

AGREEMENT

BETWEEN

F.O.P. LODGE #87 AND

THE CITY OF MUNCIE

January 1, 2009 - December 31, 2009

AGREEMENT

This Agreement is made and entered into by and between the CITY OF MUNCIE, INDIANA (hereinafter referred to as the 'City) and the FRATERNAL ORDER OF POLICE LODGE #87 (hereinafter referred to as the "FOP")

PREAMBLE

It is the purpose of this Agreement to maintain a harmonious relationship between the City and the FOP; to provide for equitable and peaceful adjustment of differences which may arise; and to establish wages, hours, and other conditions of employment that lead toward efficient law enforcement services for the citizens of the City.

The City and the FOP recognize that it is in the best interest of both 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 FOP 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 FOP'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 ensure adherence to the purpose.

ARTICLE 1 - RECOGNITION

Section 1.01. Recognition. The City hereby recognizes the FOP. as the exclusive collective bargaining representative of the Police Department's regular and retired police officers 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 regular and retired police officers of the Police Department of the City of Muncie, but excluding the Police Chief, Deputy Chiefs, Reserve Police Officer, Auxiliary Police Officer and civilian personnel.

The terms "employee," "employees" and "regular police officers" in this Agreement mean only those employees of the City who are in the bargaining unit defined above. Disability will not

affect an employee's status. He/She will retain all rights granted within this contract until retirement or permanent disability is established.

Section 1.03. 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 2 - F.O.P. MEMBERSHIP

Section 2.01. Open Shop. Membership in the FOP is voluntary, and joining the FOP is not a condition of employment.

Regular police officers become eligible for FOP membership and may elect to join or not to join the FOP. However, any eligible regular police officer who voluntarily becomes a member of the FOP, 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 thirty (30) calendar day period immediately prior to the expiration date of this Agreement. Regular police officers, who elect not to join the FOP, shall pay a service charge for representation to the FOP equal to the actual cost of contract negotiation and administration.

Section 2.02. No Intimidation or Coercion.

(a) By the City. The City agrees that neither it nor any of its officers, supervisors or agents will or attempt to intimidate, threaten or coerce any employee into membership or non-membership in the FOP or because of the employee's membership or non-membership in the FOP.

(b) By the FOP. The FOP 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 FOP., or because of the employee's membership or non-membership in the FOP.

(c) By an Employee. No employee shall intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, any other employee into membership or non-membership in the FOP or because of the other employee's membership or non-membership in the FOP.

(d) Interpretation. The provisions of this Section 2.02 shall not be construed or interpreted as prohibiting the City, the FOP, or an employee from stating and explaining to any employee or employees in a courteous manner the advantages or disadvantages of F.O.P. membership and legal requirements applicable to the payment, tender or use of FOP, dues or initiation fees.

ARTICLE 3- RECOGNITION OF CITY

Section 3.01. 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 otherwise, between the City and the FOP 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 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 party's grievance 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 3.02. Specific Rights. Examples of the authority, rights and powers which are hereby vested in the City, with only such modification 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 lay off employees; to discipline or discharge employees for just cause; to discharge probationary employees pursuant to applicable Merit law; to utilize drug and/or alcohol screening of employees for alcohol, controlled substances, narcotics and prescription drugs whenever the City has just cause 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 just cause (said searches to be limited to when an officer is on duty and on City property; notwithstanding the above, no officer shall have his/her locker, desk, lunch box, purse, package or similar container, automobile, clothing or any similar item searched except in his or her presence, after being first told why he/she is under investigation, except in any instance where a valid search warrant has been obtained); 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 work force including the number of employees assigned to any particular department or job; to determine the amounts and kinds 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 reserved 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 provision of this Agreement.

Section 3.03. 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 3.04. Contracting Out. The City shall contract out no work that is included in the job description of a member of the bargaining unit until such work has been offered to all qualified members of the bargaining unit.

ARTICLE 4- RECOGNITION OF AGREEMENT

Section 4.01. 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 FOP 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 4.02. Prior Agreement; Past Practices. This Agreement supersedes and voids all prior written agreements. All working conditions, benefits, past practices, customs or precedents, except those specifically incorporated into this Agreement, shall be continued, unless modified or terminated upon agreement between the City and the FOP.

Section 4.03. No Interruption. It is agreed by the City and the FOP that strikes, work stoppages, slowdowns, or departures from the performance of duties are in violation of this contract.

Section 4.04. FOP. Responsibility in Case of Interruption. In the event of a work stoppage or any other interference with the City's business in violation of Section 4.03 of this Agreement, the FOP 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 FOP.

ARTICLE 5- NON-DISCRIMINATION

The City and the FOP each agree not to discriminate against any Police Officer for any legal activity.

The City and the FOP reaffirm their continuing commitment to afford all persons who have the necessary job related qualifications an equal opportunity to complete for employment and advancement.

To assure equal employment, the City and the FOP, agree that there shall be no illegal discrimination because of race, color, creed, religion, sex, age, national or ethnic origin, citizenship, political affiliation, physical or mental handicap and/or disability, or other basis prohibited by law. Equal employment opportunity includes, but is not limited to: hiring,

promotion, transfer, demotion, termination and training. Nothing in this Agreement is intended to be inconsistent with applicable laws prohibiting unlawful discrimination. Harassment on the basis of sex is prohibited by the City and the FOP. 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;

- (a) When submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (b) 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
- (c) 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.

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 representative of the FOP 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, the Police Chief, the Personnel Director or the Mayor. Supervisors and the Police Chief 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.

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.

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 6-NEGOTIATIONS

After an agreement has been reached between the FOP bargaining committee and the City's negotiating committee pertaining to wages, working conditions, and fringe benefits, the City shall not alter or change such agreement in presenting it to the Mayor and to City Council, and FOP shall not alter or change such agreement and shall recommend the total agreement to its membership. This agreement shall not control any matter that is not specifically covered herein. This agreement shall be binding upon the successors and assignees of all the parties concerned hereto, to the extent of their authority as prescribed by law.

ARTICLE 7-INTERPRETATION CLAUSE

In the event of a disagreement concerning the interpretation of an item or items in this contract, the FOP committee (i.e. FOP President or his/her designate, two (2) other members appointed by the FOP. President or his/her designate) and the City's committee (i.e., Police Chief or his/her designate, City Attorney or his/her designate, and the City Controller or his/ her designee) shall convene and attempt to reach a satisfactory agreement of the issue(s) within fifteen (15) days after notification in writing of said disagreement.

This is an alternative procedure to filing a grievance in Article 10 and utilization of this Article in no way impairs the rights of any party to utilize the grievance procedure. An election to utilize this Article to resolve disputes shall waive any time limitations in Article 10.

ARTICLE 8- SAVINGS CLAUSE

If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid, unlawful, or not enforceable, by any Court action or by reason of any existing or subsequently enacted legislation then the remaining parts or portions of this Agreement shall remain in full force and effect for the term of this Agreement.

ARTICLE 9- DISCUSSION PROCEDURE

The FOP, President or the Police Chief can request in writing at any time a meeting to discuss any police related problem experienced. Said meeting is to be held within ten (10) working days of the request. The purpose of said meeting will be to discuss and resolve any problem. The participants shall be the Chief of Police, up to two (2) Administrative Officers designated by the Chief, the President of the FOP, and up to two (2) members of the FOP designated by the FOP President.

ARTICLE 10- GRIEVANCE PROCEDURE

The City and the FOP agree that employees covered by this agreement shall be treated fairly, uniformly and with dignity. The grievance procedure is a formal mechanism intended to assure that employee grievances that may develop in the day-to-day activities of public service are promptly heard, answered and action taken where appropriate. *The term "Grievance" shall mean an allegation by a bargaining unit member that there has been a breach, misinterpretation or improper application of an express provision of this agreement, excluding however issues related to health and other forms of insurance which are governed by those Plans internal appeals procedures. In addition, all matters subject to statutory authority, such as the State of Indiana's Merit Laws, are beyond the scope of this Grievance Procedure and will be adjudicated by the Chief of Police, the Merit Board and/or a court of competent jurisdiction.* A grievance maybe brought by any employee covered by this Agreement. If a group of bargaining unit employees desire to file a grievance involving an incident affecting more than one employee, or some cases several employees in the same manner, one (1) employee shall be selected by the group to process the grievance. All employees filing a group grievance shall be named on the grievance. When a written grievance is submitted it shall contain the following information:

- a. Aggrieved employee's name(s).
- b. Aggrieved employee's division (assignment) in which he/she works.
- c. Date of the incident that gave rise to the grievance.
- d. Date the grievance was filed in writing.
- e. A statement as to the specific section(s) of the agreement violated.
- f. A brief statement of facts involved in the grievance.
- g. The remedy requested to resolve the grievance.

The time limitations established in this article may be extended in writing by mutual agreement between the City and the FOP. Working days, as used in this article shall not include Weekends or Holidays. Failure by the City to communicate a decision at any step of the formal grievance process within the specified time limit shall permit the grievance to be advanced to the next step of the process. Failure by the FOP to respond to the City and/or to appeal the City's decision to the next step of the grievance process shall result in full satisfaction of the grievance based on the City's last answer given to said grievance.

STEP 1: The aggrieved member shall submit details of the grievance in written form to any member of the FOP. Grievance Committee within ten (10) working days after the aggrieved member becomes aware or should have become aware of the occurrence of the event or circumstance giving rise to the grievance. The FOP Grievance Committee shall convene and hear the grievance within ten (10) days of receipt by a Committee member. Within ten (10) days after the Grievance Committee meeting, a written response shall be returned to the aggrieved member detailing the Committee's support or denial of support for the grievance at hand. After submitting to Step 1, the aggrieved may continue to Step 2 regardless of support from the FOP Grievance Committee.

STEP 2: The aggrieved member and/or F.O.P. Grievance Committee on behalf of the aggrieved, shall submit his/her grievance in writing within ten (10) working days after receipt of the Grievance Committee's decision. This written grievance shall be presented to the office of the Chief of the Police Department. The Chief shall conduct an investigation and answer the grievance in writing within ten (10) working days following the date of submission of the grievance to the office of the Chief of the Police Department.

