended sick leave bank total.

Section 22.04 Use. Paid extended sick leave shall begin on the third (3rd) consecutive workday for a non-probationary full-time employee*s absence from work due to the employee*s own medical condition which is not compensable under Indiana Workmen*s Compensation law or similar program. Paid extended sick leave may not be used due to the illness or injury of anyone other than the employee (e.g., it may not be used due to the medical condition of an employee*s family member). The term “medical condition” means all temporary medical disabilities, including illness, injury, pregnancy, childbirth and related conditions.

Notwithstanding the preceding, an employee may use up to five (5) days combined of paid vacation leave, paid personal leave and paid extended sick leave per each continuous absence which is due to an illness or injury that is compensable under the Indiana Workers* Compensation law, In the event those days are later covered by the City*s Workers* Compensation Insurance, the employee will not be permitted to credit those days back to his vacation, personal leave or extended sick leave accrual.

Section 22.05 Eligibility. To be eligible to use paid extended sick leave, a full-time employee must do each of the following

- (a) Use two (2) days of his or her personal days prior to using any paid extended sick leave each time. In the event personal days have been exhausted, the employee shall use vacation. In the event the employee has no vacation or personal days remaining, the first two days of the absence shall be unpaid.
- (b) Be absent from work for at least three (3) or more days;
- (c) Submit a physician*s statement confirming the employee*s absence from work was due to the employee*s medical condition. A “physician” means a person licensed to practice medicine in the State of Indiana. The physician*s statement must be submitted to the employee*s department head the day the employee returns to work if it was not submitted to the department head prior to the beginning of the paid extended leave of absence: and
- (d) Submit a City form completed by the employee*s physician and the employee within the time frames set forth in 22.05(c). above, if required to do so by the employee*s department head.
- (e) Follow the notification provisions set forth in Section 22.7.
- (f) An employee on Extended Sick Leave shall automatically be considered to be on FMLA provided the employee meets the eligibility requirements for FMLA. Extended Sick Leave shall run currently with FMLA.

Failure to do any of the above may result in no pay on the regular payday for the absence involved.

Section 22.06 Extended Sick Pay; Time of Payment.

- (a) Extended Sick Pay. One (1) paid extended sick leave day is equal to eight (8) hours. Pay for any time off which is chargeable to paid extended sick leave will be at the employee*s straight-time hourly rate of pay for the actual scheduled straight-time hours not worked.

- (b) Time of Payment. Extended sick leave pay is paid on the usual payday for the payroll period in which the sick leave is taken.
- (c) Minimum Increment of Use. Paid extended sick leave must be used and charged against unused paid extended sick leave in increments of not less than eight (8) hours.

Section 22.07 Request for Paid Extended Sick Leave.

- (a) Prior Notification. Except as provided in paragraph (b) below, a full-time employee who requires paid extended sick leave must notify his or her department head and the Personnel Director of the need for the leave as far in advance of the proposed beginning date of the leave as possible. The notice must be in writing and state: (1) the medical condition requiring the leave; (2) the date the employee desires the leave to begin; and (3) the length of leave requested. The department head or the Personnel Director may request that the notice be accompanied by a physician's statement substantiating the medical condition and the need for the leave requested. The employee may also be required by the Personnel Director to provide additional medical information prior to the employee returning to work.
- (b) Subsequent Notification. In the event a full-time employee is unable to provide the department head with notice prior to the beginning of the paid extended sick leave as set forth in paragraph (a), above, the employee must notify his or her department head and the Personnel Director in writing within three (3) calendar days after the start of the paid extended sick leave, which shall include the date on which the absence begins. Said notification may be made by the employee or by a family member or attending physician and contain the following: (1) the medical condition requiring the leave; and (2) the length of the leave requested. Failure to timely notify the department head will result in no pay for the days involved prior to said notification. In addition, if an employee fails to timely notify his or her department head, it may result in disciplinary action.

Section 22.08 Return to Work. A full-time employee, prior to returning to work from a paid extended sick leave of absence, must have a physician's written release which contains the following information: (1) diagnosis; (2) prognosis; (3) restriction(s), if any; (4) basis for the restriction(s); (5) approximate date the restriction(s) will be lifted; and (6) physician's signature. If the employee desires to return to work before the approved paid extended sick leave of absence ends, the employee must contact the Personnel Director to determine if such a change is acceptable to the City.

An employee who returns to work at the end of his approved paid extended sick leave will be returned to his/her former position provided no employee in his/her Department at the end of his/her approved paid extended sick leave is on long-term layoff status. If at that time there is one (1) or more employees in his/her Department on long-term layoff status, then he/she may elect to exercise his/her City-wide Seniority to displace an employee in the City, if any: (1) who is not on long-term layoff status; and (2) who has less City-wide Seniority than the employee

returning from approved paid extended sick leave; provided, however, that the returning employee is qualified to fill the position of the employee he/she is displacing. To be qualified, the employee must have the qualifications, education, work experience, training, skills, licenses, certificates, ability, competency, and other job-related requirements to perform the job at a satisfactory level as determined by the Personnel Director. If the returning employee does not return to active employment in his/her Department due to employees in his/her Department being on long-term layoff status, he/she shall then be considered to be on long-term layoff status under Section 34.02(b) of this Agreement beginning on the calendar day after the date his/her approved paid extended sick leave ends.

Section 2209 Expiration of Leave.

- (a) **Failure to Return.** An employee who is granted paid extended sick leave of absence is expected to return to active employment upon expiration of the approved paid extended sick leave of absence and any extensions thereof. If the employee does not return for work at the end of the leave, his or her employment is terminated unless he or she is granted additional paid extended sick leave (Section 22) or unpaid extended sick leave (Section 23).

- (b) **Inability to Return Without Restrictions.** Upon expiration of an employee's paid extended sick leave of absence and any extensions thereof, if the employee is still unable to return to work with no restrictions which would prevent the employee from performing the essential functions of his job in a safe and efficient manner, with or without a reasonable accommodation which does not result in an undue hardship on the City, the employee may request unpaid extended sick leave as stated in Article Twenty-Three of this Agreement.

Section 22.10 Termination of Employment. In the event a full-time employee's employment terminates, the employee's available but unused paid extended sick leave, if any, existing on the date of termination is lost. The employee is not entitled to receive the cash equivalence of any such lost paid extended sick leave.

Section 22.11 Change of Employment Status. In the event a full-time employee's employment status changes to be a part-time employee or a temporary employee, the employee's available but unused paid extended sick leave, if any existing on the date of the change is lost. The employee is not entitled to receive the cash equivalence of any such lost paid extended sick leave,

Section 22.12 Probationary Full-Time Employees. Probationary full-time employees are not entitled to Paid extended sick leave, They may, however, request an unpaid special leave of absence as stated in Article Twenty Eight

Section 22.13 Benefits. To the extent permitted by the health insurance plan group life and accidental death insurance plan as set forth in Article Thirty, and the retirement plan (as set forth in Article Thirty-One), the employee may continue his or her participation so long as the employee continues his/her current payroll deduction for his/her portion of the monthly

premiums.

ARTICLE TWENTY-THREE

UNPAID EXTENDED SICK LEAVE

Section 23.01 Unpaid Extended Sick Leave. A full-time employee who is temporarily disabled and unable to work due to his or her own medical condition may be granted, upon request, a leave of absence without pay for the period of his or her disability up to a maximum of one hundred eighty (180) calendar days. The term “medical condition” means all temporary medical disabilities, including illness, injury, pregnancy, childbirth and related conditions.

Each separate time an employee is temporarily disabled, he **or** she is eligible to request an unpaid extended sick leave of absence; provided, however, all such unpaid extended sick leaves of absence are added together and count toward the one hundred eighty (180) calendar day maximum; unless: (a) the reasons for the unpaid extended sick leaves of absence are not medically related; or (by the reason for the later unpaid extended sick leave of absence is medically related to the earlier one and starts at least six (6) calendar months after the end of the earlier one.

An employee on Unpaid Extended Sick Leave shall automatically be considered to be on FMLA provided the employee meets the eligibility requirements for FMLA. Unpaid Extended Sick Leave shall run currently with FMLA.

Section 23.02 Other Paid Leaves. A full-time employee who is granted an unpaid extended sick leave of absence is required to use any available personal day leave and vacation benefits (excluding one (1) week of vacation) prior to the unpaid extended sick leave of absence beginning.

Section 23.03 Request for Unpaid Extended Sick Leave: Physician*s Statement. An employee who requires an unpaid extended sick leave of absence must notify his or her department head and the Personnel Director of his or her need for the leave as far in advance of the proposed beginning date of the leave as possible; provided, however, if the event for which the unpaid extended sick leave is required is due to an emergency medical condition which makes it impractical to notify the department head and the Personnel Director in advance, the employee shall notify the employee*s department head and the Personnel Director as soon as possible, but within three (3) calendar days after the start of the unpaid extended sick leave (which shall include the date on which the absence begins), after the need for the unpaid extended sick leave arises. The notice must be in writing and state: (1) the medical condition requiring the leave; (2) the date the employee desires the leave to begin; and (3) the length of the leave requested. In addition, the notice must be accompanied by a physician*s statement substantiating the medical condition and the need for the leave requested. A “physician” means a person licensed to practice medicine in the State of Indiana.

