



12-MED-10-1093  
1741-04  
K31012  
06/25/2014

**MIAMI TOWNSHIP BOARD OF TRUSTEES**

**AND**

**OHIO PATROLMEN'S BENEVOLENT ASSOCIATION**

**COLLECTIVE BARGAINING AGREEMENT**

**January 1, 2014 through December 31, 2016**

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## PREAMBLE

This Collective Bargaining Agreement (hereinafter "Agreement"), effective January 1, 2014, is entered into between the Miami Township Board of Trustees ("Employer"), and Ohio Patrolmen's Benevolent Association ("Union").

## ARTICLE 1 General Provisions

**Section 1. Purpose.** This Agreement sets forth the agreement between the Employer and the Union, which represents certain employees in the Miami Township Police Department as to matters pertaining to their wages, hours or terms and other conditions of employment.

**Section 2. Cooperation.** The parties to this Agreement recognize the important public service here involved. The parties mutually recognize the responsibility of both the employees and the Employer to the public requires that any disputes arising between the employees and the Employer be adjusted and settled in an orderly manner without interruption to such service to the public. To these ends, the Employer and the Union agree to encourage to the fullest degree friendly and cooperative relations between their respective representatives at all levels among all employees.

**Section 3. Application.** The male pronoun or adjective where used herein refers to the female also unless otherwise indicated. The term "employee" or "employees" where used herein, without otherwise being qualified or described, refers to all employees in the bargaining unit.

## ARTICLE 2 Recognition and Coverage

**Section 1. Recognition.** The Employer recognizes the Union as the sole and exclusive bargaining representative in all matters pertaining to wages, hours, terms and other conditions of employment during the term of this Agreement, and any continuation or modification hereof, for the employees in the Miami Township Police Department in the bargaining unit as set forth in the certification issued on July 8, 2010, by the State Employment Relations Board in Case No. 09-REP-12-0158.

Included: All full-time permanent employees holding the position of Sergeant.

Excluded: All other employees.

The Employer will not recognize any other person or organization as the collective bargaining representative for any employees within the bargaining units referenced above.

**Section 2. Coverage.** The Union will not seek to include in the bargaining unit any person excepted from the definition of "Public Employee" under Chapter 4117 of the Ohio Revised Code nor will it seek to apply this Agreement to other individuals employed by Miami Township unless agreed to by order of the State Employment Relations Board.

### **ARTICLE 3** **Representation**

**Section 1. Consultation.** After notifying the Chief of Police, or his designated representative, Union representatives may consult with employees, before the start of or at the completion of the day's work, and in addition, shall be permitted access to work areas at all reasonable times with the Employer's prior consent (which consent shall not be unreasonably withheld) for the purposes of adjusting grievances and assisting in the settlement of disputes and effecting the implementation of this Agreement. This right of access is subject to the understanding that work assignments are not interfered with.

**Section 2. Directors.** The Employer recognizes the right of the Union to select a reasonable number of representatives (up to three (3)), and alternates in the Police Department and their authority shall be limited to, and shall not exceed, the following duties and activities, and shall not be conducted on duty time unless authorized in writing by the Police Chief:

- (A) The investigation, presentation and settlement of grievances, in accordance with the provisions of this Agreement, it being understood by the parties that reasonable amounts of time spent in such activity shall not cause a representative loss of pay.
- (B) The collection of dues when authorized by appropriate union action.
- (C) The transmission of such messages and information which shall originate with, and are authorized by the Union or its officers, provided such messages and information have been reduced to writing. Said messages may be transmitted by leaving them in the Officer's mail slot at the Police Station.
- (D) Attendance at OPBA seminars utilizing their own accrued vacation or compensatory time subject to reasonable department scheduling requirements. So long as federal or state wage-hour requirements do not restrict such activity, bargaining unit members may voluntarily assign their accrued vacation or compensatory time to an "Hours Bank" to permit representatives to attend OPBA seminars without loss of pay. Maximum total annual usage by all representatives from the Hours Bank is 40 hours collectively.
- (E) The Hours Bank expenditure will be administered by the Union Director with verification of expenditure by the Police Chief.

- (F) The Union shall notify the Employer of the Directors and Alternates selected. The jurisdiction area of each Director will be designated by the Union and the Employer advised. Directors shall be recognized as the representatives of all members of their appropriate bargaining unit for all purposes of this Agreement. Directors will be subject to the same rules, rates and working conditions as other employees.