STEP 3: If the grievance is not settled in Step 2, the grievance maybe presented at Step 3. The grievance shall be presented by the aggrieved and/or the FOP. Grievance Committee in writing to the office of the Mayor within ten (10) working days from the date of the written answer at Step 2. Step 3 shall be heard by the Mayor or his designee (excluding the Chief). The Mayor shall arrange for a meeting to receive and hear information concerning the grievance and the meeting shall occur within fifteen (15) working days after receipt of the written grievance by the office of the Mayor. The aggrieved member, representatives of the Grievance Committee, the Chief of the Police Department and any other persons allowed by the Mayor shall be entitled to attend said meeting. The meeting will be informal and the parties shall endeavor to settle their differences. The Mayor's final determination shall be rendered in writing within ten (10) working days after the meeting date. Copies shall be sent to the Mayor of the City of Muncie, the Chief of the Police Department, and the aggrieved member and the FOP representative. All time

limits specified in this Article 10 maybe extended solely by written agreement of the Chief of Police and the FOP.

STEP 4: If the grievance is not settled in Step 3, the aggrieved member and/or the FOP. Grievance Committee may appeal the grievance by submitting the grievance to final and binding arbitration within twenty (20) workdays after the City's Step 3 answer. Notwithstanding the preceding, all of the terms decided by the arbitrator requiring the expenditure of funds that have not been previously appropriated must be submitted to the City Council for ratification.

ARTICLE 11- ARBITRATION

Section 11.01. Selection of Arbitrator. If the FOP makes a timely submission of a grievance to arbitration as stated in Step 4 of Article 10 of the grievance procedure, the Federal Mediation and Conciliation Service shall be requested by either party to submit a panel of five (5) suggested arbitrators. The City and the FOP shall select the arbitrator from such list by alternately removing one (1) name from the list until one (1) name remains, which the FOP will make the first selection. Either party shall have the right to strike the names of an entire panel of arbitrators once. The arbitrator so selected shall be advised of his/her selection within five (5) working days after the selection is made and requested to give the parties the dates upon which he/she will be available to hear the case. In no event shall the date of the hearing be sooner than thirty (30) days from the date of selection unless waived mutually by the City, the FOP and/or the employee(s) involved. An arbitrator shall be limited to hearing one (1) grievance at any one time, unless the parties agree otherwise.

Section 11.02. Power of Arbitrator. The arbitrator shall not have the power to add to, subtract from, modify or ignore any terms of this Agreement, or any agreement made supplementary thereto which has been reduced to writing. His/Her function shall be to determine whether any provision of the agreement has been violated by an interpretation or application of the Agreement. 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 "Second job" or individual income replacement insurance benefits) during the period of time for which the back pay is being computed. The arbitrator shall render his/her decision within thirty (30) days from the last date evidence was submitted unless additional time is requested by him/her and mutually agreed to by the parties.

Section 11.03. Questions of Arbitrability. The question of whether or not a grievance is subject to arbitration may be raised by either party before the arbitration hearing of the grievance, on the grounds that the matter is beyond the arbitrator's jurisdiction. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its merits before the same arbitrator. However, the party disagreeing with any decision by the arbitrator as to arbitrability may proceed to challenge said decision pursuant to formal legal process in a court of competent jurisdiction prior to initiation of the arbitration proceedings.

Section 11.04. Fees and Costs. The fees and any other costs for the services of the arbitrator and the cost of the hearing room, if any, shall be borne by the losing party. In the event the

arbitrator's decision fails to grant the requested award of either party and represents a "Split Decision," the above-mentioned fees and costs shall be borne equally by both parties. The fees and costs of a court reporter shall be paid by the party requesting one or split equally by the parties if both parties desire a court reporter, or request a copy of any transcripts. The arbitrator shall make his/her decision based upon the evidence which is submitted at the hearing. Each party shall bear its own costs for its preparation, attendance of its own representatives at the hearing, including all witnesses, exhibits or any other matter or item which either desires to bring to the attention of the arbitrator.

ARTICLE 12- DEDUCTION OF DUES

Upon receipt of a written, personally signed authorization form from a member of the Muncie Police Department, the City shall deduct any and all amounts requested by the regular police officer including the following: FOP. Lodge #87 dues and assessments and Police Sympathy Club.

ARTICLE 13- CONVENTIONS AND TRAINING

Section 13.01. President. The duly elected president of the FOP, upon certification to the Police Chief, shall be afforded time off without loss of pay to perform his designated local, state and international FOP duties. The amount of time off so taken shall not exceed ten (10) workdays during each calendar year of this Agreement; provided, however, additional time off without loss of pay may be taken if approved in advance by the Police Chief. Time off taken pursuant to this Section 13.01 by the President of the FOP shall not count as time off for purposes of Section 13.02, below,

Section 13.02. Other Members. In addition, the duly elected president of the FOP and any other police officer, as certified to the Police Chief by the FOP President, shall be afforded time off without loss of pay to attend to FOP duties and to attend FOP, conferences, conventions, and seminars. The amount of time off so taken shall not exceed a total of twenty-five (25) working days during each calendar year of this Agreement for the entire F.O. P.

Section 13.03. Monthly Reports. Upon written request, said President shall submit monthly reports to the Police Chief setting out the amount of time off devoted to FOP activities in Sections 13.01 and 13.02 above and give a summary of the nature of said activities,

Section 13.04. Executive Board. In addition, any duly elected member of the local FOP executive board, as certified to the Police chief by the FOP President, shall be allowed to leave his assigned duty to attend any called FOP meeting. Said member shall remain in service while attending said called meeting.

Section 13.05. Negotiations. In addition, members of the FOP negotiating team, not to exceed five (5) members, shall be allowed time off, without loss of pay, for all negotiation meetings which shall be mutually set by the City and the FOP.

Section 13.06. Notice. Provided, however, with regard to granted time off in Section 13.01 and 13.02, the FOP shall give the Police Chiefs office as much advance notice as possible.

Section 13.07. FOP Business Time Off. There shall be no overtime compensation lost for approved FOP business time off. Approval of time off shall be authorized in writing by the FOP President or his designee and the Chief or his designee.

ARTICLE 14- WAGES

The City shall pay the following as base pay for a regular police officer employed by the City of Muncie, Indiana:

2009
\$41,970.80

Beginning January 10, 2009 and every fourteen (14) days thereafter, the City shall pay each Employee a bi-weekly salary calculated as total annual salary divided by the number of paydays in that calendar year. Total annual salary shall include base pay, longevity pay, specialty pay, and emergency responder pay. The following shall be the basis for calculation of an Employee's bi-weekly salary:

2009
1/26th total salary
bi-weekly

ARTICLE 15- HOURS OF WORK

Section 15.01. 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 regular police officers eight (8) hours work per day and forty (40) hours workweek. "Hours worked" shall include paid breaks, as well as hours actually worked, and excludes all other paid time off.

Section 15.02. Workweek: Payday.

(a) Workweek. The workweek is Saturday through Friday. The normal workweek for regular police officers is eight (8) hours per day, five (5) days per workweek. Days off shall be consecutive. Rotation for officers days off shall be changed no more than once each year unless mutually agreed upon by the City and the officer; provided however, this does not apply to bumping or transfers.

(b) Payday. The pay period is two (2) weeks, beginning on Saturday and ending on the Friday two (2) weeks later. Employees are paid every other Friday for wages earned during the preceding pay period.

Section 15.03. Shifts. The Chief of Police may establish shifts within the Police Department as necessary. Shift hours may vary from season to season.

Section 15.04. Shift Posting. All changes in shift assignment will occur on the first day of a pay period. Employees shall be given, in writing, at least ten (10) days notice of a change in shift assignment. Employee shall have the discretion to waive their ten (10) day written notice of change.

Section 15.05. Call-Out. The City may call out regular police officers to work at times other than the employee's regularly scheduled shift if it is necessary for the efficient operation and safety of the City. If an Officer works at a time other than his or her regular shift (i.e., court appearance, police meetings, schools or any other call-out not specifically related to the regular officer's shift) and the period of work is not connected to the officer's regular work shift, he or she shall be paid a minimum of three (3) hours at the time and a half (1 ½) hourly rate.

ARTICLE 16- OVERTIME

Section 16.01. Overtime Pay. All overtime worked by an employee shall be paid at the rate of one and one-half (1-1/2) times the employee's regular rate of pay, whenever an employee has worked eight (8) or more hours during the work day or other permissible work schedule period pursuant to the Fair Labor Standards Act of 1938, as amended ("FLSA"). Specialty pay, longevity pay, rank pay and any shift differential 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. Use of a vacation day will count the same as actually working that day, and all overtime accrued will be paid accordingly.

Section 16.02. Performance of Overtime Work. Overtime shall be performed only upon assignment or with prior approval of the employee's immediate supervisor or the Police Chief. Overtime accrued due to an officers working over to complete an assignment that began during his or her regular shift assignment shall be exempt from the overtime call out list. The Police Chief and/or the employee's immediate supervisor shall have the right to select qualified individuals to perform such overtime in accordance with the following procedure:

Section 16.03. Assignment of Overtime. The City shall use the following definitions and procedures when assigning overtime.

A. **Regular Duty Overtime** is defined as all authorized time (rounded to the nearest one-quarter (1/4 hour) worked by an employee, which is in excess of eight (8) hours per day; all overtime work requiring shift officers to be held past the scheduled end of their regular duty shift; and any duty related overtime requiring special skills or training to be effectively accomplished and all patrol minimum staffing overtime.

- (1) As defined, regular duty overtime will be offered with minimum advanced notice. (Exception) Uniform patrol shift supervisors shall maintain monthly minimum staffing sign-up sheets.
- (2) Overtime shall be offered on a voluntary basis to officers currently assigned to the bureau, Division or shift in which the overtime occurs, beginning with the most senior officer.

- (3) If additional officers are required the overtime shall be offered on a voluntary basis to any officer outside the Bureau (Division), beginning with the most senior officer.
- (4) If the number of volunteers is not sufficient to fill the overtime vacancies required the City shall draft officers, beginning with the least senior.

B. Special Duty Overtime is defined as overtime worked to provide police security for all special events and all overtime work paid for by a federal, state or local grant (excluding any grant obtained by the Muncie/Delaware County Drug Task Force).

- (1) As defined special duty overtime will be offered with a minimum 10-day notice.
- (2) This overtime shall be available first on a voluntary basis to any qualified officer regardless of Bureau (Division) or current assignment. Officers shall be assigned to this overtime beginning with the most senior officer.
- (3) If the number of volunteers is not sufficient to fill the overtime vacancies required the City shall draft qualified officers, beginning with the least senior officer regardless of their current duty assignment.
- (4) The City shall provide a minimum 10-day notice to all officers drafted and required to work special event overtime,
- (5) "Qualified" as used for purposes of this Agreement shall be defined as a sworn full-time officer, who minimally has graduated from the Indiana Law Enforcement Academy.

Section 16.04. Vacation Time. Vacation time shall be credited as working hours, Any hours an officer works that exceed eight (8) per day shall be paid at one and one half (1 ½) times the regular hourly rate, even if the officer works less than forty (40) hours in a week or eighty (80) hours in a pay period.