Section 23.04 Return to Work. A full-time employee, prior to returning to work from an unpaid extended sick leave of absence, must have a physician*s written release which contains

the following information: (1) diagnosis; (2) prognosis; (3) restriction(s), if any; (4) basis for the restriction(s);(5) approximate date the restriction(s) will be lifted; and (6) physician*s signature. The Personnel Director may also require the employee, to provide additional medical information prior to the employee returning to work. If the employee desires to return to work before the approved unpaid extended sick leave of absence ends, he or she must contact the Personnel Director to determine if such a change is acceptable to the City.

An employee who returns to work at the end of his approved unpaid extended sick leave will be returned to his former position provided no employee in his/her Department at the end of his/her approved unpaid extended sick leave is on long-term layoff status. If at that time there is one (1) or more employees in his/her Department on long-term layoff status, then he/she may elect to exercise his/her City-wide Seniority to displace an employee in the City, if any: (I) who is not on long-hems layoff statuses; and (2) who has less City-wide Seniority than the employee returning from approved unpaid extended sick leave; provided, however, that the returning employee is qualified to fill the position of the employee he/she is displacing. To be qualified, the employee must have the qualifications, education, work experience, training skills, licenses, certificates, ability, competency, and other job-related requirements to perform the job at a satisfactory level as determined by the Personnel Director. If the returning employee does not return to active employment in his/her Department due to employees in his/her Department being on long-term layoff status, he/she shall then be considered to be on long-term layoff status under Section 34.02(b) of this Agreement beginning on the calendar day after the date his/her approved unpaid extended sick leave ends.

Section 23.05 Expiration of Leave.

- (a) **Failure to Return.** An employee who is granted unpaid extended sick leave of absence is expected to return to active employment upon expiration of the approved unpaid extended sick leave of absence. If the employee does not return to work at the end of the leave, his or her employment is terminated.
- (b) **Inability to Return Without Restrictions.** Upon expiration of the one hundred eighty (180) calendar days maximum length of unpaid extended sick leave of absence, if the employee is still unable to return to work with no restrictions which would prevent the employee from performing the essential functions of his or her job in a safe and efficient manner, with or without a reasonable accommodation which does not result in an undue hardship on the City, his or her employment is terminated.

Section 23.06 Worker*s Compensation. A full-time employee whose medical condition is compensable under the Indiana Worker*s Compensation Law, or similar program, shall be automatically considered 10 be on unpaid extended sick leave under this Article Twenty-Three beginning on the first day of absence from work due to that medical condition.

Section 23.07 Benefits. To the extent permitted by the health insurance plan group life and accidental death insurance plan as set forth in Article Thirty, and the retirement plan (as set forth in Article Thirty-One), the employee may continue his or her participation so long as the

employee pays the full monthly premiums within thirty (30) calendar days after the date the premiums are due. If the employee fails to make any premium payment within thirty (30) calendar days after the date such payment is due, the employee*s participation in such plan shall terminate.

ARTICLE TWENTY-FOUR

FUNERAL LEAVE OF ABSENCE

Section 24.01 Funeral Leave of Absence. In the event of the death of an employee*s spouse, parent, child, sister, brother, grandparent, grandchild, current mother-in-law or current father-in-law, the employee may be permitted to be absent from work with pay for up to five (5) consecutive days for the purpose of arranging and attending the funeral. Current step relatives of the aforementioned categories are also included in this Section 24.01.

An employee may be permitted to be absent from work with pay for up to three (3) consecutive days in the event of the death of the employee*s current sister-in-law, current brother-in-law, current daughter-in-law or current son-in-law for the purpose of arranging and attending the funeral.

Section 24.02 Notification. An employee who desires to be absent due to the death of a family member must notify the department head as soon as possible, but not later than twenty-four (24) hours prior to the workday on which the absence begins, and request the days off.

Section 24.03 Proof of Relationship. The employee must submit proof of relationship (e.g., copy of obituary, death certificate) prior to receiving funeral leave pay. Failure to submit such proof will result in no pay for the time not worked by the employee.

Section 24.04 Probationary Full-Time Employees. A probationary full-time employee is entitled to receive pay from the City for hours of work they are absent while attending or arranging a funeral in accordance with this Article 24.

ARTICLE TWENTY-FIVE

JURY DUTY LEAVE OF ABSENCE

Section 25.01 Jury Duty Leave, For each day an employee is required to be absent from work due to being called for jury duty, the employee will be considered to be on jury duty leave of absence.

Full-time employees who are on jury duty leave of absence will receive their straight-time hourly rate of pay for their scheduled hours of work they are absent on jury duty leave, less the amount paid by the court.

Section 25.02 Notification. An employee who will be absent due to jury duty must notify his or her department head of the absence as soon as possible, but not later than the beginning of the employee*s shift on the workday on which the absence begins by presenting a copy of the

notification.

Section 25.03 Return to Work. An employee absent from work due to jury duty is expected to return to work on his or her first regularly scheduled workday after the day his or her duty ends. The employee must keep his or her immediate supervisor informed as to the date the employee expects to be able to return to work, The employee must give his or her supervisor a copy of the employee*s jury duty pay voucher before the employee will receive jury duty pay.

Section 25.04 Failure to Return to Work. If an employee does not return for work on his or her first regularly scheduled workday after the day his or her jury duty ends, his or her employment is terminated unless the reason for the failure to return to work is based upon additional leave granted pursuant to another Article of this Agreement.

ARTICLE TWENTY-SIX

WITNESS LEAVE OF ABSENCE

Section 26.01 Witness Leave. For each day or a portion of a day a full-time employee is required to be absent from work due to being subpoenaed in a criminal or civil proceeding, the employee will be considered to be on a witness leave of absence.

Full-time employees who are subpoenaed on behalf of the city shall receive their straight-time hourly rate of pay for their scheduled hours of work they are absent on witness leave. Employees subpoenaed for any other reason, including to testify against the City, shall be considered to be on an unpaid witness leave of absence. Employees who are a party to a lawsuit will be considered to be on unpaid witness leave unless the employee is a party defendant with the City of Muncie.

Section 26.02 Notification. An employee who will be absent due to subpoena in a civil or criminal proceeding should notify the supervisor of the absence as soon as possible, but not later than the beginning of the employee's shift on the workday on which the absence begins. The employee must notify his or her supervisor by providing the supervisor with a copy of the subpoena.

Section 26.03 Return to Work. An employee absent from work due to subpoena in a civil or criminal proceeding is expected to return to work and complete his or her regularly scheduled workday on the day his or her witness obligation ends. The employee must keep his or her supervisor informed as to the date and time the employee expects to be able to return to work.

Section 26.04 Failure to Return to Work. If an employee does not return for work and complete his or her regularly scheduled workday on the day his or her obligation ends, his or her employment is terminated unless the reason for the failure to return to work is based upon additional leave granted pursuant to another Article of this Agreement.

ARTICLE TWENTY-SEVEN

MILITARY LEAVE OF ABSENCE

Section 27.01 Military Leave. Military leave of absence for performance of duty with the United States Armed Forces or with a reserve component, or with the National Guard, is granted in accordance with applicable law.

Employees who are on military leave of absence will receive their straight-time hourly rate of pay for their scheduled hours of work they are absent on military leave up to a maximum of fifteen (15) workdays per calendar year. After fifteen (15) workdays of absence, such an employee will be considered on unpaid military leave of absence for the remainder of the absence.

Section 27.02 Notification. An employee who will be absent due to military duty must

notify the employee's department head of the absence as soon as possible, but not later than prior to the beginning of the employee's shift on the workday on which the absence begins.

Section 27.03 Return to Work. An employee absent from work due to military leave is expected to return to work on his or her first regularly scheduled workday after the day his or her military duty ends. The employee must keep the employee's department head informed as to the date the employee expects to be able to return to work.

Section 27.04 Failure to Return to Work. If an employee does not return for work on his or her first regularly scheduled workday after the day his or her military duty ends, his or her employment is terminated unless the reason for the failure to return to work is based upon additional leave granted pursuant to another Article of this Agreement.

Section 27.05 Benefits. To the extent permitted by the health insurance plan group life and accidental death insurance plan as set forth in Article Thirty, and the retirement plan (as set forth in Article Thirty-One), the employee may continue his or her participation so long as the employee continues his/her current payroll deduction for his/her portion of the monthly premiums.