**Section 3. Limited Authority.** Directors and Alternates have no authority to take any strike action or any other action interrupting the operations of the Employer. The Employer recognizes these limitations upon the authority of the Directors and Alternates and shall not seek to hold the Union financially liable for unauthorized actions.

#### **ARTICLE 4** **Union Membership**

**Section 1. Union Membership.** All employees covered by this Agreement, who are members of the Union, on the effective date of this Agreement, may remain members in good standing, and those who are not members on that day may become and remain members in good standing. All employees promoted after the effective date of this Agreement may become and remain members in good standing. A member in good standing is defined as an employee who tenders the periodic dues uniformly required as a condition of acquiring and maintaining membership in the Union.

**Section 2. Check-Off.** Any employee who is a member of the Union, or who has applied for membership, may sign and deliver to the Employer an original assignment in a form to be prescribed by the Union and consistent with State law authorizing deductions of membership dues in the Union. Such authorization shall continue in effect from year-to-year unless revoked or changed in writing. Pursuant to each authorization, the Employer shall deduct such dues from the salary check of said employee each month. The amounts deducted shall be transmitted within ten (10) working days to the Union.

**Section 3. Bona Fide Religious Exemption.** Any employee who is a member of a church or practices religious tenets or teachings that prohibit association with a labor organization or the payment of dues to it, shall pay an amount of money equivalent to regular Union dues to a non-religious charity or to another charitable organization mutually agreed upon by the employee affected and a representative of the labor organization to which such employee would otherwise be required to pay dues. The employee shall furnish written proof each month to the Employer and Union that this has been done. Employees who fail to meet this requirement shall be discharged by the Employer upon demand of the Union.

**ARTICLE 5**  
**Management Rights**

**Section 1. Management's Reserved Rights.** Except as otherwise provided by the terms of this Agreement, the management and direction of the affairs of the Employer are retained by the Employer, including the right to subcontract and to determine how many employees it will employ or retain in various capacities and the size and composition of working forces. This includes but is by no means limited to the selection, transfer, assignment and layoff of employees, the exercise of all functions of government granted to the Employer by the laws of the State of Ohio, the determination from time-to-time as to what services the Employer shall perform, the method of performing said services, and the size and composition of the work force.

Unless the Employer agrees otherwise in a collective bargaining agreement, nothing in Chapter 4117 of the Ohio Revised Code impairs the right and responsibility of each public employer to:

- (A) Determine matters of inherent managerial policy that include, but are not limited to areas of discretion or policy such as the functions and programs of the public employer, standards of service, its overall budget, utilization of technology and organizational structure;
- (B) Direct, supervise, evaluate, or hire employees;
- (C) Maintain and improve the efficiency and effectiveness of governmental operations;
- (D) Determine the overall methods, process, means, or personnel by which governmental operations are conducted;
- (E) Suspend, discipline, demote or discharge for just cause, or lay-off, transfer, assign, schedule, promote, or retain employees;
- (F) Determine the overall mission of the employer as a unit of government.
- (G) Determine the adequacy of the workforce;
- (H) Effectively manage the work force;
- (I) Take actions to carry out the mission of the public employer as a unit of government.

**Section 2. Personnel Manual, SOP Manual, Amendments.** Except where specifically and expressly provided to the contrary in this Agreement, the provisions of the Miami Township Personnel Manual, and the Miami Township Police Department Standard Operating Procedures

Manual (and as both may be amended from time to time) are recognized as an appropriate exercise of the Employer's reserved rights. Except as specifically modified by this Agreement or any supplementary agreements that may hereafter be made, all of the rights, powers and authority the Employer had prior to the signing of this Agreement are retained by the Employer and remain exclusively and without limitation within the rights of management. To the extent that the above rights are limited by the express terms of this Agreement, any exercise of these rights which are in violation of such express terms are subject to the grievance procedure.

**ARTICLE 6**  
**Work Rules**

**Section 1. Creation of Rules.** The Employer shall have the right to, in connection with its function of maintaining discipline and directing the workforce, publish, and from time-to-time amend, reasonable rules of employee conduct in addition to those set forth in the Personnel Manual or Standard Operating Procedures Manual. Said rules and their application shall be subject to the grievance procedure set forth herein.