Section 16.05. Compensatory Time. Overtime worked by an employee may be designated in advance (on the appropriate form) as "compensatory time." Those hours designated as such shall be accrued at the rate of one and one half (1.5) times the hours worked in a compensatory time "bank." A maximum of 24 hours (16 hours worked) compensatory time may be accrued at any time during the calendar year. Any hours intended for accrual in excess of 24 shall be paid as regular overtime in the current pay period at the appropriate rate. An employee may choose to take accrued compensatory time as time off in four (4) or eight (8) hour increments at the supervisor's discretion so long as the time off does not create an operational hardship within that employee's Division, Any accrued compensatory time not used within thirty (30) calendar days of being earned shall be paid at the employee's regular hourly rate on the next payday. Upon termination of employment or retirement, the employee shall be paid at their regular pay rate for any accrued compensatory time. An Employee using earned compensatory time shall not be eligible for minimum staffing call-in during the shift for which the leave was granted.

ARTICLE 17- LONGEVITY PAY

Subject to the provisions of this Article, a regular police officer shall be eligible to receive longevity pay after achieving one year of service as follows:

<u>Years of Service</u>	<u>Longevity Amount</u>
0 - 4 Years	\$00.00
5 - 9 Years	40 Cents/Hour
10- 14 Years	70 Cents/Hour
15 - 19 Years	90 Cents/Hour
20 Years and Greater	\$1.10/Hour

Seniority shall be defined as agreed to in Article 32, Section 32.02 of this Agreement.

ARTICLE 18- SPECIALTY PAY

Subject to the provisions of this article, a regular police officer shall be eligible to receive specialty pay as follows:

Rank Pay

<u>Rank</u>	
Captain	\$7,500
Lieutenant	\$5,500
Sergeant	\$3,100

Shift Differential Pay

Afternoon Shift	\$350
Midnight Shift	\$550

Technical Pay

Certified Tech. I	\$410.00
Certified Tech. II	\$575.00
Certified Tech. III	\$740.00
Certified Tech. IV	\$905.00

Certified Tech. I Two (2) listed/assigned specialties, or Officers with Associates Degree with major/minor not an applicable to law enforcement.

Certified Tech. II Three (3) listed/assigned specialties, or Officers with Associates Degree with major/minor applicable to law enforcement, or Officers with a Bachelors Degree with major/minor not applicable to law enforcement.

Certified Tech III	Four (4) or more listed/assigned specialties, or Officers with a Bachelors Degree with major/minor applicable to law enforcement, or Officers with Masters Degree with major/minor not applicable to law enforcement, or Assigned to Hazardous Duty
Certified Tech. IV	Officers with a Masters Degree with major/minor applicable to law enforcement, or Graduate of long-term specialized police school (F.B.I.N.A, S.P.I., etc.)

Employees shall not receive specialty pay during their first year of service.

Specialties

A. Certified Experts

- (1) Fingerprint Comparison / Classification
- (2) Drug Recognition Expert
- (3) Blood Spatter
- (4) Accident Reconstruction
- (5) C.V.S.A.

B. Academy Certified Instructors

- (1) Firearms
- (2) Defensive / Physical Tactics
- (3) E.V.O.C.
- (4) F.T.O.
- (5) ASP Baton
- (6) Physical Fitness
- (7) S.F.S.T. Instructor
- (8) DARE.

C. Technical Certifications

- (1) Horse Patrol
- (2) Breath Test Operators
- (3) Armorer
- (4) Crime Scene Technician
- (5) Hostage/Crisis Negotiator

D. Hazardous Duty Assignments

- (1) S.W.A.T. Team
- (2) K-9
- (3) S.C.U.B.A. Team
- (4) Bio-Hazard Team

or any other field of instruction certified by and through the Indiana Law Enforcement Training Board. The list of specialties maybe amended by a written agreement between the Chief of Police or his designee and the FOP President or his designee. An Employee's post-secondary degree (majors/minors) shall be determined to be applicable to law enforcement or not applicable to law enforcement based on an agreement between the Chief of Police or his designee and the FOP President or his designee.

ARTICLE 19- EMERGENCY RESPONDER PAY

Emergency responder pay: \$ 750.00

Every active employee of the Muncie Police Department shall be an emergency responder based on their accumulated and ongoing training and their availability to respond to all types of emergencies. Cardiopulmonary Resuscitation, First Aid, and Automatic External Defibrillator certifications shall be maintained per the standards of the American Red Cross.

ARTICLE 20- CALCULATION OF FINAL PAY UPON RESIGNATION

Officers who resign from the Department (not including retirement) shall receive final pay calculated in the following manner:

Total salary at the time of resignation shall include base pay, longevity, technical pay, specialty pay, emergency responder pay, and shift differential. 1/365th of total salary shall be paid for each remaining unused vacation day upon resignation.

ARTICLE 21- CLOTHING AND EQUIPMENT ALLOWANCE

The City agrees to pay the following sums for the following years in cash for the replacement, maintenance and repair of clothing and equipment for a regular police officer. Said clothing allowance to be paid in the following installments on the first pay in June and on the first pay in December.

\$1,500.00- Installments of \$750.00

The City further agrees that at any time during the course of this contract there is a change in uniform or equipment of a regular police office, the initial cost of the change shall be the burden of the City. The City upon request shall replace any employee's equipment or clothing damaged beyond serviceability in the course of duty. Equipment or clothing replaced by the City shall be of equal quality to that which is issued to newly hired police officers.

Vests. The City further agrees that it shall provide body armor consistent with the standards and specifications as established by the Indiana State Police to each regular officer of the Muncie Police Department and shall replace said armor upon expiration of the manufacturers warranty or in the event of documented job related damage that would invalidate said warranty. Body armor

shall be mandatory equipment to be worn by all uniform officers of the Muncie Police Department; however, members choosing not to wear body armor shall acknowledge their personal decision by signing a release in lieu of being issued body armor.

Initial Issue of Equipment to new officers. The following equipment shall be issued to all newly hired regular police officers beginning January 1, 2003:

- 2 — Short Sleeve Summer Uniform Shirts with Patches
- 2 — Long Sleeve Winter Uniform Shirts with Patches
- 2 — Pair Multi-Season Uniform Pants with Stripes
- 1 — Multi-Purpose Jacket with Zip-Out Lining and Patches
- 2 — Shirt/Jacket Badges
- 1 — Hat
- 1 — Hat Badge
- 1 — Gun Belt (including Holster, Handcuffs, Handcuff Case, Magazine Pouch, Radio Carrier, ASP Baton, Baton Holder)
- 1 — Duty Handgun with Three (3) Magazines and Appropriate Supply of Ammunition
- 1 — Body Armor (Vest)
- 1 — Police Identification Card
- Other Accessories Including Buttons, Hatband, Nameplate, Belt Keepers, Tie, and Tie Bar

ARTICLE 22- HOLIDAY TIME AND PAY

The City agrees to allot fourteen (14) paid holidays to police officers as follows:

- | | |
|----------------------------------|------------------------|
| New Year's Day | Memorial Day |
| New Year's Eve Day | Independence Day |
| Martin Luther King Jr's Birthday | Veteran's Day |
| President's Day | Thanksgiving Day |
| Good Friday | Day After Thanksgiving |
| Easter | Christmas Eve Day |
| Labor Day | Christmas Day |

In each of the above listed holidays, the paid midnight shift will begin on the night before the listed holiday.

Holiday pay shall be paid at the rate of \$90.00 per holiday.

The holiday pay shall be paid to a regular officer in two equal installments on the first pay in June and the first pay in December. A regular police officer shall be entitled to said holiday pay regardless of whether or not he or she actually works on the said holiday. Each regular officer, regardless of rank, regularly scheduled to work on a holiday will have the option of working that holiday afforded to him/her. An officer who is scheduled to work a holiday shall not have that schedule changed nor adjusted without the officer's consent. Any regular officer who works an eight (8) hour shift on the paid holiday will receive a bonus amount in the sum of Ninety Dollars (\$90.00).

This bonus holiday pay will be paid in the pay period in which the paid holiday is worked,

The City agrees to pay an additional three (3) days pay for those regular police officers that have completed twenty (20) years of service. This pay is to be administered and paid in three equal installments once every four (4) months after the regular police officer reaches his/her twentieth (20th) year. The rate of pay shall be Ninety Dollars (\$90.00).

ARTICLE 23- VACATION

23.01. Amount of Scheduling. Subject to the provisions of this Article 12, regular police officers shall be entitled to vacation benefits as set forth below. This schedule of weeks off duty is governed by each police officers years of service (seniority) while a member of the Muncie Police Department. Provided, however, the scheduling of weeks off duty for ranked regular police officers is governed by each regular police officers years of service (seniority) in grade.

Vacation selection shall begin promptly on January 1st for the upcoming year. The procedure for selecting vacation periods shall begin with the most senior employee in the shift assignment making his/her selection, then the next most senior employee, and continuing as such until all employees have made their first selection. A second, third, fourth, and if necessary a fifth round of selections in said manner shall continue. Any employee requesting a vacation period from January 1~ until vacation selections are complete shall be granted the period and the period shall be considered as the last pick by that employee in seniority based selections.

Probationary officers shall earn one-half (1/2) day per month of service completed up to the end of the calendar year in which they were hired. Years of service shall be determined on January 1, based on the number of years that would be attained on the anniversary date during the coming calendar year (for example an officer hired on October 20, 1990 would complete his 15th year of service on October 20, 2005. Said officer would be credited with seven (7) weeks of available vacation on January 1, 2005, as it is his 16th year of service).

During the 2nd and 3rd year of service
four (4) weeks total.

During the 4th through 15th year of
service six (6) weeks total.

During the 16th and greater year of
service seven (7) weeks total.

Up to one-half (1/2) of an employee's vacation time maybe taken a half (1/2) day at a time (or one full day at a time) upon the employees request. Use of half (1/2) or full day vacation time shall beat the discretion of the employee's supervisor.

Each police officer may take all of his/her vacation at once or be permitted to split his/her assigned weeks into one (1) week increments. If split into one (1) week increments, he/she must wait until all others have made their first selection before choosing his/her second selection of

time. The police officer must then wait until all others have made their second selection before the police officer may make his/her third selection and soon until each police officer has chosen his/her weeks.

Section 23.02. When Vacation Must Be Taken; Non-Accumulation. Regular police officers are encouraged to take the vacation days that become available to them. Vacation days may not be accumulated from calendar year to calendar year. Vacation days that are not taken during the calendar year after the anniversary date they become available for use are lost. A regular police officer is not entitled to receive the cash equivalence of any such lost vacation days.