ARTICLE TWENTY-EIGHT

SPECIAL LEAVE OF ABSENCE

Section 28.01 Special Leave. A full-time employee may be granted a special leave of absence without pay for a period of time not to exceed thirty (30) calendar days per calendar year, provided the employee has exhausted all of his/her available but unused vacation and personal leave. Special leave of absence is not available to a full-time employee for the employee's own temporary medical condition. The term "medical condition" means all temporary medical disabilities, including illness, injury, pregnancy, childbirth and related conditions.

Section 28.02 Benefits. To the extent permitted by the health insurance plan, group life and accidental death insurance plan as set forth in Article Thirty, and the retirement plan (as set forth in Article Thirty-One), the employee may continue his or her participation so long as the employee pays the full monthly premiums within thirty (30) calendar days after the date the premiums are due. If the employee fails to make any premium payment within thirty (30) calendar days after the date such payment is due, the employee's participation in such plan shall terminate.

While on leave under this Article Twenty-Eight, an employee is not entitled to use or receive any type of paid time off benefit (e.g., personal days, paid extended sick leave, vacation, holiday) nor will an employee continue to gain seniority.

Section 28.03 Request for Special Leave. An employee requesting a special leave of absence must do so as far in advance of the proposed beginning date of the leave as is possible. The request must be submitted in writing to the City's Personnel Director and must state: (1) the employee's reason for the requested special leave of absence; (2) the date proposed for the leave

to begin; and (3) the date proposed for the leave to end. Whether or not the leave is approved is at the discretion of the Personnel Director. A special leave of absence will not be granted to a full-time employee due to the employee's own temporary medical condition as defined in Articles Twenty-One, Twenty-Two and Twenty-Three of this Agreement.

Section 28.04 Return to Work, An employee who returns to work at the end of a special leave of absence will be returned to his or her former position if conditions are the same at the end of the leave as when the leave began. If the City determines conditions are not the same, the employee will be offered the first opening thereafter in any job classification for which the City determines the employee is qualified.

If the employee desires to return to work before the approved special leave of absence ends, the employee must contact the Personnel Director to determine if such a change is acceptable to the City.

Section 28.05 Failure to Return to Work. An employee who is granted a special leave of absence is expected to return to active employment upon expiration or the approved leave. If the employee does not return for work at the end of the leave, his or her employment is terminated unless the reason for the failure to return to work is based upon additional leave granted pursuant to another Article of this Agreement.

ARTICLE TWENTY-NINE

PERSONAL TIME OFF FOR EDUCATION

Section 29.01 During Working Hours. The City encourages its employees to better themselves through education. If it is necessary for an employee to take working time to attend class, the employee may be allowed to make up the hours during non-traditional working time, if work is available.

Section 29.02 Scheduling. Employees who wish to take advantage of this Article Twenty-Nine shall first discuss the situation with their department head prior to scheduling classes or activities in order to assure a minimum of conflicts. Hours taken off for educational purposes are at the discretion of the department head and are not a right granted by this Article Twenty-Nine to the employee. In addition, hours worked to make up any deficiency in total hours worked are at the discretion of the employee's department head.

Section 29.03 Educational Leave. An unpaid educational leave of absence for a period not to exceed one (1) year may be granted an employee in order that the employee may attend a recognized college, university, trade or technical school, provided that the course of instruction is related to the employee's employment with the City, is of potential benefit to his/her City service, and/or leads toward an approved degree program. Before receiving the leave, or an extension thereof, the employee shall submit to the Personnel Director satisfactory evidence that the college, university or other school has accepted him/her as a student and, on the expiration of each semester or other school term, shall submit proof of attendance during such term, including the letter grade(s) received for all course work. Such leaves may be extended for additional

periods not to exceed one (1) year each. Leave extensions are subject to the same approval process as the original leave.

Section 29.04 Training Required by City. In the event the City requires the employee to participate in additional training or education to facilitate duties of the employee, the City shall pay for the cost of such training or educational classes. Should the required training or classes occur during the employee's regularly scheduled work hours, or outside of the regularly scheduled work hours, the employee shall receive his/her regular rate of pay and time off to attend the required training and/or classes.

Section 29.05 Tuition Reimbursement. Provided the employee receives a grade of "C" or better, the course is related to the employee's employment with the City and is of potential benefit to his/her City service, a full-time employee shall be eligible for tuition remission, provided City Council appropriates the money required, as follows:

- (a) For enrollment in any state-supported course or program at the undergraduate or graduate level at any community college, state college, or state university, fifty percent (50%) tuition remission shall apply.
- (b) For enrollment in any non-state supported course or program offered through continuing education at any community college, state college, or state university, thirty percent (30%) tuition remission shall apply.
- (c) Remission benefit, subject to space available and usual and ordinary admissions policies. It is also subject to the approval of the Board of Regents of Higher Education and the policies and procedures of the same.

ARTICLE THIRTY

INSURANCES

Section 30.01 Health Insurance. At the time this Agreement becomes effective, the City provides health insurance benefits to full-time employees. Full-time employees shall have the choice of three (3) insurance plans: Plan A, B or C. Employees may change plans in January each year. The Employee contributions for single, employee plus one (1) and family coverage shall be based upon a percentage of the fully insured equivalent of the annual premium for the particular plan selected as follows:

	<u>Plan C</u>	<u>Plan B</u>	<u>Plan A</u>
Single	23%	12%	10%
EE+1	23%	12%	10%
Family	23%	10%	8%

The City pays the remaining cost of the health insurance. In the event a husband and wife are employed by the City, they may select only one plan. The City may discontinue Plan C if less than 10% of the City insured workforce is in Plan C. Employees hired on or after January 1, 2006 may select only Plan A or Plan B. The specific terms and conditions of the health insurance

plans are as defined in the summary plan descriptions, copies of which will be provided to the Union. The parties hereto acknowledge that the City*s insurance contract is renewed annually.

Section 30.02 Life and Accidental Death and Dismemberment Insurance. At the time this Agreement becomes effective, the City provides the following life and accidental death and dismemberment insurance benefits:

- (a) **Life Insurance.** The City provides group-term life insurance benefits to its employees at no cost to the employee. The death benefit of the policy is up to Thirty Thousand Dollars (\$30,000.00).
- (b) **Accidental Death Insurance.** The City provides accidental death insurance to its employees at no cost to the employee. The benefit payable in the event of accidental death is up to Thirty Thousand Dollars (\$30,000.00).
- (c) **Plan Governs.** The specific terms and conditions of the life and accidental death plans are as defined in the plans, copies of which will be provided to the Union.

Section 30.03 Employees* Conversion and Continuation Rights. The City*s obligation to pay for and provide these insurance benefits shall terminate on the last day actively worked by the employee. An employee*s right, if any, to continue or convert insurance coverage during layoff, leave of absence, or upon termination shall be controlled by the provisions of the plans.

Full-time employees who are on layoff status may continue their Insurance by paying the full premium of what it costs the City for their insurance each month to the City. Failure to pay said premium within thirty (30) calendar days after the date said premium is due shall result in the automatic termination of insurance coverage. COBRA coverage shall be offered to all employees on long-term layoff status.

Section 30.04 Plan Documents Govern Terms. For each insurance benefit provided by the City to its employees, the insurance plan documents shall govern all of the terms and conditions of the plans. The insurance carrier and/or administrator shall resolve all issues, including without limitation, qualification, eligibility and continuation issues which arise between the City, the carrier, if any, and an employee, and all such issues shall not be subject to the grievance and arbitration procedure.

Section 30.05 Health Insurance for Retirees. Except as required by law, the City is not obligated to provide health insurance coverage, for its retired employees under this Agreement. The City agrees to consider providing insurance coverage for retirees and to provide cost information if requested by the union, limited to once per contract duration.

Section 30.06 Leaves of Absence Without Pay. Except for FMLA qualifying leave for which an employee is eligible, City employees who are on an unpaid leave of absence of any kind must pay the full cost of their insurance premium each month to the City during said unpaid leave or absence. Employees who continue on unpaid leave after the expiration of the 12-week

maximum FMLA leave must pay the full cost of their insurance premium to the City each month during the remainder of said leave. Failure to pay said premium within thirty (30) calendar days after the date said premium is due shall result in the automatic termination of insurance coverage. COBRA coverage shall be offered to all employees on a leave of absence without pay.

Section 30.07 Right to Change Insurance Carriers or Third Party Administrators.

The City reserves the right to change or provide alternate insurance carriers, third party administrators, health maintenance organizations, preferred provider option or to self-insure as it deems appropriate for any form of insurance referred to in this Article. The Personnel Director or her designee will notify the Union President at least thirty (30) days in advance of a change in insurance carriers or insurance provided for under this Agreement. The City must notify the Union at least thirty (30) days in advance of any proposed benefit changes and such proposed changes may be implemented only upon agreement between the parties; provided however, the Union agrees not unreasonably withhold agreement.