**Section 2. Time Requirements.** Modification to rules shall be posted 28 days before their effective date, except in emergency situations.

**ARTICLE 7**  
**Discipline**

**Section 1.** The tenure of every employee subject to the terms and conditions of this Agreement shall be during good behavior and efficient service. No employee shall be disciplined, including written reprimand, reduced in pay and position, suspended, removed or discharged except for just cause. The Employer may take disciplinary action for actions occurring while the employee is working under the colors of the Employer, or in instances where the employee's conduct violates the employee's oath of office. Expectations of employee conduct are specified in the Police Department Rules of Conduct.

Forms of disciplinary action are:

- (A) Oral reprimand (written record)
- (B) Written reprimand
- (C) Suspension without pay (or working suspension)
- (D) Reduction in classification or rank
- (E) Discharge from employment

**Section 2.** In the event of a suspension without pay, demotion with reduction in pay, removal or discharge, the grievance and arbitration procedure of this Agreement shall be the Employee's sole and exclusive recourse. Where provisions of this Agreement conflict in any form or fashion with otherwise applicable provisions of Ohio law, the provisions of this Agreement shall prevail pursuant to Ohio Revised Code Section 4117.10(A). It is the intention of the parties that this provision be given broad interpretation so as to give the parties' collectively bargained agreement its intended preemptive effect.

**Section 3.** Except in instances where an employee is charged with a serious offense, discipline will be applied in a uniform manner. Discipline shall take into account the nature of the violation, the employee's record of discipline and the employee's record of performance.

**Section 4.** Any employee charged with or under indictment for a felony who is not disciplined or discharged by the Employer, may be placed on leave of absence without pay until resolution of court proceedings. An employee may use accrued but unused vacation or personal time during the leave. An employee found guilty by the trial court of a felony shall be summarily discharged and shall have no recourse through the grievance or arbitration procedures. Where the charges are reduced to a misdemeanor or the employee is found innocent of the charges, the employee may be subject to discipline subject to the terms of this Article, and if discipline does not result in discharge, will be reimbursed for time lost minus any suspension. The Employer shall continue to pay the employee's insurance premiums as provided for in this Agreement during the unpaid leave of absence.

**Section 5.** Whenever the Employer determines that an employee may be disciplined for just cause (including only suspension without pay, reduction in classification or rank, or termination from employment), a pre-disciplinary hearing will be scheduled to give the employee an opportunity to offer an explanation of the alleged misconduct.

**Section 6.** At any time during the disciplinary process provided for in the Article, the employee may waive in writing the opportunity to a pre-disciplinary hearing, and accept the form and severity of disciplinary action determined by the Employer. Disciplinary action that is implemented by the Employer and accepted by the employee following the employee's waiver of a pre-disciplinary hearing shall not be subject to this grievance procedure.

**Section 7.** Not less than 48 hours prior to the scheduled starting time of the pre-disciplinary hearing, the Employer will provide to the employee a written outline of the charges which may be the basis for disciplinary action together with written notification of the date, time and place of the pre-disciplinary hearing. The employee must choose to: (1) appear at the conference to present an oral or written statement in defense of the charges; (2) appear at the conference and have 1 chosen representative present an oral or written statement in defense of the employee; or (3) elect in writing to waive the opportunity to have a pre-disciplinary hearing. Failure to elect and pursue one of these three options or failure to appear at a scheduled pre-disciplinary hearing will be deemed a waiver of the employee's right to the pre-disciplinary hearing. Failure to respond, if required, or

failure to respond truthfully by any employee, including employee witnesses, may result in disciplinary action.

**Section 8.** At the pre-disciplinary hearing the employee may present any testimony, witnesses, or documents which explain whether or not the alleged misconduct occurred, but the hearing officer has the right to limit the witnesses' testimony to matters relevant to the allegations of misconduct, and to limit the redundancy of testimony. Each party shall provide a list of witnesses and the name and occupation of non-employee representatives, if any, to the hearing officer and the other party as far in advance as possible, but not later than 24 hours prior to the pre-disciplinary hearing. It is the employee's responsibility to notify witnesses that the employee desires to attend the hearing. The Employer will require the attendance of employee witnesses requested by the employee within reason. Pre-disciplinary hearings held outside the employee's scheduled working hours shall be considered time worked.