Section 23.03. Vacation Schedule; Reassignment of Shift. Once a regular police officer's vacation schedule is assigned, it shall not be changed due to change in shift or assignment, if made pursuant to orders of the Department, unless it is mutually agreed upon by both parties. Where the change in shift or assignment is at the request of the officer, the assigned vacation schedule is subject to reassignment.

Section 23.04. 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 regular rate of pay for 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 23.05. Holidays During Vacation. If a holiday is observed during a police officer's approved vacation, the holiday will be paid as a holiday and the day will also be charged to the employee's available vacation.

Section 23.06. Termination of Employment. A police officer shall be entitled to receive the cash equivalence of his or her available but unused vacation existing at the time of termination of employment.

Section 23.07. Changes in Days Off Assignment. After vacation selection has been made, the scheduled days off and vacation day selections for that week are frozen and may not be changed despite a modification of the employee's days off. Days off will return to the modified schedule after the vacation is completed.

ARTICLE 24- TUITION REIMBURSEMENT

Upon approval of the Chief or his designee, Employees shall receive 100% reimbursement for tuition & books for Criminal Justice and Criminology courses when Employee receives a passing grade ("C" or better). Reimbursement shall occur within 30 days after a written request for reimbursement is received by the Chief.

This article shall not provide reimbursement for courses begun or completed prior to January 1, 2003.

ARTICLE 25-PHYSICAL EXAMINATIONS

All regular police officers under the age of forty (40) may, upon their request, be examined bi-annually, with new probationary police officers exempt for the first annual period from date of hire, by a physician named by the City. Regular police officers age forty (40) and older may, upon their request, be examined annually by a physician named by the City. Costs for physical examinations shall be borne by the City.

The physical examination shall be equal to the special "industrial" physical program presently being given at Ball Memorial Hospital, Inc. In addition to the medical, social, family history and exam, each individual shall have laboratory studies to include, but not limited to, the following:

- (a) Complete blood count;
- (b) Chemistry 21 profile;
- (c) HDL cholesterol;
- (d) Urinalysis;
- (e) Pulmonary function;
- (f) Resting ECG and sub maximal bicycle exercise stress test;
- (g) Skin fold measurements with an estimation of total body fat; and
- (h) Visual testing to include color vision, stereopsis, fusion, horizontal field vision (grossly) and visual acuity (corrected if glasses are worn).

The City and F.O.P. jointly anticipate an increase in the cost of said examinations and recognize the problems of such an increase in cost. Neither party shall be obligated to bargain about physical examinations during the term of this Agreement, nor shall the City be committed to bear any cost over and above \$10,500.00 per year for said physical examinations. Physicals will be voluntary. The Physical examination report shall be confidential and shall remain in the custody of the physician conducting the examination. Information made available to the City shall be limited to a report of "fit for duty" or "fit for duty with necessary work restrictions or accommodations."

The physical examination is limited to the Industrial Physical Program given at Ball Memorial Hospital.

Every full-time officer, with Supervisor approval, will be given one (1) hour, three (3) times per week, at either the beginning or end of the shift to train in the Police gym. Abuse of this time may be grounds to revoke this privilege.

ARTICLE 26-JOB STRESS COUNSELING

The City agrees to provide at no cost to the regular police officer professional counseling services for the regular police officer, their spouse and children to help alleviate problems that may exist due to occupational stress. The counseling sessions shall remain confidential between

the regular police officer, the regular police officer's family and the counselor. Information shall be released to the City only upon the written consent of the regular police officer.

ARTICLE 27-LIFE INSURANCE

The City shall pay the full premium for a Thirty Thousand Dollar (\$30,000.00) life insurance policy with accidental death and dismemberment clause for each active police officer,

The City shall pay a \$2,000.00 Death Benefit to the beneficiary or estate of all retirees of the Muncie Police Department.

ARTICLE 28- SICK LEAVE

Employees shall be entitled to sick leave based on the following provisions:

- (a) Employee shall notify their supervisor of the need to use sick leave time at least 45 minutes prior to the start of their assigned shift.
- (b) Employees requesting sick leave time shall not be unreasonably denied.
- (c) An employee receives five (5) paid sick days per year that maybe used in one (1) day increments due to the illness of the employee. When an employee uses these days the employee shall not be required to provide written verification from a physician unless the City has a reason to believe the employee is not using these days for the employee's own illness or the illness of the employee's immediate family. Immediate Family shall mean the employee's spouse. parent or minor child, If an Employee uses less than five (5) sick days during the calendar year, the remaining days (a maximum of five per year) shall accrue toward the employee's retirement benefits,
- (d) The sixth (6) and subsequent sick leave days used in a calendar year shall require written verification from a physician and shall be unpaid except as specifically provided in this Article 28. Paid sick days beyond the five (5) days described in paragraph 2 above, may only be used for the employee's own illness.
- (e) Should employee's physician recommend extended sick leave, the employee shall be granted up to ten (10) weeks of extended sick leave time.
- (f) Employees who require non-duty extended sick leave time in excess of ten (10) weeks shall be entitled to receive donation of sick leave time from other Employees as defined by City Ordinance 54-01.
- (g) Employees who become injured or ill in the line of duty shall be allowed extended paid sick leave not to exceed one year. If additional sick leave is needed to recuperate then the employee will be granted additional unpaid time based on the decision of a joint committee (including the President of City Council or his designee. the Chief of Police or his designee, and the President of FOP Lodge #87 or his designee) which shall review the report of the city's physician and determine that the Employee will ultimately be able to return to duty.
- (h) Employees are prohibited from performing any work while on sick leave.
- (i) Notwithstanding the preceding when an Employee is using paid sick days for a Worker's Compensation injury, the Employee may only use sick days in an

amount sufficient to make up the difference between the employees regular pay and the Worker's Compensation benefit.

ARTICLE 29-BEREAVEMENT LEAVE

In the event of the death of a regular police officer's immediate family, Employee shall be granted up to a maximum of five (5) working days leave per occurrence. Immediate family shall include spouse or significant other (one who resides in the home of the employee in the place of a spouse), children, stepchildren, grandchildren, parents, grandparents, brothers, sisters, mothers-in-law, fathers-in-law, daughters-in-law, sons-in-law, sisters-in-law, brothers-in-law, or legal guardian or other person who stands in the place of a parent (in loco parentis).

Realizing that extenuating circumstances can occur, the Chief of Police retains the right to grant additional working days of leave time per occurrence as the situation may warrant.

In the event of the death of a member of a regular police officer's family which does not qualify as immediate family, less bereavement leave time maybe granted up to a maximum of five (5) working days per occurrence at the discretion of the Chief of Police.

ARTICLE 30- EMERGENCY LEAVE

In the event of a verifiable emergency, employee shall be granted up to five (5) working days leave per year. Realizing that extenuating circumstances can occur, the Chief of Police retains the right to grant additional working days of leave time per year as the situation may warrant.

Verifiable emergencies shall be defined by agreement of the Chief of Police and FOP President or their designees.

ARTICLE 31- RESERVE TAKEOVERS

At least once per month the Chief, in his discretion, shall order a takeover of duties by the Muncie Police Reserves so that Employees may attend Training/Activity days.

ARTICLE 32- SENIORITY

Section 32.01. This article applies only to uniformed patrol officers of the Muncie Police Department who have completed their probationary year.

Section 32.02. Seniority for a uniformed regular police officer hired prior to Jan 1, 2000, is defined as the uniformed regular police officer's total length of service with the Police Department as a full time regular police officer. Those officers hired after Jan 1, 2000 will have their Seniority based on continuous service from date of hire. In the event two or more uniformed regular police officers have the same date of hire, the senior uniformed police officer shall be the uniformed regular police officer who ranked highest on the Merit Commission's eligibility list for appointment to the Police Department.

Section 32.03. At no time shall any supervisor and/or administrator, change a uniformed regular

police officer's shift for any reason except as set forth below:

- (a) If a shift is over staffed, then the least senior (in years) uniformed regular police officer shall be moved to another shift which seniority would allow.
- (b) If a uniformed regular police officer wishes to change shifts, he/she may move to another shift once during the calendar year, so long as he/she has more seniority than someone on the other shift, and the least senior uniformed police officer on the shift to which he/she transfers shall be moved to another shift which seniority would allow. All transfers shall take effect on the first day of the pay period. Transfers shall be granted within thirty (30) days of the date the written request is received by the Chief of Police or his designee. Prior to January 1st of each year, Employees shall submit their preferences for shift assignment and shall be granted that preference according to seniority.
- (c) If a uniformed regular police officer agrees to take special training in a technical field he/she may be required to work a particular shift, if such is reasonable, because of the need to utilize the special skill (K-9 as an example).
- (d) If a uniformed regular police officer agrees to accept a promotion, he/she may be required to change shifts.
- (e) If agreed upon by the officer and the City, an officer maybe temporarily transferred for up to 90 days. At the end of ninety (90) days of the officer's temporary transfer, the officer shall have the right to return to his or her pine-transfer assignment. An officer on temporary transfer shall abide by seniority rules within that bureau. Multiple officers temporarily transferred at the same time shall be returned to their pine-transfer assignment starting with the most senior officer first.

ARTICLE 33-SHIFT IDENTIFICATION

All shift times of the various units, divisions, and bureaus will be determined by the Chief of Police or his designee.

ARTICLE 34-LAY-OFF

Section 34.01. Generally. There shall be no lay-off of Regular Police Officers which reduce the Departments authorized manpower level below the levels contained in this agreement except as stated in paragraph 34.02 below.

Section 34.02. Procedure. In the event of an economic emergency, [unrelated to any failure to fully fund all compensation and benefit items in this Collective Bargaining Agreement by appropriation as required by Ordinance, and/or](#) where such economic emergency is not caused by a transfer of funds to other projects [or other financial obligations](#), the City may lay-off regular police officers as described in the following procedures:

(a) The City shall give written notice to the FOP at least thirty (30) calendar days prior to the start date of any lay-off. Such notice shall be signed by the Mayor and the President of the Common Council or each of their designees. The notice shall include reason or reasons for the lay-off, number of officers to be laid off, and the estimated time until recall. Such notice shall be either personally given to the President of the FOP or mailed to the FOP. at the following address: President, Fraternal Order of Police Lodge #87, 821 South Butterfield Road, P.O. Box 515, Muncie, Indiana 47305.

(b) Following the giving of such notice and at least 10 days prior to the time of the proposed lay-off, the City's Mayor, the Police Chief, or their designee, President of the Common Council and or their designee, and President of the FOP or their designee, shall meet and discuss the proposed lay-off and explore possible ways to avoid the lay-off.