Section 30.08 Cost Containment. The City reserves the right to institute cost containment measures relative to insurance coverage so long as the basic level of insurance benefits remains substantially similar to the insurance coverage which is part of this Agreement. Such changes may include, but are not limited to, mandatory second opinions for elective surgery, pre-admission and continuing admission review, prohibition on weekend admissions except in emergency situations, and mandatory out-patient elective surgery for certain designated surgical procedures.

ARTICLE THIRTY-ONE
PUBLIC EMPLOYEES* RETIREMENT FUND

All full-time employees of the City are eligible to participate in the Public Employees Retirement Fund. This is a retirement fund designed to help an employee provide financial means to meet three personal needs - retirement, death and serious illness or injury.

A membership record is completed by each full-time employee within thirty (30) calendar days after the date of hire, and it is used to establish the account. A beneficiary, the person who will receive the money in an employee*s account in event of death before retirement, is named, and it is important that an employee keep the beneficiary designation up to date.

From the first (1st) day of employment, an employee under age sixty (60) is required to become a member.

The employee contribution to the retirement fund is presently three percent (3%) of the employee*s annual salary, and is deducted from each paycheck. Interest is credited to the money each year based on the actual investment earned by the fund. Quarterly, the employee will receive a statement of account.

More complete information about the retirement fund can be found in the Indiana Public Employees* Retirement Fund Handbook, which may be obtained by contacting the City Insurance office.

The Public Employees* Retirement Fund is established by Indiana law, At all times, participation in the fund, benefits, etc., is subject to the provisions of that law, and the City may change the benefits in accordance with such law without negotiating these terms with the Union. The Union voluntarily and knowingly waives its rights to negotiate any terms regarding the retirement benefits provided by the City.

ARTICLE THIRTY-TWO

DISCIPLINE AND DISCHARGE

Section 32.01 General, The City shall have the right to maintain discipline and efficiency of operations. The City shall have the right to discipline or discharge non-probationary full-time employees for just cause. A non-probationary full-time employee who is disciplined or discharged may file a grievance concerning the discipline or discharge in accordance with the grievance procedure (Article Thirty-Three) of this Agreement. Probationary full-time employees maybe disciplined or discharged at any time by the City for any reason the City deems sufficient; discipline or discharge of a probationary full-time employee shall not be subject to the grievance and arbitration procedure.

Section 32.02 Progressive Discipline, Except in the case of summary discharge (i.e., not the result of a third written reprimand), the City will issue a written reprimand (warning letter) to a full-time employee it is disciplining in accordance with the following procedure:

- (a) A meeting between the employee and the employee*s department head or the Personnel Director shall be held at which time the department head or Personnel Director shall review and develop the facts and, if the department head or Personnel Director believes the facts warrant, shall inform the employee that the employee is failing to meet acceptable standards of performance. A Union Representative shall be permitted to be present at this meeting if requested by the employee. The department head or the Personnel Director is required to inform the employee of the employee*s option to have a Union Representative present. If an employee does request to have a Union Representative present, the meeting shall not proceed following the request until a Union Representative is present.
- (b) Within five (5) workdays after the meeting, the employee*s department head or the Personnel Director shall give to the employee a written reprimand informing the employee: of the date of the meeting stated in (a), above; the manner in which the employee is failing to meet acceptable standards of performance; and that further discipline, including discharge, may result if acceptable standards of performance are not met.
- (c) If a full-time employee at any time has three (3) active written reprimands, the employee shall be discharged. If an employee does not receive a warning letter for a twelve (12) calendar month period, any warning letter received by the employee prior to that twelve (12) calendar month period shall not be considered as an “active” warning letter and will not be counted as one (1) of the three (3) active

warning letters toward discharge.

A written reprimand may be accompanied by a suspension without pay of up to fifteen (15) workdays.

Section 32.03 Just Cause for Discipline or Discharge. It is agreed that just cause for issuance of a written reprimand shall include, but not limited to the following:

- (a) Wasting time, loafing, or loitering during working time;
- (b) Tardiness or absenteeism;
- (c) Leaving during working time without the Department Head*s or supervisor*s approval;
- (d) Stopping work before quitting time;
- (e) Failure to report to work, except as permitted by this Agreement;
- (f) Minor violation of safety rules;
- (g) Engaging in horseplay, disorderly conduct, arguments or foul language;
- (h) Interfering with another employee doing his or her job;
- (i) Unintentional unsatisfactory work;
- (j) Poor work effort or attitude;
- (k) Failure to observe the employee*s work schedule (i.e., starting time, quitting time, break or meal periods);
- (l) Smoking in unauthorized areas on City property;
- (m) Contributing to unsafe or unsanitary working conditions;
- (n) Drinking or eating during unauthorized times or in unauthorized areas;
- (o) Reporting to work in dirty clothing;
- (p) Failure to report for duty within the required time in accordance with the call-out policy;
- (q) Littering during working time;
- (r) Parking in unauthorized areas;
- (s) Failure to follow written or verbal directions of management;
- (t) Carrying passengers who are not City employees in City vehicles;
- (u) Abuse of City vehicles;
- (v) Failure to call in within one (1) hour after the start of the employee*s shift on the first (1st) day of the absence;
- (w) Conduct unbecoming to a workplace;
- (x) Abuse of personal leave or extended sick leave (paid or unpaid); and
- (y) Excessive absenteeism irrespective of the reason.

This list is not, nor is it intended to be, all inclusive. There are other types of unacceptable conduct, and the foregoing list shall not in any way be considered as limiting the City*s right to issue a written reprimand to an employee for conduct which is not listed.

Section 32.04 Just Cause for Summary Discharge. The City reserves the right to immediately discharge an employee without prior written reprimand whenever it believes the circumstances warrant discharge.

Examples of the types of offenses which may result in immediate discharge include, but

are not limited to:

- (a) Possession of a firearm or other weapon on City property or on working time;
- (b) Theft;
- (c) Possession or being under the influence of intoxicants or drugs on City premises or on working time;
- (d) Punching or signing another employee*s timecard or worksheet or permitting another employee to punch or sign your own timecard or worksheet;
- (e) Assault on any member of management;
- (f) Falsification of application for employment or any other City records, reports or claims of insurance, including a timecard;
- (g) Failure to keep the appropriate valid driver*s license as required for the job;
- (h) Conviction of reckless driving or driving while under the influence while in or operating a City-owned vehicle;
- (i) Unauthorized use of equipment;
- (j) Intentionally defacing or damaging City equipment or property;
- (k) Unauthorized modification or alteration to City equipment or property;
- (l) Negligent or careless loading, checking, unloading or handling of Cily equipment;
- (m) Taking unapproved leave of absence or vacation;
- (n) Submitting a false reason for absence from work;
- (o) Serious violation of established safety rules;
- (p) Insubordination, including refusing to follow a supervisor*s or Department Head*s orders;
- (q) Unauthorized possession of City property;
- (r) Fighting on City property;
- (s) Gambling on City property;
- (t) Unauthorized absences for three (3) consecutive work days without notifying the employee*s Department Head;
- (u) Failure to immediately report an accident or personal injury occurring during working time to a supervisor or Department Head within twenty-four (24) hours of its occurrence;
- (v) Sleeping during working time; and
- (w) Violation of the City*s Non-Discrimination Policy or Article 40.

The preceding list is not, nor is it intended to be, all inclusive. There are other types of unacceptable conduct which may result in immediate discharge, and the foregoing list shall not in any way be considered as limiting the City*s right to summarily discharge a full-time employee for just cause which are not listed.

ARTICLE THIRTY-THREE

GRIEVANCES

Section 33.01 Grievance Defined. A grievance shall be defined as a dispute concerning the application, meaning or interpretation of this Agreement. All grievances shall be settled in accordance with this grievance procedure. If a grievance is settled at any stage of the grievance procedure, it shall be considered closed.

Section 33.02 Informal Grievance Process. Any employee or departmental steward, who believes that the provisions of this Agreement have been violated, must discuss the matter with his/her immediate supervisor as designated by the City in an effort to avoid a grievance and/or resolve any dispute.

Section 33.03 Formal Grievance Procedure. A grievance shall be processed and disposed of in the following manner:

Step 1: Following exhaustion of the INFORMAL process set forth above, the aggrieved employee, or a Union representative, shall deliver the grievance to the employee*s Department Head. A properly prepared grievance must: (1) be submitted in writing on the form mutually agreed to by the Union and the City; (2) state the specific section or sections of this Agreement allegedly violated; (3) state the specific occurrence or events which allegedly were in violation of the stated sections; (4) be signed by the aggrieved employee; and (5) be received by the Department Head within five (5) working days after the aggrieved employee becomes aware, or should have become aware, of the occurrence or event giving rise to the grievance. The Department Head shall answer the grievance, with reasonable specificity, in writing, within five (5) work days following the date of his/her receipt of the written grievance. A copy of the Department Head*s answer shall be given to the local Union President.