**Section 9.** The employee or the employee's representative will be permitted to question witnesses subject to the hearing officer's right to reasonably limit the length and extent of such examination. A written report will be prepared by the hearing officer concluding whether or not the alleged misconduct occurred. The Employer will decide what discipline, if any, is appropriate.

**Section 10.** Grievances concerning the disciplinary actions of oral reprimand (written record) and written reprimand may be appealed through the applicable grievance steps, but may not be appealed to arbitration. Grievances concerning the disciplinary action of suspension without pay, reduction in classification or rank, and termination from employment shall be submitted directly to the Chief's step, and may be appealed to arbitration.

**Section 11.** In the event the Employer intends to conduct an interview with an employee to discipline, investigate or take any other action which may affect the employee's job security or any other term or condition of employment, the employee is entitled to be accompanied and represented by the Union during the interview or hearing. Provided a Union Director is readily available, no employee shall be required to attend any interview without Union representation, once such representation has been requested. In the event representation is not readily available, said interview may be delayed for a reasonable period of time. Nothing herein restricts the right of the Employer to make on-the-spot inquiries in an effort to acquire knowledge of the facts relating to the incident. If the inquiry becomes accusatory, the employee shall have the right to a Union representative, if requested.

**Section 12.** Any investigation of a potential disciplinary matter will be completed within forty-five (45) workdays after the matter first comes to the attention of the Employer. Workday is defined as a day that falls between Monday and Friday; Saturdays, Sundays and recognized Holidays are not considered workdays.

In cases where a lengthier investigation is required, the time period shall be extended for an additional forty-five (45) workdays by advising the Union Director or Assistant Director of the need

for additional investigative time. The request must come from the Chief of Police or the Acting Chief of Police if the Chief of Police is away from the department for an extended period of time. Any discipline imposed by the Chief of Police or recommendation of discipline by the Chief of Police shall be reduced to writing and served on the employee within ten (10) workdays after completion of an investigation.

In the event of a criminal investigation against an employee, the disciplinary time limits do not commence until (30) days after the criminal investigation is submitted to the prosecutor. Upon written request of the prosecutor, the time limit shall be extended by an additional thirty (30) days.

**Section 13.** Anytime the Employer or any of his representatives has reason to investigate or discipline an employee, it shall be done in a proper and businesslike manner that is not intended to unnecessarily embarrass the employee before other employees or the public. Likewise, the employee, subject to investigation or discipline, shall respond in a proper and businesslike manner and take no action that will unnecessarily embarrass the Township, the Police Department or other employees thereof.

**Section 14.** If no disciplinary action is taken against an employee, and the complaint is deemed unfounded, it shall not be used against the employee in future disciplinary or promotion actions.

**Section 15.** The Employer will not attempt to administer a polygraph examination and/or CVSA without the voluntary written consent of the employee.

**Section 16.** All investigations of bargaining unit members shall be conducted by persons outside of the bargaining unit. The administrative function of collecting a written statement from a complainant does not constitute an investigation for purposes of this Article.

**Section 17.** An employee will not be disciplined solely on the basis of the results of a polygraph examination and/or CVSA.

## **ARTICLE 8** **Grievances**

**Section 1. Definition.** A grievance is defined as a difference, dispute or complaint between the Union and the Employer or between the employees covered herein and the Employer over the application of the contents of this Agreement, or any disciplinary action. An honest and earnest effort will be made to settle grievances informally before resorting to the following steps and procedures. All grievances shall be in writing on forms provided by the Union, and shall set forth the article or section of the Agreement alleged to be violated.

**Section 2. Initiation of Grievance.** A grievance shall be taken up with the employee's immediate supervisor. If the grievance concerns discipline, it shall be taken up with the Chief of Police. Upon the request of either party, a Union Representative shall be present for the meeting.

**Section 3. Grievance Adjustment.** A resolution of a grievance involving the payment of additional compensation or precedent setting interpretation of this agreement requires approval of the Chief of Police. Any grievance adjustment will require the presence of a Union representative.

**Section 4. Procedure and Time Limits.** All grievances shall be promptly filed at the appropriate step within the chain of command. To be considered, a grievance must be filed within ten (10) work days after the occurrence became known or should have become known to the employee who has the grievance. A failure on the part of the Employer, or any representatives of the Employer, to respond to or answer a grievance within the time periods stated below shall be deemed a denial of the grievance on the last day of the time period in which to respond or answer, and may be taken to the next step.