(c) If, following such a meeting, the City has met the requirements outlined in paragraph 34.02 above and continues to deem it necessary to lay off regular Police Officers then Reserve Officers, Special Officers, and Auxiliary Officers employed on a regular, full-time basis by the Department shall be released first. Thereafter, the lay-off of regular Police Officers shall be the basis of reverse seniority, starting with the least senior regular Police Officer and going up the seniority ladder from that point. For each regular Police Officer laid off the City must layoff one (1) Civilian employed on a regular, full-time basis by the Department until such time as 50% of the regular, full-time Civilians employed by the Department have been laid off. Additional layoffs of Civilians employed on a regular, full-time basis by the Department beyond 50% shall be determined by the City in its sole discretion. Recall of regular Police Officers who are laid-off shall be the basis of seniority, starting with the most senior and going down the seniority ladder from that point.

Section 34.03. Performance of Work. Subject to the restrictions set forth in this Article 34, during any time when one or more regular Police Officers are on layoff:

(a) Work for which a Reserve Officer, Special Officer or Auxiliary Officer would be paid to perform shall first be offered to laid-off regular Police Officers on the basis of seniority, starting with the most senior. If such work is accepted and performed by a laid-off regular Police Officer he or she shall be paid therefore on an hourly basis at the same, standard hourly rate as would have been paid to a Reserve Officer, Special Officer or Auxiliary Officer who performed the work.

(b) Except as permitted by paragraph (c), below, during each full calendar month one or more regular Police Officers are laid-off, no work shall be performed by Reserve Officer, Special Officer or Auxiliary Officer.

(c) If the City desires to have Reserve Officers, Special Officers or Auxiliary Officers perform work, it shall first offer the work to laid-off regular police officers on the basis of seniority, starting with the most senior. A list of all work presently being filled by any non-regular officer, will be posted and kept updated to allow Regular Officers every opportunity to perform the duties. No non-regular officer will be allowed to perform any job of a Muncie Police Officer, unless verified by the FOP President or his designee and a Regular Officer on lay-off

status is not available to perform the duty.

(1) If a laid-off regular police officer accepts and performs the work, he or she shall be paid therefore on an hourly basis at the same, standard hourly rate which at this time is paid to Reserve Officers, Special Officers or Auxiliary Officers for paid work;

(2) The work which is not accepted and performed by regular police officers may be performed by Reserve Officers or Special Auxiliary Officers.

(3) At any time a regular police officer is on lay-off from the City Police Department that members health and life insurance shall continue in full force and - - effect for a period of six (6) months from the date of layoff.

Section 34.04. Recall of Laid Off Regular Police Officers. All laid off regular police officers shall be recalled starting with the most senior regular police officer.

(a) Laid off regular police officers shall be notified by registered mail of the opportunity to return to active status with the Muncie Police Department. Within fourteen (14) days after receiving the letter the laid off regular police officer must respond to the City in writing, their acceptance or denial of employment. Denial of employment by the laid off regular police officer shall result in the loss of all rights to recall,

(b) Laid off regular police officers shall remain eligible to return under Section 4 above, for a minimum of two (2) years after the date of lay-off regardless of seniority. Officers with more than two (2) years seniority shall be eligible to return for a period of time equal to the time of their service to the Muncie Police Department.

Section 34.05. Hiring Freeze. For purposes of this Article 34 a hiring freeze is not considered to be a layoff and as such the provisions of this Article 34 do not apply during a hiring freeze. A hiring freeze is an example of one of the ways in which the City and the Union may agree to avoid a layoff as described in Section 34.02(b), above.

ARTICLE 35- MANPOWER

The manpower levels shall be reduced from one hundred twenty (120) members to One Hundred Fifteen (115) members through attrition.

The authorized manpower level of one hundred fifteen (115) members shall be maintained unless mutually agreed upon by the City and the FOP. In the event new areas are annexed into the City during the term of this Agreement, the City and the FOP shall meet to discuss increasing the authorized manpower levels in accordance with the most current Annexation study.

After manpower levels are reduced to one hundred fifteen (115), whenever a member of the department leaves through retirement, disability, death, voluntarily quits or dismissal, the Chief of Police shall, within thirty (30) calendar days, request that the Merit Commission appoint an officer to fill such vacancy from an existing legal hiring list.

Whenever a vacancy in rank occurs, the Chief of Police shall, within thirty (30) calendar days, request that the Merit Commission appoint an officer to fill such vacancy, from an existing legal hiring list. Provided, however, that nothing in this paragraph shall be construed to limit the authority of the Chief and the Merit Commission to determine appropriate numbers of officers of each rank.

ARTICLE 36- SHIFT STRENGTH

Sufficient personnel shall be maintained on duty and available for response to calls. Sufficient regular patrol officers shall be available to provide a minimum of eight (8) regular patrol officers for an eight (8) hour shift. If sufficient personnel are not available to meet the minimum staffing requirements, regular patrol officers shall be retained or recalled on overtime,

Exceptions: Training sessions, reserve take-over, and any other situation agreed on by the Chief of Police and/or his designee and the FOP President and/or his designee.

ARTICLE 37- OFF-DAY EMPLOYMENT

Police Officer's extra employment shall not be interfered with unreasonably, so long as it is honorable, honest work, and so long as it does not conflict with the policies or general order of the Police Department. In addition, the officer shall provide the Chief with a signed insurance indemnification form.

ARTICLE 38- DRUG AND ALCOHOL POLICY

Section 38.01. Philosophy And Purpose.

(a) Substance abuse is a concern because of its relationship to and adverse effects upon job performance, productivity, sickness, accidents and injuries in the workplace. The illegal use of drugs or the use of alcohol during working time tends to make the affected employee less productive, less reliable, and prone to greater absenteeism and threatens the Muncie Police Department's ability to function properly. The Department cannot tolerate any use of alcohol or any illegal use of drugs which might impair the health and well-being of its employees.

All Department employees have the right to work in a drug-free environment and to work with persons free from the effects of substance abuse.

(b) The CITY and FOP Lodge No. 87 agree that the illegal use of drugs and the use of alcohol during working time is prohibited. Further, the parties hereto agree that being under the influence of alcohol or illegal drugs during working time is prohibited.

Section 38.02. First Offense Submission To Treatment By The Officer.

(a) The early recognition and treatment of substance abuse is important for successful rehabilitation, for reduced personal, family and social disruption and operation of the Department. FOP Lodge No. 87 and the CITY shall assist employees in overcoming substance

abuse problems; however, the ultimate decision for accepting treatment and help is the employee's responsibility. FOP Lodge No. 87 and the CITY, jointly, have in place an Employee Assistance Program (EAP) which shall assist in meeting the employee's needs. This is a voluntary, confidential service between the employee and the EAP counselor and shall not be shared with the employer for discipline purposes, nor shall the report of any discussions become part of the employee's personnel file, except as otherwise provided in 38.02(b), below and provided the police officer completes the program.

(b) Failure to Successfully Complete Program. In the event an officer fails to successfully complete a professional substance abuse treatment program, the EAP counselor shall notify the Chief. Participation in the substance abuse treatment program or the failure to complete such program shall not be reflected in the employee's personnel file.

(c) Positive Random or Reasonable Suspicion Drug Testing (Employment and Program Options). In the event an officer tests positive ("positive for purposes of this subparagraph C. to be defined as testing positive for drugs pursuant to the second confirmatory test), he or she shall have the following options:

- I. Voluntarily quit employment with the City;
- II. Retire;
- III. Enter substance abuse treatment program; or
- IV. Face discipline and/or termination from employment.

It is understood and agreed that in the event the officer who has randomly tested positive for drugs or alcohol based on reasonable suspicion, and DOES NOT complete the program, he or she only have options (I), (II) and (IV) above. In the event the officer successfully completes the program, no discipline shall be invoked against him or her.

Any officer, whether based on random selection or reasonable suspicion, who has completed the substance abuse treatment program tests positive for drugs during the subsequent 24 month period, shall only have options (i), (ii), and (IV) available to him or her.

Section 38.03. Education.

(a) Bargaining Unit. The City shall arrange and provide information to bargaining unit employees regarding drug testing procedures, the consequences of testing positive under this Article, and the effects of drug and alcohol abuse within ninety (90) calendar days after the effective date of this Agreement and at least annually thereafter.

- (b) Supervisory Personnel. The City shall arrange and provide information to supervisory personnel regarding drug testing procedures, the consequences of testing positive under this Article, the effects of drug and alcohol abuse, and how to determine whether an employee is using, consuming or under the influence of drugs or alcohol during working time within ninety (90) calendar days after the effective date of this Agreement and at least annually thereafter.

Section 38.04. Random Testing And Reasonable Suspicion.

The City and FOP Lodge No. 87 agree that in addition to the procedures for voluntary submission to treatment and education, random, unannounced testing of the Muncie Police Department personnel, as well as testing based on reasonable suspicion, shall be employed to prevent workplace substance abuse.

(a) "Random unannounced drug testing" means testing for the purposes of detecting drugs which is conducted on a periodic basis, without advance notice of the test to bargaining unit employees and without individualized suspicion. The selection of employees to be tested from the pool of employees subject to testing shall be done based on a neutral and objective selection process by an entity independent from the City. In addition, such selection shall be made by a computer-based random number generator that is matched with bargaining unit employees social security numbers, payroll identification numbers, or other comparable identifying numbers in which each member of the bargaining unit employee population subject to testing has an equal chance of selection for initial testing, regardless of whether the employee has been tested or selected previously. The random selection process shall be conducted through a computer program that records each selection attempt by date, time, and employee number, all documentation associated with this testing procedure shall be kept strictly confidential. All random testing of police officers shall occur during working hours and/or a tour of duty. In the event the police officer tests positive to any random selection drug testing, he shall immediately be offered a second confirmatory test utilizing a different sample of urine during his same shift or tour of duty if possible, but in no event more than two (2) hours after submission to the first test; this second test will be undertaken by a separate licensed testing facility agreed to by the FOP Lodge #87 and the City.

(b) An employee shall be required to submit to an immediate drug or alcohol test where reasonable suspicion exists that the employee is using, consuming or under the influence of illegal drugs or alcohol during working time.