Step 2: If the grievance is not settled at Step 1, within five (5) working days, the grievance shall be submitted to the Personnel Director by the Union. The Personnel Director (or designee) shall answer the appeal within five (5) workdays following the date of his receipt of the Step 2 appeal, or, if a grievance meeting is requested by either party, then within five (5) workdays following the date the grievance meeting is held. A copy of the Personnel Director*s answer shall be given to the local Union President. The grievance shall be considered closed unless the Union, on behalf of the aggrieved employees files an appeal under Step 3.

Step 3: If the grievance is not settled at Step 2, within five (5) working days, the grievance shall be submitted to the Personnel Director by the Union for presentation to the Grievance Committee. The “Grievance Committee”, (composed of the Mayor or designee, the Personnel Director, a representative of AFSCME District Council 62, and a Local No. 3656 official), shall meet and confer at a mutually selected site for the purpose of resolving the grievance within ten (10) working days of the Personnel Director*s submission of the written grievance to the Grievance Committee.

Step 4: If the grievance is not settled at Step 3, the Union President may appeal the grievance to arbitration. The appeal must (1) be submitted in writing; (2) be signed on behalf of the Union President; and (3) be received by the Personnel Director within ten (10) working days after the date the grievance becomes eligible for appeal by reason of the Mayor's or designee's answer at Step 2. Resolution of the grievance shall then occur pursuant to Article Thirty-Four of this Agreement.

Section 33.04 Grievance Meeting.

- (a) **Time and Place of Meeting.** The time and place of grievance meeting shall be chosen and scheduled during the regular work time and on regularly scheduled work days of the grievant and the Union representative or at another time by mutual agreement of the City and the Union.
- (b) **Attendance.** A grievance meeting at Step 1 shall be attended by the aggrieved employee, a Union representative, and a City representative in the person of the aggrieved employee's supervisor. In the case of a group grievance under Step 1, up to three (3) of the aggrieved employees may attend. The City and the union may invite such other person or persons as are needed to resolve the dispute and/or to present evidence at the meeting to ascertain facts.
- (c) **Pay for Attendance.** Any employee or employees attending a grievance meeting as a grievant, Union representative, alternate representative or witness, which is not scheduled during their regularly scheduled work hours, shall not be entitled to be paid for the time spent in attending the meeting, and such time shall not constitute hours worked for any other purpose under this Agreement. If the particular grievance meeting is held during the regularly scheduled work hours of an employee required to attend the meeting as a grievant, a Union representative, or alternate representative or a witness, then the employee shall be paid at his or her straight-time rate of pay (including shift premium, if applicable) for any straight-time working hours missed by him or her, and the time so paid shall constitute hours worked by him or her for purposes of this Agreement.

Section 33.05 Time Limits. The time limits and procedure provided for in this Article Thirty-Three for the presentation and appeal of a grievance may be extended or modified in any instance with the written consent of the City and the Union. Any failure to timely answer or appeal a grievance by either party, in the absence of a mutually agreed to extension as provided for in this Article, shall result in a forfeiture of the party seeking to appeal or deny the grievance, to wit: A failure to timely appeal the grievance will result in the last answer given by the City to be conclusive of the matter and final and binding; a failure by the City to timely answer the grievance will result in a grant of the relief sought by the grievant.

Section 33.06 Representation. If an employee (or group of employees) has referred a grievance to the Union and the Union Representative has informed the City that the Union

represents the employee and/or employees, the City will not discuss or adjust such grievance directly with said employee or group of employees unless the Union Representative is present.

Section 33.07 Final Authority. The Union shall have final authority to dispose of any grievance at any step of the grievance procedure in any manner deemed by it to be most prudent, including refusal to process the grievance further and the City may conclusively rely on any such disposition.

ARTICLE THIRTY-FOUR

ARBITRATION

Section 34.01 Selection of Arbitrator. If the Union makes a timely submission of a grievance to arbitration as stated in Step 4 of the grievance procedure, the Federal Mediation and Conciliation Service shall be requested by either party to submit a panel of seven (7) suggested arbitrators. The Union and the City shall select the arbitrator from such list by each alternately removing one (1) name from the list until one (1) name remains. A coin flip shall decide which party strikes the first name. The parties shall bear equally any fees of the Federal Mediation and Conciliation Service required in order to obtain a list of suggested arbitrators.

Section 34.02 Power of the Arbitrator.

- (a) The arbitrator*s power is limited to deciding whether the City has violated a specific promise in this Agreement. There shall be no right to obtain and no arbitrator shall have any power to award or determine any change in, modification or addition to, or subtract from, any of the terms of this Agreement. The arbitrator shall have no power to substitute his discretion for that of the City in any matter in which the City has not expressly contracted away its right to exercise such discretion. (This sentence shall not be interpreted or construed, however, as restricting the power of the arbitrator to fashion the remedy if the City is held to have violated this Agreement).
- (b) The arbitrator shall give both parties the opportunity to present evidence and, unless the parties mutually agree to the contrary, the opportunity to argue the grievance orally and in writing. Either party may make a tape recording of the arbitration hearing at its own expense. If either the aggrieved employee or the Union fails to appear and present its case at the arbitration hearing before the arbitrator selected in accordance with this Agreement, they shall be deemed to have waived the case and the arbitrator shall enter his/her decision against them; if the City fails to appear and present its case at the arbitration hearing before the arbitrator selected in accordance with this Agreement, the City shall be deemed to have waived the case and the arbitrator shall enter his/her decision against it.
- (c) In the event an arbitrator awards back pay (full or partial), such back pay shall be calculated on the basis of the amount of straight-time wages (including shift premium and longevity premium, if applicable) the employee would have earned

with the City less any interim earnings, including unemployment compensation and any other governmental payments that the employee received from any source (other than a previously held “second job”) during the period of time for which back pay is being computed.

- (d) The arbitrator shall use reasonable efforts to make a written decision and award within thirty (30) calendar days following the close of the hearing in accordance with the evidence and the provisions of this Agreement. Such a written decision shall be final and binding on the City, the Union and the aggrieved employee.

Section 34.03 Expenses of Arbitration. The expenses for the fee and expenses of the arbitrator and the cost of the hearing room shall be borne equally by the Union and the City. The City and the Union shall each pay the fees and expenses of its own representatives and witnesses.

ARTICLE THIRTY-FIVE

LAYOFF

Section 35.01 Types of Layoff Defined.

- (a) **Short-Term Layoff.** A “short-term layoff* is a reduction in the number of employees in a job classification within a department for a period less than or equal to thirty (30) workdays.
- (b) **Lone-Term Layoff.** “A long-term layoff* is a reduction in the number of employees in a job classification, for more than thirty (30) workdays which does not constitute a “short-term layoff.”

Section 35.02 Order of Layoff.

- (a) If the City decides to reduce the number of employees in a job classification within a department (the “affected job classification”) temporary employees in the affected job classification within the department shall be released first, followed next by part-time employees lit the affected job classification within the department, and finally, by probationary full-time employees in the affected job classification within the department. Further reduction in the number of full-time employees in the affected job classification in a department shall be in reverse order (least senior first) of their City-wide Seniority.
- (b) Provided an employee is qualified, an employee who is displaced from his/her job classification may exercise his/her seniority rights only by electing to: (1) displace the least senior employee in a lower paying classification within the effected department where the layoff occurred, or (2) displace the least senior employee in any other classification, in any other department,. Whichever option is selected by

the displaced employee, the employee's City-wide Seniority shall be determinant in establishing the employee's displacement or "bumping" rights. Employees who are "bumped" may exercise their displacement rights under this Article. Qualified shall mean possessing the requisite skills and experience to perform the job in a satisfactory manner.

Section 35.03 Effect on Employment

(a) **Non-Probationary Full-Time Employees.** A non-probationary full-time employee remains on long-term layoff status until the earlier of:

- (1) His/her return to active employment as a full-time employee in the job classification he/she held at the time the long-term layoff began;
- (2) His/her failure to return to work within seven (7) calendar days of the date specified by a notice of recall;
- (3) The expiration of his/her being on long-term layoff for a continuous period equal to the following period of time based upon the employee's City-wide Seniority, as follows:

<u>City-Wide Seniority as a Full-Time Employee</u>	<u>Laid Off for the Followin2 Period:</u>
Less than two (2) years City-Wide seniority	Six (6) months
Two (2) years up to five (5) years of City-Wide Seniority	Twelve (12) months
Greater than five (5) years of City-Wide Seniority	Eighteen (18) months

- (b) **Other Employees.** If a probationary full-time employee is laid off under this Section 35.01, his/her employment terminates on the date the layoff begins.
- (c) **Non-Probationary Full-Time Employees* Benefits While on Lone-Term Layoff.** While on long-term layoff, a non-probationary full-time employee:
 - (1) Does not accrue seniority;
 - (2) Does not receive holiday pay for any holiday observed during his layoff;
 - (3) Does not receive any longevity allowance pay during his layoff;
 - (4) May not use available vacation days;
 - (5) Insurance coverage is terminated and he/she will be offered COBRA coverage; and
 - (6) Is not entitled to take any type of paid or unpaid leave of absence.