**Step 1.** The grievance shall be taken up with the employee's immediate supervisor. If the grievance concerns discipline, the grievance shall be taken up with the Chief of Police. The supervisor or proper authority shall answer the grievance within ten (10) work days after it has been filed.

**Step 2.** Within ten (10) work days of receipt of the response at Step 2, if the grievance is not resolved to the satisfaction of the grievant, the Union Representative may file, with the approval of the Union, an appeal to the Chief of Police. The Chief of Police shall schedule a meeting in a timely manner and answer the grievance at Step 2 within ten (10) work days after the meeting.

**Step 3.** Within ten (10) work days of receipt of the response at Step 2, if the grievance is not resolved to the satisfaction of the grievant, the Union Representative may file with the approval of the Union, an appeal to the Township Administrator or designee. The Township Administrator or designee shall schedule a meeting in a timely manner and answer the grievance at Step 3 within ten (10) work days after the meeting.

**Step 4.** If the grievance is not adjusted at Step 3 it may be appealed to arbitration within ten (10) calendar days after the issuance of the decision of the Trustees or their designee. The parties, through a strike and rank method, shall jointly select an arbitrator provided by the Arbitration and Mediation Services who has an office within 125 miles of Miami Township. The arbitrator shall have no power to add to, subtract from, or change any of the provisions of this Agreement. The decision rendered by the arbitrator shall be final and binding upon the Union, the Employer, and all employees covered by this Agreement. Each party hereto shall pay the expenses incurred in the presentation of its own case. The expense for an arbitrator shall be shared equally by the Employer and the Union.

**Section 5. Non-Applicability of Statutory Procedure.** The parties hereby agree that the imposition of discipline pursuant to this Agreement and the grievance procedure provided herein shall supersede the statutory requirements of Ohio Revised Code Chapter 505 and/or 509.

**ARTICLE 9**  
**No Strike/No Lockout**

**Section 1.** No Employee shall engage in any strike, sit-down, slow-down, speed-up, sit-in, cessation, stoppage or refusal to perform work, including any intermittent strike.

**Section 2.** The Union, its officers and agents, shall not in any way authorize, assist, encourage or participate in any strike, slow-down, speed-up, sit-down, sit-in, cessation, stoppage or refusal to perform work, including any intermittent strike.

**Section 3.** In addition to any remedy or right provided by applicable law or statute, should a strike, sit-down, slow-down, speed-up, sit-in, cessation, stoppage or refusal to perform work occur, the Union, within twenty-four (24) hours of a request by the Employer, and with good cause shown, shall:

- (A) publicly disavow such action by the Employees;
- (B) advise the Employer in writing that such action by Employees has not been caused, sanctioned, supported or approved by the Union;
- (C) notify Employees of its disapproval of such action and instruct such Employees to cease action and return to work immediately;
- (D) post notices at Union bulletin boards advising that it disapproves of such action, and instructing Employees to return to work immediately.

**Section 4.** The Employer agrees that it will not lockout Employees during the term of this Agreement.

**ARTICLE 10**  
**Personnel Files**

**Section 1. File Examination.** Consistent with applicable state and federal law, the personnel file of an employee may be examined by the employee upon reasonable, advance request and shall, upon request, receive a copy of any documents contained therein. An employee shall be entitled to have a representative of his choice accompany him during such review. Employees are

encouraged to limit their file review to one (1) time per year unless non-routine situations require more frequent access.

**Section 2. Rebuttal** If an unfavorable statement or notation is in the file, the employee shall be given the right to place a statement of rebuttal or explanation in his file. No anonymous material of any type shall be included in the employee's personnel file.

**Section 3. Status of Discipline.** Records of Oral Reprimands shall cease to have force and effect one (1) year from the date of issuance and shall not be considered in determining progressive discipline, unless there is intervening discipline. Written Reprimands shall cease to have force and effect two (2) years from the date of issuance and shall not be considered in determining progressive discipline unless there is intervening discipline. Any record of more severe discipline shall cease to have force and effect three (3) years from the date of issuance, unless there is intervening discipline.

**Section 4. Public Records Request.** The following items are examples of public information available upon request to the Employer, from an employee's personnel file: annual salary, degree(s) held, special certification, employment status, and awards or commendations. All documents contained in an employee's personnel file fall under the Ohio Public Records Act as it relates to retention, removal, destruction, review and release. Information contained in an employee's personnel file will only be released under the guidelines of the Ohio Public Records Act after all exemptions have been considered. The employer will attempt to notify the employee twenty-four hours in advance of honoring any requests for review of the employee's personnel file and subsequent release of information.