"Reasonable suspicion" as used in this Article shall include, but is not limited to observation by the employee's immediate supervisor or higher ranking employee of an employee during working time behaving in a manner which gives the immediate supervisor (or higher ranking employee) reason to suspect the employee is using, consuming or under the influence of alcohol or illegal drugs. Examples of objective observations influencing work-related behavior include any of the following:

- (1) Odor of alcohol on breath;
- (2) Apparent difficulty in comprehending conversation or responding to directions/confusion;
- (3) Difficulty in expressing himself/herself; for example: overly rapid or slow speech; rambling, incoherent sentences even apart from slurred speech;
- (4) Unusual disorientation;
- (5) Unusual swings in emotion or behavior inappropriate for the situation, extreme anger, laughter or depression;
- (6) Aggressive behavior;

- (7) Lack of manual dexterity;
- (8) Unexplained work errors; unusual difficulty in performing other tasks;
- (9) Unusual lack of coordination in walking or performing other tasks;
- (10) Observation of person drinking or using drugs; or
- (11) Other recognized and accepted symptoms of the use of or being under the influence of alcohol or illegal drugs.
- (12) An employee is seriously injured or involved in an accident possibly caused by his or her human error during working time.

(c) In the event an employee's immediate supervisor or higher ranking employee determines a reasonable suspicion exists as set forth in Article (4) B 1 above, such reasonable suspicion must be confirmed by another supervisory, managerial or other higher ranking employee. The individual observing the behavior shall complete and sign the Substance Abuse Checklist form and said form shall also be signed by the individual confirming said behavior. Failure by a supervisor or other higher ranking official to confirm such behavior shall not constitute "reasonable suspicion".

(d) The Police Chief or his designee shall be notified immediately when reasonable suspicion exists that an employee is using, consuming or under the influence of alcohol or illegal drugs or when an employee tests positively pursuant to the random procedure. The Police Chief or his designee shall be given a completed Substance Abuse Checklist form by the supervisor or other higher-ranking employee. The Police Chief or his designee shall notify the FOP Lodge No. 87 President or his designee immediately. The FOP Lodge No. 87 President or his designee and the bargaining unit employee shall also be given a copy of the completed Checklist form.

(e) In the event this is the first time during the employee's employment with the Department that he has tested positive pursuant to the random procedure or a reasonable suspicion exists that the employee is engaged in substance abuse, then the employee shall be given the opportunity to seek voluntary treatment through the EAP rather than submit to a drug or alcohol screen. In the event the employee completes said program, including any required after care, no discipline shall be made and the reasonable suspicion form shall be destroyed and such information purged from his or her personnel file. This option is available to bargaining unit employees only once during their employment with the Department.

(f) The Police Chief or his designee shall arrange for another supervisory or managerial employee to accompany the employee to the initial testing laboratory for drug and/or alcohol testing. The FOP Lodge No. 87 President or his designee may also accompany the employee to the initial testing laboratory.

Section 38.05. Testing.

(a) Testing Laboratory. Urine samples will be submitted to the initial testing laboratory in a manner, which is consistent with NIDA Standards.

(b) Initial Testing.

(1) The initial testing laboratory shall collect a sample. The sample must have at least 30 milliliters (1 ounce) of urine. The testing device utilized shall screen for the following drugs of abuse: Cocaine, Amphetamines, PCP, Cannabinoids and Opiates.

(2) A chain of custody form shall accompany the specimen identifying each person having contact with the specimen and the condition of the tamper-proof seal.

(3) The initial immunoassay test is considered negative if it does not show at least these concentrations of drugs or metabolites:

Marijuana metabolites	50 ng/ml
Cocaine metabolites	300 ng/ml
Opiate metabolites	2000 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	1000 ng/ml

1 If immunoassay is specific for free morphine, the initial test level is 25 ng/ml.

(4) If the initial testing results are positive, the specimen is re-tested at the initial testing laboratory and shall be forwarded with the appropriate Chain of Custody form to an approved confirmatory testing laboratory.

(5) After completing analysis, negative specimens will be discarded at the initial testing laboratory site. Positive specimens shall have an aliquot frozen and retained for twelve (12) months.

(c) Confirmatory Testing Laboratory

(1) The confirmatory testing laboratory shall confirm initial positive results using gas chromatography/ mass spectrometry (GCMS) techniques. The confirmatory testing is considered negative if it does not show at least these concentrations of drugs or metabolites:

Marijuana metabolites	115 ng/ml
Cocaine metabolites ²	150 ng/ml
Opiates:	
Morphine	2000 ng/ml
Codeine	2000 ng/ml
Phencyclidine	25 ng/ml
Amphetamines:	
Amphetamine	500 ng/ml
Methamphetamine	500 ng/ml

1 - Delta-9-tetrahydrocannabinol - 9 - carboxylic acid

2 - Benzoyllecgonine

(2) Whether the confirmatory test is positive or negative, said result shall be communicated to the medical review officer.

(d) Confirmatory Testing - Employee.

(1) In the event an employee tests positive for illegal drugs, the employee may have the split sample tested by a NIDA certified laboratory at the employee's expense.

(2) The initial testing laboratory shall forward the split sample with the appropriate chain of custody form to the NIDA certified laboratory.

(3) This laboratory shall test only to confirm that the sample is positive for illegal drugs. This testing is subject to the confirmatory testing threshold levels.

(e) It is agreed that if the IAFF/Local #1348 negotiate higher threshold levels in any testing procedures, such levels shall be adopted and become effective immediately.

Section 38.06. Chain Of Custody. Each approved testing laboratory's Chain of Custody Form must be maintained and noted by each person who handles the specimens with his or her signature, time and date, reasons for transfer or handling, as well as whether the integrity of the package or specimen has been compromised. Laboratory personnel shall be responsible for maintaining the chain of custody during the analysis of the specimen. The Chain of Custody must be maintained at all times. Failure to maintain the Chain of Custody shall result in a negated test result,

Section 38.07. Medical Review Officer.

(a) Receipt of Results. The Medical Review Officer (MRO) shall receive all test results from the confirmatory testing laboratory

(b) Other Duties. Other duties of the MRO are as follows:

- (1) Notify the employee of a confirmed positive test result;
- (2) Review and interpret each confirmed positive test result;
- (3) Provide an opportunity for the employee to discuss a positive test result;
- (4) Review the employee's medical history as appropriate;
- (5) Review medical records as appropriate;
- (6) Verify laboratory results, including chain of custody;
- (7) Notify the Police Chief and a FOP Lodge No. 87 representative of a verified positive test;
- (8) Make return-to-duty recommendation; and
- (9) Ensure return-to-duty requirements are accomplished.

(c) Notification - Negative. If the drug test results are negative for the presence of drugs and/or alcohol, the MRO shall give the employee and the FOP Lodge No. 87 representative written notification of the results. Test results are considered negative if the

confirmatory test is not positive.

(d) Notification - Positive. The MRO shall provide the employee with written notice that his or her specimen yielded a positive test result for drugs and/or alcohol.

(e) Receipt of Results. Upon the receipt of notice that an employee's second confirmatory drug test is complete, all laboratories shall provide the MRO with the results of each and every testing sequence, including a copy of the Chain of Custody Form. The MRO will provide copies of this documentation to the Police Chief or his designee, the officer, and the FOP Lodge No. 87 President or his designee.

(f) If Testing Results are Inconsistent If the results of the two confirmatory testing procedures are inconsistent, then no finding shall be made regarding the drug testing of the employee. This shall be communicated to the employee and the FOP Lodge No. 87 President in writing. The Police Chief shall be free to initiate subsequent testing at his discretion pursuant to the reasonable suspicion provisions found in Section 4A. However, the results of the initial testing shall not be a factor in establishing "reasonable suspicion."

(g) If Sample Results Are Consistent If the results of the two confirmatory testing procedures yield consistent results, the positive test result shall be conclusive and final.

(h) Employee Notification - Final. Where the second confirmatory test yields a consistent, positive result for the presence of drugs, the Police Chief or his designee shall schedule a meeting with the EAP person or its designated representative and the employee at which the employee will be given written notice of the positive test result and substances detected and the action to be taken by the Police Department.

Section 38.08. Rehabilitation Program. Any employee who tests positive for illegal drugs or alcohol or in lieu of submitting to a drug or alcohol screen voluntarily submits to treatment, shall be medically evaluated, counseled and treated for rehabilitation. Employees who, as part of the random or reasonable suspicion procedures complete a rehabilitation program will be re-tested randomly once every quarter for the following twenty-four (24) months.

Employees who do not enter a program through the random or reasonable suspicion procedures but who enter a program on their own initiative shall not be subject to re-testing. The treatment and rehabilitation shall be paid for by the employee's insurance program. Any self-initiated treatment costs over and above the insurance coverage shall be the responsibility of the employee.

Section 38.09. Required Documentation Any employee who is required to successfully complete a substance abuse program, including all required after care, as part of the random or reasonable suspicion procedure shall submit the following documentation to the Police Chief and the EAP representative regarding his/her participation in after care as a condition of his/her successful completion of the required substance abuse program:

- (a) A copy of the recommended after care program.
- (b) Results of any random drug and/or alcohol screening conducted as part of the after care program;
- (c) Dates of AA meetings attended or any other meetings attended required as part of the after care program; and
- (d) The schedule of sessions held with the after care program counselor assigned to the employee, including a monthly progress report from the counselor,

This documentation shall be submitted at the end of each month for the first six (6) months and quarterly thereafter at the end of each quarter until the after care program is completed.

Section 38.10. Miscellaneous.

(a) Cost. The cost of all initial testing and confirmatory drug tests shall be borne exclusively by the City. The cost of any split-sample tests shall be borne by the employee.

(b) Standards of Performance. Employees who are enrolled in substance abuse programs, including the required after care, whether voluntary or involuntary, shall be subject to all of the Department's rules, regulations and job performance standards that are established for other employees.

Section 38.11. Definition. As used in this Article, the following definition of terms shall apply:

(a) Substance Abuse. Substance abuse shall mean using, consuming or being under the influence of illegal drugs or alcohol during working time,

(b) Illegal Drugs. Illegal drugs shall mean testing positive for any of the following: Marijuana Metabolites, Cocaine Metabolites, Opiate Metabolites, Phencyclidine or Amphetamines.

(c) Chain of Custody. Chain of custody shall mean a procedure, which accounts for the integrity of each urine specimen by tracking its handling and storage from the point of specimen collection to its final disposition. Chain of custody forms shall, at a minimum, include an entry documenting the date and reason for the transfer or handling of each specimen, as well as the identity of every individual in the chain of custody.

(d) Drug Test. Drug test may include a urine or other type of test to determine the presence of drugs or alcohol and administered by a testing laboratory meeting the qualifications required by this policy.