Section 35.04 Short-Term Layoff.

- (a) Order of Layoff. If the City decides to reduce the number of employees in a job classification within a department (the “affected department”) and the reduction will constitute a short-term layoff (as defined in Section 35.01(a), above), the reduction shall not be subject to any of the provisions of Section 35.02, above. In the event of a short-term layoff, the City, in its sole discretion, shall determine the employees to be released and, in doing so, shall not be required to follow categories of employment, probationary or non-probationary statuses or either Department or City-wide seniority of the employees in the affected Department. The City’s determination of who shall be released and who shall be retained shall not be subject to the grievance or arbitration procedure. Short-term layoff shall not be used for disciplinary purposes.

- (b) Affect on Employment. An employee remains on short-term layoff status until the earlier of:
 - (1) His/her return Inactive employment;
 - (2) His/her failure to return to work at the end of the short-term layoff as required by the notice of recall.

- (c) Full-Time Employees* Benefits While on Short-Term Layoff. While on short-term layoff, a full-time employee:
 - (1) Accrues seniority as stated in Section 7.01 of this agreement.
 - (2) If he/she is a probationary employee, does not accumulate days toward completion of his probationary period;
 - (3) Does receive holiday pay for any holiday observed during the short-term layoff;
 - (4) Does not receive any longevity allowance pay during his/her layoff;
 - (5) May not use available vacation days;
 - (6) Insurance coverage shall not be terminated;
 - (7) Is not entitled to take any type of paid or unpaid leave of absence.

Section 35.05 Beginning Date of Layoff. Any layoff of an employee (whether long-term or short-term) shall be considered to begin on the calendar day after the calendar day of the beginning of the last shift for which the City determines work was available for that employee.

ARTICLE THIRTY-SIX

RECALL

Section 36.01 Recall From Long-Term Layoff.

- (a) Order of Recall. When a full-time position in a job classification becomes available, full-time employees who are in long-term layoff status under Section

35.02 of this Agreement and who were in the affected job classification at the end of their long-term layoff will be recalled in order of their City-Wide Seniority (greatest seniority first). Employees shall be recalled to a position for which they previously held job rights.

- (b) Employees Must Accept Recall. A full-time employee must accept recall unless the City excuses him/her in writing.
- (c) Notice of Recall From Long-Term Layoff.
 - (1) The City may recall a full-time employee from long-term layoff by any available means including notice given on or before the time of layoff. If a full-time employee is not contacted by other means, the City will mail a notice of recall to the employee's last address known to the City.
 - (2) If a full-time employee is not given notice of recall on or before the time of his long-term layoff, the notice will be given (or postmarked) at least seven (7) calendar days prior to the date the employee is to report back to work. If work is available, however, the employee may return earlier by mutual agreement with the City.
- (d) Termination of Eligibility for Recall. A full-time employee's eligibility for recall from long-term layoff status shall terminate upon termination of his seniority and employment as stated in Section 7.03 of this Agreement.

Section 36.02 Recall From Short-Term Layoff. Recall from short-term layoff shall be given to the affected employee on or before the time of his short-term layoff.

ARTICLE THIRTY-SEVEN **SAFETY**

Section 37.01 City Responsibility. The City shall make reasonable provisions for the safety and health of its employees during the hours of their employment.

Section 37.02 Employee Responsibility. Each employee shall observe the safety rules established from time to time by the City in accordance with applicable federal and state laws.

Section 37.03 Safety Committee. The Union and the City agree to cooperate to the fullest extent in the promotion of safety and in the maintenance of safe working conditions and practices. To further these objectives, a joint Safety Committee shall be established consisting of at least one (1) but no more than three (3) non-bargaining unit members and at least one (1) but no more than three (3) members of the Union. The duties of the joint Safety Committee shall be to meet as necessary (at a mutually agreed time during regular work hours), but no more than

two (2) hours every three (3) months without prior written agreement of the co-chairmen, to confer on safety problems and to explore methods of furthering safe working habits of City employees. The Committee members of each party shall select one (1) member who shall act as permanent co-chairman of the joint Safety Committee. Members of the Committee, designated by the Union, will receive their regular rate of pay for time lost from work in the performance of their joint Safety Committee functions.

Section 37.04 Danger. No employee shall be required to work on a job where the employee has good reason to believe that such dangerous health or accident condition exists beyond the normal hazard inherent in the operations. The employee shall immediately inform his or her immediate supervisor of any such dangerous health or accident condition which exists. The supervisor will then have the responsibility to determine what action, if any, should be taken.

ARTICLE THIRTY-EIGHT

UNION REPRESENTATIVES

Section 38.01 Union Representatives. The Union shall have the right to designate one (1) Union Representative in each of the following departments to represent all employees in that Department who are in the bargaining unit: *City Hall; Street and Sign Department; Parka Department; Animal Shelter; and Beech Grove*, These employees shall be known as “stewards” and each shall select an alternate to act in his place when he is not working. The Union will give the City written notice of each Union Representative designation as evidence of his authority to act in that capacity and to represent the Union at the steps of the grievance procedure where the Representative is the designated representative at least annually.

Section 38.02 Expenditure of Time. Grievant and/or Union Representative referred to in specific steps of the grievance procedure shall be allowed reasonable time, without loss of pay and during their regular working hours, to file and process grievances and to attend grievance meetings and arbitrations. No grievant or representative shall leave work to file, investigate or process a grievance or to attend a grievance meeting or arbitration without first notifying and obtaining the permission of such person*s department head and obtaining permission of the department head of the department in which the filing, investigating or processing of the grievance is occurring. Subject to the foregoing requirements, appropriate Union representatives may be permitted reasonable time off without loss of pay to investigate grievance. Permission must be first obtained from effected department heads.

The steward or union officer processing said grievance may request records or documents relevant to the case. Such requests shall be made through the Personnel Director.

Section 38.03 Failure to Comply. The City may report to a representative of the Union any instance in which it is claimed the Union Representative has not complied with the requirements of Section 38.02. If there is a dispute between the City and a Union Representative concerning the Union Representative*s compliance with the requirements of Section 38.02, the Union Representative shall immediately cease the conduct giving rise to the dispute and return to

his/her work assignment. Refusal of a Union Representative to comply with the requirements of this Section 38.03 shall be just cause for his/her discipline up to and including discharge.

ARTICLE THIRTY-NINE **EMPLOYEE ASSISTANCE PROGRAM**

Section 39.01 Recognition. The City and the Union recognize that problems of a personal nature can have an adverse effect on an employee*s job performance. It is also recognized that most personal problems can be dealt with successfully when identified early and referred to appropriate care. The Employee Assistance Program is designed to provide counseling, evaluation and referral services. The program is designed to deal with the broad range of human relation problems such as alcohol and drug problems, emotional/behavioral disorder, family and marital discord, and other personal problems.

For the purpose of this section, it is the City*s and the Union*s policy that personal illnesses will be defined as illnesses that can be controlled or cured. The program is designed to assist the employee by referring the individual to seek appropriate assistance.

The overall objective of the Employee Assistance Program is to reduce problems in the workforce and to retain valued employees.

Section 39.02 Participation Protection. The employee will not jeopardize his standing with the City or the Union in wages, benefits, seniority or promotions by participation in this program.

The employee health insurance coverages do contain provisions to partially pay for the treatment required. No other payment will be made by the City for such services.

Section 39.03 Information. All information pertaining to these matters have the same confidentiality as other medical and personnel information.

A list of qualified City and Union contacts will be placed by the Union on the Union bulletin boards.

ARTICLE FORTY **NON-DISCRIMINATION**

Section 40.01 Equal Employment Opportunity. Neither the City nor the Union will discriminate against any employee on the basis of race, color, creed, religion, age, national or ethnic origin, sex, disability, citizenship or other basis prohibited by federal, state or local law. Equal employment opportunity includes, but is not limited to: hiring, promoting, transfer, demotion, termination and training. Nothing in this Agreement is intended to be inconsistent with applicable laws prohibiting unlawful discrimination.

Section 40.02 Sexual Harassment. Harassment on the basis of sex is prohibited by the City and the Union. Sexual harassment includes, but is not limited to unwelcome or unsolicited sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature:

- (1) When submission to such conduct is made either explicitly or implicitly a term or condition of an individual*s employment;
- (2) When submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual (i.e., hiring, firing, promotion, demotion, compensation, benefits, working conditions); and
- (3) When such conduct has the purpose or effect of unreasonably interfering with an individual*s work performance or creating an intimidating, hostile or offensive working environment.