## **ARTICLE 11** **Performance Evaluation**

**Section 1. Evaluation Process.** The immediate supervisor shall meet with the employee to discuss the evaluation before the evaluation score is finalized. After meeting with the employee, the supervisor shall prepare the evaluation. The evaluation shall then be submitted to succeeding levels of supervision, for relevant comments. The employee shall receive a copy of the final evaluation form. One copy of the form shall be signed by the employee to acknowledge receipt of the form for inclusion in the personnel file.

**Section 2. Employee Comments.** If the employee disagrees over any part of the evaluation, it is the employee's right to attach written comments which the employee feels will clarify the issue in question. The employee's comments shall be stapled to the evaluation form and the attachment so noted on the face of the form.

**Section 3. Grievance Rights.** Performance evaluations and administration of this Article are subject to formal appeal through the grievance procedure (but shall not be arbitrable), as

provided in this Agreement, in the event informal discussions do not resolve employee disagreement.

**Section 4. Frequency of Evaluation.** Performance evaluations shall be prepared every two (2) months for probationary employees and every twelve (12) months for regular full-time employees. Any employee may request an informal evaluation during the twelve (12) month period.

## **ARTICLE 12** **Probationary Period**

**Section 1. Probationary Period.** All Sergeants new to the position shall serve a probationary period of 12 months.

**Section 2. Grievance Rights.** All Sergeants serving a probationary period may file grievances on all matters except discipline and job performance evaluations. Demotion of a promoted employee during probation shall not be subject to the grievance procedure. All other rights to grievance (excluding disciplinary matters) are retained by the employee.

**Section 3. Probation Period Notification.** All Sergeants shall be notified, in writing, as to the ending date of their respective probationary period.

## **ARTICLE 13** **Hours of Work**

**Section 1. Normal Work Hours.** The Police Department operates under a normal eight and one-half (8.5) hour workday. A variable work schedule, with a particular schedule of work for each employee, is established by the Chief of Police. Road Patrol Sergeants work an eight and one-half (8.5) hour day with successive work schedules of six (6) days on, three (3) days off. Detective and Staff Sergeants work an eight (8) hour workday with successive work schedules of five (5) days on, two (2) days off. Reasonable advance notice (of at least twenty-eight (28) days) of permanent schedule changes (longer than fourteen (14) days) shall be provided unless emergency or unexpected conditions require otherwise. Before a permanent work schedule change is made, the Chief must obtain approval from the Township Administrator. If a permanent schedule change is made, all contract references to a different work schedule will reflect the new schedule and benefits based on the work schedule will be prorated accordingly.

**Section 2. Overtime.** When employees of the Police Department are authorized to work outside of their normally scheduled hours during a twenty-eight (28) day work period, they shall receive compensation at one and one-half times their stipulated hourly rate. Payment for overtime shall not be pyramided.

**Section 3. Filling of Overtime.** Vacancies in the classification of Sergeant shall be filled from among bargaining unit members specified in this Agreement, pursuant to the following method:

- (A) When an absence occurs, the on-duty Sergeant will be responsible for filling the vacancy through the established call-in procedure.
- (B) The vacancy may be filled by the Staff Sergeant, provided the vacancy occurs during day shift Monday through Friday, excluding Holidays. In the event that a Staff Sergeant is no longer a part of the Miami Township chain-of-command, members of the command staff above the rank of Sergeant will be eligible to fill the vacancy.
- (C) Vacancies of less than four hours may be filled by the on-duty supervisor without consulting the established overtime book.
- (D) The on-duty supervisor will be forced to work the first four hours of the open shift if no one can be found to work the complete shift. The next on-coming supervisor will be required to work the second four hours of the open shift.
- (E) Upon learning of the vacancy, the on-duty supervisor will utilize the established overtime call-in book. The book will work on a rotating basis, based on seniority. Once a supervisor has elected to accept or decline a shift, the next supervisor in order of seniority shall have the next selection. If a supervisor does not answer his telephone regarding the overtime opportunity, the next person on the overtime list will be called and offered the opportunity.
- (F) Supervisors contacted to cover an open shift may elect to work the entire shift or split said shift with the next on-coming supervisor.
- (G) If exigent circumstances prevent one or both of the supervisors from being ordered to work the overtime, then a Sergeant, on their days off, will be ordered in reverse order of seniority.
- (H) Employees shall not be forced to work more than four (4) hours in addition to their regularly scheduled duty day. On their day off, employees shall not be forced to work beyond eight and one-half (8.5) hours. In the event of a department-wide mobilization, employees may be required to work more than their regular hours and four (4) additional hours, as provided by this Section.