(e) Confirmatory Testing Laboratory. The confirmatory testing laboratory shall be an NIDA laboratory which complies with the scientific and technical guidelines for federal drug testing programs and the standards for certification of laboratories engaged in urine drug testing for federal agencies issued by the alcohol, drug abuse and mental health administration of the U.S. Department of Health and Human Services. The CITY and the FOP Lodge No. 87 agree that the Pathologists Associated Medical Laboratories and the Health South Medical Clinic have contracted with such NIDA laboratories. The parties hereto may mutually agree from time to

time to other NIDA laboratories as a confirmatory testing laboratory.

ARTICLE 39-EMPLOYEE ASSISTANCE PROGRAM

The Fraternal Order of Police Lodge #87 and the Muncie Police Department recognize that an employee may have personal problems that may affect their health and well being, as well as impart deleterious effects on the individual's job performances abilities. The FOP and the City support and encourage the individual and his/her family to seek meaningful and effective assistance through the confidential use of Employee Assistance Program facilities. The goal of the EAP is to restore an individual to health and full recovery. Personal and health problems such as alcohol or drug abuse, stress, marital, family, emotional, medical, legal, financial and/or career can be effectively dealt with through the use of EAP's and outside referrals. Some of these problems are recognized as diseases by the medical profession, which require skilled rehabilitative assistance and treatment. The FOP and the City are concerned with the problems, which definitely and repeatedly impair the job performance and dependability of the individual and the health, safety, or interpersonal relations of all members in contact with the effected individual.

Voluntary utilization of the program is encouraged with the assurance of confidentiality and job security. Confidentiality of all records of the employee pertaining to participation in the EAP will be maintained. All persons participating in the EAP are expected to meet existing job performance standards and established work rules within the framework of this agreement. Exceptions to this policy will be considered on an individual basis and decided by mutual agreement of the FOP and the City. The EAP does not replace established disciplinary processes or the individual's access to the grievance procedures provided for in this contract. Individuals who continually refuse or reject remedial assistance and/or treatment will be handled according to the Police Departments disciplinary procedures. For an employee who voluntarily participates in the EAP for substance abuse and successfully completes said program, the cost of the program shall be paid in accordance with the present health insurance coverage.

Any mandatory participation in the EAP for substance abuse and the employee successfully completes said program; the cost shall be paid in accordance with the present health insurance coverage. If the employee chooses not to complete the program, (including required after care) the employee will pay (100%) one hundred percent of the cost of the program and be subject to disciplinary action. Police Department Personnel and their family may call an EAP representative directly or through their immediate supervisor, if they so desire, for help in assessing personal problems.

Appropriate training of EAP personnel will be maintained to ensure the credibility and professionalism of the program. The City of Muncie Police Department shall pay for appropriate training. There shall be (4) four EAP's unless the FOP and the City mutually agree upon another number.

It is the intent of the EAP to maintain the highest professional standards in safeguarding the privacy and personal dignity of all who seek or accept services. The EAP representative will be elected by the body of FOP. Lodge #87 and will be given time off, without loss of overtime, for

training. EAP representatives will be given the shift prior to training off to allow for preparation. Time spent on EAP matters will be considered as duty time.

ARTICLE 40- NON POLICE OFFICER RELATED WORK

No employee shall be required to do maintenance, cleaning, painting, or unreasonable non-Police Department related work unless specified in an employee's job description. City shall, whenever feasible, consult with the FOP. President prior to requiring any employee to perform non-Police Department related work. Whether or not said work is "unreasonable" shall be subject to the grievance procedure outlined in Article 10.

ARTICLE 41- BILL OF RIGHTS

Section 41.01. Whenever a police officer is under investigation (such officer hereafter referred to as the "Accused") by the Internal Affairs Unit or any other police officer delegated by the Chief of Police to investigate a formal complaint, he shall have the following rights:

(a) An Accused shall only be required to appear before an Internal Affairs Unit investigator for questioning or an interview when a signed and sworn formal complaint has been filed against him and he has been notified thereof. The complaint shall set forth the exact rules, regulations, etc., the accused officer is alleged to have violated and the nature of the supportive facts. These shall be presented to him at least twenty-four (24) hours prior to his being required to give a statement.

1. The formal external complaint shall be in writing, signed and sworn to by the citizen making the allegations, and shall set forth a concise statement of the facts upon which the complaint is based including the date, time and location of the occurrence. All statements of civilian witnesses shall also be signed, sworn to and notarized.

2. A copy of the complaint against the Accused shall be presented to him a minimum of twenty-four (24) hours prior to any questioning or interview and/or any required statements, and the Accused shall have an opportunity during this twenty-four (24) hour period to review the facts of the complaint before being questioned or interviewed about the complaint. The copy of the complaint shown to the Accused shall set out generally the matters under consideration, the alleged violations, the alleged facts of the alleged violations, and a brief synopsis of the allegations made by the complainant and a synopsis of the statements of any witnesses or other evidence,

3. The Accused shall only be questioned or interviewed as to the events and time frame indicated in the formal complaint. If in the course of the questioning, interview and/or investigation, the investigating officer determines that there may exist a violation of the Rules and Regulations not covered either in content or time frame by the formal complaint, such secondary information shall not be investigated, nor shall the Accused be questioned or interviewed about such secondary information, until a formal complaint is filed relating to such. Such complaint can be filed by the Internal Affairs Division, any investigation officer, or any other person having knowledge of the secondary information, but no action shall be taken,

questioning or interview held, or investigation until the filing of either an amended or second formal complaint.

(b) The questioning or interview of the Accused shall be conducted at the office of the Internal Affairs or an alternate location agreed upon between the Accused and the Internal Affairs investigator.

(c) The questioning or interview shall be conducted when the Accused is on duty or at a time agreed upon between the Accused and the Internal Affairs investigator unless the seriousness of the investigation requires immediate action, again only in cases of extreme emergency.

(d) Each session of questioning or an interview of the Accused shall be limited to two (2) hours duration and there shall be at least two (2) hours interval between each session of questioning or interview, unless otherwise agreed between the Accused and the Internal Affairs investigator or unless the seriousness of the investigation requires otherwise, again only in cases of extreme emergency.

(e) Accused shall not be subjected to offensive language or abuse during the questioning or the interview and shall be allowed to attend to his personal physical necessities, even in those cases which are considered to be extreme emergencies.

(f) All questioning or interview of the Accused shall be recorded by the Internal Affairs investigator and a transcript thereof typed at the request of the officer, which shall be signed by the Accused, and a copy forwarded to him.

(g) During questioning or interview, an Accused shall have the privilege of having an attorney or other representative of his choice present and shall be entitled to record his questioning or interview; subject, however, to the following restrictions:

1. An attorney or representative chosen by the Accused must be, depending upon the seriousness of the investigation and the need for immediate action, available within a reasonable period of time and under no circumstances will any questioning and interview session be delayed in excess of twenty-four (24) hours because of the unavailability of the attorney or representative chosen by the Accused. However, no matter how extreme an emergency exists, a minimum of two (2) hours shall be afforded to the Accused to obtain the services of a representative and/or attorney unless the officer chooses to not exercise this right.

2. During the questioning and interview of the Accused, the attorney or representative shall not make any statements or objections of any kind to the Internal Affairs investigation nor will he in any way impede the questioning or interview but will restrict his remarks to conferring with the Accused. The representative's failure to object to any questions shall not constitute a waiver of his ability to later object to any questions asked.

3. In the event of his failure to observe any of the foregoing rules, said attorney or representative shall forfeit his privilege of being present during any questioning or interview of the Accused and the Accused shall be permitted to choose another attorney or representative to be present during the next session of questioning or interview. If the representative or attorney is excluded because of non-compliance with these provisions, the time limit for the next session mentioned above shall be observed for future sessions.

(h) The Accused shall not be subject to having his residence, private place of business, if any, or private vehicle searched unless a valid search warrant has been obtained or he voluntarily agrees to such a search.

(i) It shall “not” be mandatory for the Accused to submit to a lie detector test, psychological stress evaluation test or any other mechanical or physical device or test for the purpose of determining veracity.

(j) A member shall not be compelled to appear in a formal police lineup in any administrative investigation either as an accused or prior to a complaint being filed. This section shall apply to officer personnel line-ups and not apply to showing of photographs.

Section 41.02. Complaints investigated by the Internal Affairs Unit shall be handled in the following manner by classification and designation:

(a) Unfounded, exonerated and non-sustained complaints shall be kept on file with the Internal Affairs Unit, but subject to inspection upon request by the officer involved.

Section 41.03. It is the intent of this section to guarantee certain basic rights to all Employees who are not under formal investigations by the Internal Affairs Division but who may be involved in an investigation relating to an internal police matter by a superior officer. These rights, such as the rights not to be compelled to submit to any mechanical test for veracity, appear in a physical line-up, etc., are hereby guaranteed to all officers even if an IAD investigation is not underway. It is not the intent of this section to interfere with, or in any way complicate, the day-to-day operation of the police department in the relations of superior and subordinate officers. These rights the parties agree are basic rights, and should not be taken by the parties to mean that general, day-to-day matters should be impeded. Any officer should have the right to inquire into day-to-day activities of other officers without this Bill of Rights impeding said inquiries. The parties, however, do recognize that the Employer cannot have the power to circumvent the guarantees herein by merely bypassing the Internal Affairs Unit of the Police Department. The following rights shall be guaranteed to all officers whether or not they are under investigation by the Internal Affairs Unit or any other police officer designated by the Chief of Police to investigate a formal complaint who have not heretofore been classified and defined as the “accused”. It is the intent of the parties that the Bill of Rights shall not interfere with the day-to-day operations of the Muncie Police Department and the informal investigations of departmental affairs. It is, however, the intent of the parties that certain basic rights delineated below shall be guaranteed to all officers even if they are not under investigation. The Employer and the Employees do hereby guarantee the following rights to officers.

(a) If a subordinate officer shall be requested to give an explanation to a superior officer of an incident involving death or serious bodily injury involving the officer's use of a firearm, which, in the opinion of the subordinate officer may result in disciplinary action or criminal procedure, then he will be given reasonable opportunity to collect his thoughts prior to making a statement or account of the incident,

(b) No officer shall be subject to having his residence, private place of business, if any, or private vehicle searched unless a valid search warrant has been obtained or he voluntarily agrees to such search.

(c) No officer of the department shall be required to submit to a lie detector test, psychological stress evaluation test or any other mechanical or physical device or test for the purpose of determining veracity.

(d) No officer of the department shall be required to submit to any blood, breath or urine test for alcohol or controlled substance (while off duty) unless compelled to so submit pursuant to any valid internal or criminal investigation.