Section 40.03 Reporting. Any employee who believes he or she has been unlawfully discriminated against, including sexual harassment by a co-worker, supervisor, agent of the City or agent of the Union or by a citizen served by the City should promptly report the facts of the incident or incidents and the names of the persons involved to his or her immediate supervisor, department head, the Personnel Director or the Mayor. Supervisors and department heads should promptly report such incidents to the Personnel Director or the Mayor. All claims of unlawful discrimination will be investigated and appropriate corrective action will be taken

Section 40.04 Retaliation. Retaliation is prohibited against employees who bring charges of unlawful discrimination, including sexual harassment, or those who assist in investigating charges. Any employee bringing an unlawful discrimination complaint or assisting in the investigation of such complaint will not be adversely affected in terms and conditions of employment nor discriminated against or discharged because of the complaint.

Section 40.05 False Claims. Any Person who knowingly files false charges against an employee of the City in an attempt to demean, harass, abuse or embarrass that individual shall be subject to disciplinary action up to and including termination.

ARTICLE FORTY-ONE **EVALUATION OF PERFORMANCE**

Section 41.01. An evaluation is a systematic review of an individual employee*s performance on his or her job to evaluate the effectiveness or adequacy of his or her work. Evaluations are documentation used in promotions, transfers and other transactions involving the employee.

Section 41.02. All newly hired employees of the City are required to serve a probationary period of six (6) months, A written evaluation will be prepared at the end of any probationary period, and a conference will be held between the employee and his or her immediate supervisor to discuss the evaluation for any problems which need to be discussed.

Each employee*s performance will be evaluated in writing at least once a year by the employee*s immediate supervisor. The supervisor shall inform the employee in writing of any changes needed in job performance.

A copy of the written evaluation will be issued to the employee, and the original evaluation will be placed in the employee*s departmental file.

If the employee does not agree with his or her evaluation, the employee shall have the right to grieve following the grievance procedure in Article Thirty-Three.

ARTICLE FORTY-TWO

CLOTHING

Section 42.01. The City agrees to furnish seasonal uniforms to the employees in the following departments: Street; Sign Shop; Cemetery; Animal Shelter. Park; Prairie Creek; and Traffic Control. A uniform allowance will be established at local vendors. The City logo must appear on all outerwear. Uniform design will be established by the City. Clean uniforms must be worn daily. The amount of the allowance will be up to \$325.00. Employees not required to wear uniforms supplied by the City shall present themselves to the public clean and properly dressed.

ARTICLE FORTY-THREE

FAMILY AND MEDICAL LEAVE ACT (FMLA)

Section 43.01 Amount and Use. An eligible employee will be granted up to twelve (12) workweeks of unpaid family and medical leave during a twelve (12) month period for one or more of the following reasons:

- (a) To care for the employee*s spouse, child or parent who has a serious health condition;
- (b) Due to a serious health condition that renders the employee incapable of performing the essential functions of his or her job;
- (c) Birth of the employee*s child and in order to care for that child; or
- (d) Placement of a child with the employee for adoption or foster care.

Provided, however, family and medical leave of absence will not exceed a total of twelve (12) workweeks in a twelve (12) month period. The twelve (12) month period will be measured backward from the date the employee first uses any Family and Medical leave.

The term “serious health condition” means an illness, injury, impairment or physical or mental condition which involves: (a) Any period of incapacity or treatment in connection with or consequent to inpatient care; (b) Any period of incapacity requiring absence from work, school, or other regular activities of more than three (3) days, that also involves continuing treatment by (or under the supervision of) a health care provider; (c) continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable

or so serious that, if not treated, would likely result in a period of absence of more than three days (e.g., asthma, epilepsy, diabetes); (d) prenatal care including ongoing pregnancy, childbirth or complications or illness related to pregnancy and childbirth; (e) permanent/long term conditions requiring supervision (e.g., Alzheimer*s, a severe stroke, the terminal stages of a disease); or (f) multiple treatments and non-chronic conditions (e.g., chemotherapy, radiation, physical therapy, occupational therapy, dialysis).

Ordinarily, unless complications arise, the common cold, flu, ear aches, upset stomach minor ulcers, headaches, routine dental or orthodontia problems, periodontal disease and routine physical examinations are not serious health conditions and do not qualify for leave under this Section.

"Health care provider" means a licensed doctor of medicine or osteopathy or as otherwise defined by the U. S. Department of Labor.

Section 43.02 Eligible Employee. An eligible employee is an employee who has been employed by the City for at least twelve (12) months and has worked at least 1250 hours in the 12-month period immediately preceding the leave requested.

Section 43.03 Restrictions.

- (a) Family and Medical Leave is not available to an eligible employee to care for the child after twelve months have lapsed from the date of the birth, adoption or foster placement of the child.
- (b) In the event the City employs a married couple, the couple is limited to a total of twelve (12) workweeks of family and medical leave in a twelve (12) month period if the reason for the leave is: (A) Due to a serious health condition of the employee*s parent; (B) Due to the birth of the employee*s child and in order to care for that child; or (C) Due to adoption or foster placement of a child and to care for that child.
- (c) Family and Medical leave may not be used on an intermittent or reduced leave basis if the reason for the leave is due to the birth of the employee*s child and to care for that child or due to adoption or foster placement of a child and to care for that child, unless leave on an intermittent or reduced leave schedule basis is requested in advance in writing by the employee and approved by the *Personnel Director*.

Section 43.04 Use of Paid Time Off. Any eligible employee who is granted family and medical leave is required *to use* any available paid vacation leave, paid personal leave and paid extended sick leave as part of the twelve-week leave period to the extent permitted under those particular leave sections, *except as provided in paragraph L, below*.

Section 43.05 Request for Leave,

- (a) Planned Medical Treatment. In the event the requested leave is foreseeable due to a planned medical treatment, the employee must:
- (1) Consult with the *Personnel Director or designee* prior to the scheduling of treatment so as to minimize the disruption to the City; and
 - (2) Provide the *Personnel Director or designee* with at least thirty (30) calendar days notice prior to the date the leave is to begin, unless the planned medical treatment requires the leave to begin in less than thirty (30) calendar days, then within one (1) or two (2) business days after employee becomes aware of the need for the leave.
- (b) Birth or Placement. In the event the leave is foreseeable based upon expected birth or placement, an eligible employee must provide the *Personnel Director or designee* with at least thirty (30) calendar days notice prior to the approximate date the leave is to begin. If the birth or placement requires the leave to begin in less than thirty (30) calendar days, then the employee must provide notice within one or two workdays after the need for the leave becomes known to the employee.
- (c) Unforeseeable Medical Condition. An employee who requires leave due to an unforeseeable medical condition must notify the *Personnel Director or designee* within one or two work days after learning of the need for the leave.

Section 43.06 Intermittent or Reduced Leave. Medical leave may be taken on an intermittent or a reduced leave schedule basis in increments of one (1) hour when medically necessary and subject to certification requirements. An employee using family and medical leave on an intermittent or reduced leave schedule basis may be transferred temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than the employee's regular position.

Section 43.07 Health Care Provider Certification. In the event the leave is due to the serious health condition of the employee or the employee's spouse, parent or child, the employee must provide to the *Personnel Director or designee* as soon as possible after requested by the *Personnel Director or designee*, a health care provider certification completed and signed by the health care provider of the employee or the health care provider of the child, spouse or parent, as appropriate, on the form provided by the City.

An eligible employee must obtain recertification in the following situations: (a) every thirty (30) calendar days (except where the minimum period of incapacity specified on the certification is more than thirty (30) days); (b) whenever circumstances described by the previous certification have changed significantly; (c) whenever the City receives information that casts doubt on the original certification; or (d) whenever the employee requests an extension of the leave. Any recertification requested by the City will be at the employee's expense.

Section 43.08 Second and Third Opinions. In the event the City doubts the health care provider certification provided by the employee, the City may require the employee, at the City's expense, to obtain a second opinion from a health care provider designated by the City.

If the second opinion differs from the original certification provided by the employee, then the City may require, at its expense, that the employee obtain a third opinion from a health care provider mutually agreeable to the City and the employee. The opinion of the third health care provider is final.

Section 43.09 Health Benefits. Health benefits in which an eligible employee is participating on the date the FMLA leave begins will be continued during the leave at the level and under the conditions that coverage would have been provided if the employee was not on leave.

In the event an eligible employee fails to return to work after the expiration of their FMLA leave then the employee must reimburse the City for the premiums paid for the employee unless the reason the employee fails to return to work is due to either: (a) The continuation, recurrence or onset of a serious health condition; or (b) Any other reason beyond the control of the employee.

The City may request a certification from the health care provider in the form prescribed by the City that states either: (a) That a serious health condition prevented the employee from being able to perform the functions of their position on the date the leave expired; or (b) That the employee is needed to continue to care for the employee's child, spouse or parent who had a serious health condition on the date the leave expired.

Section 43.10 Return to Work. An employee returning to work from a leave of absence due to his or her own serious health condition must be able to perform the essential functions of the employee's job. If a reasonable accommodation is required, the employee must notify the *Personnel Director or designee*. Prior to an employee returning to work from a medical leave of absence, the employee must provide to the City a certificate from the employee's health care provider that the employee is able to resume work and perform the essential functions of his or her job. The certificate must contain at least the following information: (a) that the employee is released to return to work; (b) restrictions, if any; (c) basis for the restrictions; (d) expected date the restrictions are to be lifted; and (e) health care provider's signature.