Section 41.04. The City will "not" release the contents of "any" Employment file or "any" Personnel File of any officer to any person or agency outside of the Muncie Police Department, unless that officer expressly consents to such release or such information is subpoenaed validly. When the content of a Disciplinary File is requested, the City will only release the minimum amount of information to satisfy the Open Door Law and only after notifying the officer whose file is being requested.

When, however, in the judgment of the IAD division, the investigation has uncovered evidence of possible criminal activity on the part of the accused officer, all of the IAD investigation shall be made known to the Chief of Police and if he determines that there is a possibility of criminal involvement by the accused officer, the officer shall be so notified and the IAD file, "without" the officer's compelled statement, may be forwarded at the Chief's discretion, along with any physical evidence, to the Detective Division, County Prosecutor, etc., for appropriate action. The officer's compelled statement shall not be released to any outside agency, such as the County Prosecutor, in such a situation, unless a valid judicial order has been obtained.

Section 41.05. A police officer shall have an opportunity, at a reasonable time during office hours, to review his active personnel file (pre-employment records not included) and any closed Internal Affairs Unit file in which he was the Accused. In the event there is a comment adverse to his interest in his personnel file, the police officer shall have the right to file a written response thereto, which written response shall be attached to said adverse comment.

The officer shall receive written notice of all matters placed in his disciplinary file.

ARTICLE 42- SEVERANCE BENEFITS

The City shall allow fifteen (15) calendar days at twenty (20) years of service, twenty-five (25) days at twenty-five (25) years of service and thirty-five (35) calendar days at thirty-two (32) years of service with pay for any regular police officer who completes enough years of service to comply with state pension laws and elects to retire from active service,

Each retiring officer shall be credited with two (2) additional days with pay for each calendar year of service in which perfect attendance (meaning no sick, no AWOL) was attained during his/her career.

Officers who submit their written notice of retirement shall have sole discretion in the method of payment for their remaining time (including accumulated sick leave time, unused vacation time, and severance benefit days). The retiring officer may choose:

- a. To be paid for all remaining time in one lump-sum check, or
- b. To receive normal paychecks until remaining time is exhausted.

Due to staffing, promotion, and other concerns — once written notice of retirement is submitted and accepted, the officer may not return to active service with the Department.

Employees participating in the Deferred Retirement Option Plan (DROP.) through the 1977 Police Officers' and Firefighters' Pension and Disability Fund shall retain all rights to rescind their declared retirement date as granted by the Plan guidelines.

ARTICLE 43— [This Article is Intentionally Left Blank]

ARTICLE 44- RETIREMENT WEAPON

Upon the retirement of a regular police officer with at least twenty (20) years of service with the City Police Department or upon the retirement of a regular police officer due to a line of duty disability not related to emotional instability, said regular police officer shall retain the duty weapon that had been issued and assigned to him/her. As used herein, “medical disability” does not include a disability for psychological reasons.

ARTICLE 45-HOSPITALIZATION, DENTAL, VISION, MEDICAL AND PRESCRIPTION INSURANCE

Section 45.01. Employees shall have the choice between three (3) insurance plans: Plan A, B or C. Employees may change plans prior to the start of each plan year during the enrollment period. The Employee contributions for single, employee plus one (1) and family coverage shall be based upon a percentage of the fully insured equivalent annual premium for the particular plan selected as follows:

	Plan A	Plan B	Plan C
Single	\$21.01	\$26.10	\$54.30
EE+I	\$42.02	\$52.20	\$108.59
Family	\$72.16	\$92.39	\$233.14

In the event a husband and wife are employed by the City, they may select only one plan. The City may discontinue Plan C prior to the start of any plan year beginning with the 2008 plan year, if there is less than 10% of its insured active workforce is in Plan C at the close of the enrollment period for the applicable plan year. Plan Benefit Options are attached hereto as Exhibit B. Employees hired on or after January 1, 2006 may select only Plan A or Plan B.

Section 45.02. In the event a Police Officer shall die while an active member of the Muncie Police Department, his/her spouse and/or their child/children shall receive said insurance at the rate of a retired Police Officer (Article 46). In the event the spouse should remarry or decline insurance coverage within ninety (90) calendar days of the death, then they no longer qualify for said insurance. In the event the dependent child/children should marry, no longer be enrolled in school, cease to reside with parent, become capable of self-support, or reach the age of 23 they shall no longer qualify for said insurance. Insurance shall continue to be available if said child or children are mentally or physically disabled.

Section 45.03. Right to Change Insurance Carriers. The City reserves the right to change or provide alternative insurance carriers, health maintenance organizations, preferred provider option, or self insure as it deems appropriate for any form of insurance referred to in this Article. The Police Chief or his designee will notify the FOP President at least thirty (30) calendar days in advance of any change in insurance carriers or insurance provided for under this agreement.

Section 45.04. 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 the same as the basic benefit level of the insurance coverage provided in this Agreement. Such changes may include, but not limited to, mandatory second opinions for elective surgery, pre-admission and continuing admission review, prohibition on weekend admissions except in emergency situations, mandatory out-patient elective surgery for certain designated surgical procedures, and voluntary wellness or physical fitness programs.

Section 45.05. National/State-Wide Health Plan. Should either the State or Federal Government pass legislation mandating all employers to participate in a National or Statewide health plan, it is agreed to by both parties to this Agreement that coverage for Employees health care that was negotiated into this Agreement prior to the passage of such State or Federal Law, shall continue to be a part of this Agreement.

Section 45.06. Insurance Committee. The City and the FOP 87 will meet quarterly in a Joint Health Insurance Committee to study ways to achieve cost savings in the present hospitalization, dental, vision, medical and prescription insurance programs, and to effectively implement such programs that might be agreed upon. The Joint Committee will consist of three (3) members

selected by the members of FOP 87 and three (3) members selected by the City. Any such cost savings will be implemented in a manner consistent with sections (3) and (4) above.

ARTICLE 46- RETIREE'S INSURANCE

Section 46.01. A retired Police officer under the age of 65. A retired Police Officer under the age of 65 shall be entitled to participate in the group insurance coverage pursuant to Article 45 of the Agreement. For purposes of Section 46.02 of this Article 46, a retired Police Officer is limited to mean only a police officer:

- (a) who is a retiree and participating in such coverage on January 1, 1994; or
- (b) who retires on or after January 1, 1994
- (c) who has not yet reached the age of 65
- (d) who does not qualify for Medicare

A retired Police Officer must elect to participate in such coverage within the first thirty (30) calendar days after the date of his or her retirement. A retired Police Officer who fails to so elect within said time period thereby forfeits any right to participate in such coverage.

Section 46.02. Prerequisite to Participation. In order to continue to participate in the health insurance program, retirees shall be a member in good standing with the FOP, or in the alternative, shall pay a service charge to Union in an amount equal to FOP dues or retiree.

If a retired Police Officer elects to participate in such coverage in accordance with this Article 46, he/she shall have the option of choosing plan A, B, or C unless Plan C is discontinued by the City under Article 45. The retiree shall pay a premium equal to the following of the fully insured equivalent of the annual premium for the plan selected payable on a monthly basis as follows:

	<u>Plan A</u>	<u>Plan B</u>	<u>Plan C</u>
Single	\$48.05	\$59.69	\$86.39
EE+I	\$96.09	\$119.39	\$172.77
Family	\$144.14	\$179.08	\$259.16

The Retiree's portion of the **monthly** premium shall be due and payable to the City on a monthly basis. The Retiree may change plans prior to the start of each plan year during the enrollment period limited by the above restrictions.

If a retired Police Officer elects not to participate in such coverage in accordance with this Article 46, he or she shall continue to pay a premium designated by the City towards the cost of such coverage.

Section 46.03. Death/Retirement. In the event a Police Officer shall die while a retiree of the Muncie Police Department, his/her spouse and/or their child/children shall receive said insurance at the rate of a retired Police Officer. In the event the spouse should remarry, or decline insurance coverage within ninety (90) calendar days of the death, then they would no longer qualify for said insurance. In the event the dependent child/children should marry, no longer be

enrolled in school, cease to reside with parent, become capable of self-support, or reach the age of 23 they shall no longer qualify for said insurance. Insurance shall continue to be available if said child or children are mentally or physically disabled.

Section 46.04. A retired Police Officer who has reached the age of 65. A retired Police Officer who has reached the age of 65 and who is qualified for and enrolled in the Medicare Part B Program shall be entitled to participate in the group insurance coverage pursuant to the following. For purposes of Section 46.04 of this Article 46, a retired Police Officer is limited to mean only a police officer,

- (a) who is a retiree and participating in such coverage on January 1, 1994; or
- (b) who retires on or after January 1, 1994
- (c) who has reached the age of 65
- (d) who qualifies for Medicare

The City agrees to pay all costs involved to retiree/ and or spouse for Supplement F less (-) \$25.00 (twenty-five dollars) per month. The retiree and spouse are responsible for any and all costs associated with Medicare Part B. A retired Police Officer who has reached the age of 65 shall be entitled to participate in the group health insurance coverage pursuant to the following. Retiree shall have the option of choosing Plans B or Plan C unless Plan C is discontinued by the City under Article 45. The Retiree is responsible for the following percentages of the fully insured equivalent of the annual premium for the plan and coverage selected by the retiree as follows:

	<u>Plan</u>
Single	\$81.55
EE+I	\$138.09
Retired > 65 w/ Spouse < 65	\$167.94
Family	\$251.19

The retiree's portion of the fully insured equivalent of the annual premium will be due and payable to the City on a monthly basis.

The City will provide the same coverage for Dental, Vision, and Prescription as set forth in Article 45.

ARTICLE 47- STOP LOSS (OUT OF POCKET)

The Stop Loss (Out of Pocket) for each plan is set forth on Exhibit B.

ARTICLE 48- RESPONSIBILITY OF THE CITY

It shall be the responsibility of the City to update and maintain any and all policies/procedures, rules/regulations that pertain to employees of the Muncie Police Department. All employees will be provided a written copy of the above and such will include updates or changes five (5) days prior to the effective date.

ARTICLE 49-DURATION OF AGREEMENT

This Agreement shall be effective as of the 1st day of January 2009 and shall remain in full force and effect through the 31st day of December 2009. This Agreement shall continue in full force and effect until a new agreement is reached between the two parties **not to exceed one (1) year**.

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of _____, 2008.

Sharon McShurley
Mayor, City of Muncie

President, F.O.P. Lodge #87

Chief of Police, City of Muncie

Vice-President, F.O.P. Lodge #87

President, Muncie City Council

Negotiating Team Member, F.O.P. #87

Chairman, City Council Finance Committee

Negotiating Team Member, F.O.P. #87

President, Muncie Board of Works

Retiree's Representative, F.O.P. #87

Controller, City of Muncie