If an employee desires to return to work before the employee's approved leave of absence ends, the employee must contact his or her supervisor at least two business days prior to the date the employee desires to return to work.

When an employee returns to work at the end of an approved family and medical leave of absence, the employee will be returned to his or her former position or to an equivalent position with the equivalent employment benefits, pay and other terms and conditions of employment.

Section 43.11 Expiration of Leave.

- (a) **Failure to Return.** If an employee is granted family and medical leave of absence, the employee is expected to return to active employment upon expiration of the approved leave of absence. If the employee does not return for work at the end of the leave for whatever reason and the employee is not eligible for any other approved leaves, the employee's employment is terminated,
- (b) **Inability to Return Without Restrictions.** Upon expiration of the maximum length of the leave of absence which was due to the employee's own serious health condition, if an employee is still unable to return to work with no restrictions which would prevent the employee from performing the essential functions of his or her job with a reasonable accommodation employment is terminated if the employee has exhausted all leaves that are available to him or her under these policies.

Section 43.12 Workers Compensation. An employee who is absent from work for more than *three (3)* consecutive days due to a condition covered by Workers Compensation automatically will be considered to be on family and medical leave of absence beginning on the first day of such absence and subject to the provisions of this section, Any leave of absence due to a condition covered by workers* compensation will run concurrently with any family and medical leave available to the employee.

An employee may use up to *5 days* combined of paid vacation leave, paid personal leave and paid extended sick leave accrual per continuous absence which is due to an illness or injury that is compensable under the Indiana Workers* Compensation law, In the event those days are later covered by the City*s Workers* Compensation Insurance, the employee will not be permitted to credit those days back to his vacation, personal leave or sick leave accrual bank.

ARTICLE FORTY-FOUR **LABOR-MANAGEMENT COMMITTEE**

Section 44.01. A Labor-Management Committee will be formed throughout the workplace. The committee will consist of the Personnel Director (or designee) and no more than three (3) management people. The Union shall have an equal number, consisting of the Local Union President and up to three (3) people appointed by the President. In addition, the parties may rely on an additional person to give specific testimony on an identified agenda item, These labor/management meetings will be held every three (3) months, except on mutual agreement by the parties. The meetings shall be no more than one and one-half (1 ½) hours in length unless mutually agreed upon by the parties. Union members shall suffer no loss of pay for attendance to such meetings. Labor/management meetings may be called for serious safety problems at anytime. Items to be discussed will be outlined in an agenda to be prepared prior to the meeting and distributed to members of the committee. These items will be collected from both sides by the Chairman. The meeting will be alternately chaired by management and labor, The chair of the meeting will be responsible for preparation and distribution of the agenda for that meeting. It is to be understood that no grievance or negotiable items contained in this Agreement are to be discussed. A member of the side chairing the meeting will be responsible for a report of the meeting. This report need not be verbatim. Copies of these reports are to be initialed by each side and retained for future reference.

ARTICLE FORTY-FIVE

MISCELLANEOUS

Section 45.01 Bulletin Boards. The City shall furnish in each building an area for the Union to keep employees informed of official matters relating to the general welfare of the employees which may include notices of the Union, such as social affairs of the Union, Union meetings, Union elections, and reports of policies of the Union.

Only an authorized union representative may post or remove Union notices and shall initial material to be posted in the Union area.

Section 45.02 Announcements. Neither the Union nor the City shall post notices, announcements, or other materials which contain discriminatory, sexual or libelous statements. Further, neither the Union nor the City shall post endorsements of political candidates. The Union agrees that it will not post or display any items which are unfavorable to promoting harmony between the City and the Union.

Section 45.03 Copies of This Agreement. The City, at its cost and expense shall give present and future bargaining unit employees* one (1) copy of this Agreement.

Section 44.04 Substance Abuse. The City and Union agree to use their best efforts to enter into a written memorandum of understanding concerning substance abuse and drug testing.

Section 45.05 Clean-Up and Work Separation Time. All bargaining unit employees assigned vehicles or heavy equipment shall be permitted a five (5) minute period of clean-up time abutting the start of their lunch period, and fifteen (15) minutes of clean-up time abutting the end of their shift.

Section 45.06 Vehicle Assignment. All bargaining unit employees assigned vehicles or heavy equipment within their job assignment shall be assigned said vehicle or heavy equipment on a seniority basis within their job assignment, most senior first.

ARTICLE FORTY-SIX

TERMINATION OF AGREEMENT

Section 46.01. Term; Termination. This Agreement shall be effective from January 1, 2006, and shall continue in full force and effect until midnight, December 31, 2008, and from year to year thereafter, unless at least sixty (60) calendar days prior to the aforesaid date, or prior to any subsequent annual anniversary date thereafter, either party gives to the other written notice by certified mail, return receipt requested, of its desire to renegotiate this Agreement. In the event such notice is given, renegotiations shall begin not later than thirty (30) calendar days after the notification is given. Provided, however, so that negotiations can be complete in advance of the budget-making process, the parties agree to commence negotiations by March 1,

2008 and complete the negotiations by May 31, 2008.

Section 46.02 Notice. The written notice required by Section 45.01 shall be mailed to the receiving party at the following address, or to such other address as may be specified by the receiving party in a prior written notice to the other party:

(a) To The City:

Mayor, City of Muncie
City Hall
300 North High Street
Muncie, Indiana 47305

(b) To The Union:

AFSCME Council 62
1424 North Pennsylvania
Indianapolis, Indiana 46202-2486

Such a notice shall be effective only if postmarked on or before midnight of the last day of giving of the notice as set forth in Section 45.01.

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

**AFSCME COUNCIL 62
LOCAL 3656**

CITY OF MUNCIE, INDIANA

By: _____
International Representative

By: _____
Sharon McShurley, Mayor

By: _____
Local 3656, President

By: _____
, Deputy Mayor

By: _____
Local 3656, Vice President

By: _____
Wayne Huffman, Personnel Director

By: _____
President City Council

By: _____
President Board of Works

**AGREEMENT BETWEEN THE CITY OF MUNCIE
AND
AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES
COUNCIL 62 LOCAL 3656
FOR THE YEAR OF 2009**

THIS AGREEMENT, MADE AND ENTERED INTO by and between the CITY OF MUNCIE, INDIANA, (hereinafter referred to as the "Employer," or the "City") acting by and through its proper authorities, and AFSCME LOCAL 3656, (hereinafter referred to as the "Union") acting through its proper officers:

The City herein agrees to the extension of the current January 1, 2006 through December 31, 2008 Union agreement by both parties though December 31, 2009. The remainder of the agreement will be applicable with the following exceptions:

ARTICLE 14- WAGES

Section 14.01 Wages. From January 1, 2009, through December 31, 2009, all bargaining unit employees shall receive a zero percent (0 %) annual pay increase for the calendar year 2009. However, the parties hereto agree that the Mayor has the ultimate authority to set wages for all City employees, including all bargaining unit employees, and the Common Council of the City of Muncie, Indiana, has the authority to reduce such wages.

ARTICLE 46-TERMINATION OF AGREEMENT

Section 46.01. Term; Termination. This Agreement shall be effective from January 1, 2009, and shall continue in full force and effect until midnight, December 31, 2009, and from year to year thereafter, unless at least sixty (60) calendar days prior to the aforesaid date, or prior to any subsequent annual anniversary date thereafter, either party gives to the other written notice by certified mail, return receipt requested, of its desire to renegotiate this Agreement. In the event such notice is given, renegotiations shall begin not later than thirty (30) calendar days after the notification is given. Provided, however, so that negotiations can be complete in advance of the budget-making process, the parties agree to commence negotiations by March 1, 2009 and complete the negotiations by May 31, 2009.

STATEMENT OF UNDERSTANDING SALARY INCREASE

If any of the remaining two (2) unions (IFAA, FOP) in the City of Muncie receive a minimum base wage increase benefit granted by the City of Muncie, AFSCME 3656 will receive the identical wage benefit granted to them.

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below on _____.

AFSCME COUNCIL 62
LOCAL 3656

CITY OF MUNCIE INDIANA

By: _____
G. William Clouse
International Representative

By: _____
Sharon McShurley
Mayor

By: _____
Rosemary Lipscomb
Local 3656 President

By: _____
Richard Shirey
Deputy Mayor

By: _____
Bob Patterson
Local 3656 Vice President

By: _____
Wayne Huffman
Director Human Resources

By: _____
Rebecca Clark
Recording Secretary

By: _____
Sam Marshall
President, City Council

By: _____
Lonnie Buchanan
Executive Board Member

By: _____
Kelly K. Christy
President, Board of Works

By: _____
Todd Moore
Executive Board Member

By: _____
Chad Simpson
Executive Board Member