**Section 4. Compensation for Mandated or Voluntary Training.** State-mandated training for re-certification or maintaining certification as a Police Officer shall not be considered as hours worked for purposes of FLSA or contractual overtime, but employees shall receive their

regular pay for hours they attend while on duty and compensatory time, at straight time, for the hours they attend, if it occurs on their off-duty time.

Department-mandated training and meetings for employees shall be treated as regular working hours for purposes of computing regular and overtime pay, except for those hours being paid back to the department in conjunction with the payroll equalization process.

Other training, which is not mandated by the Department, but which an Officer voluntarily elects to attend and for which the Department agrees to pay the tuition, shall not be considered as hours worked for purposes of FLSA or contractual overtime. Employees shall receive their regular pay for the hours they attend while on duty and compensatory time, at straight time, for the hours they attend, if it occurs on their off-duty time.

**Section 5. Pay for Working on Holiday.** Employees who work on a holiday shall receive time and one-half for all hours worked in addition to holiday pay. Employees who work on a holiday shall be eligible for compensatory time under Section 6, only if said hours qualify as overtime under Section 2, and the employee has not reached the compensatory time cap established by this Agreement. Employees who do not work a holiday shall receive one (1) day of holiday pay in addition to their regular hours worked.

**Section 6. Compensatory Time.** In 2014 and 2015, compensatory time shall be applied so as to permit the Police Chief to utilize any of the following methods of compensating an employee for hours worked outside of their normally scheduled hours during a twenty-eight (28) day work period:

- (A) Payment for overtime hours actually worked at time and one-half or,
- (B) Allowing an employee to accumulate up to a maximum 42.5 hours of compensatory time each year, which shall be accrued on the basis of one and one-half hours of compensatory time for every hour worked outside of their normally scheduled hours during a twenty-eight (28) day work period. Use and accrual of compensatory time shall be subject to restrictions, as follows: (1) No more than 42.5 hours can be used in any calendar year. (2) No more than 42.5 can be accrued in a calendar year. This is a total accrual limit. If any employee accrues 42.5 hours and uses some of it, he cannot then accrue additional compensatory time that year even though his total drops below the cap. (3) Compensatory time accrual is capped at 42.5 hours. An employee may not have more than 42.5 hours, even if some of it was not accrued in the current year. (4) Employees who currently have more than 42.5 hours compensatory time must use enough to bring the total down to 42.5 hours by November 15, 2014 or the excess will be paid out.
- (C) Any combination of A and B.

- (D) In order to be eligible to submit for compensatory time, the employee must actually work a minimum of two (2) hours or more of overtime. An employee who works less than two (2) hours of overtime must submit a request for overtime pay.
- (E) Compensatory time accrual will be abolished effective on January 1, 2016. Employees with accrued compensatory time on January 1, 2016 will have until June 30, 2016 to use it or it will be paid out.

**Section 7. Use of Compensatory Time.** Employees, who request the use of accrued compensatory time shall be permitted to use it, provided reasonable advance notice of the request is given, and provided its use does not unduly disrupt the operations of the department.

**Section 8. Buy-Back of Compensatory Time.** The Department may “buy-back” compensatory time at any time with the consent of the employee. The employee may request that the Employer buy-back compensatory time at any time during the year. Said buy-back is at the discretion of the Employer.

**Section 9. Call-In Pay.** Employees called in to duty (not a continuation of a shift or where an employee is called in prior to his regular shift) shall be guaranteed a minimum of two (2) hours work paid at applicable rates. Employees who drive directly from their homes to an accident/investigation scene shall be compensated from the time they are notified to respond. Employees who are called in to report for road patrol duties shall begin receiving compensation once they clock-in at the Police Department. Call-in procedures established under existing departmental policy shall remain in effect, provided, however, that the need for a response time of thirty (30) minutes or less may restrict or prevent an employee from being called in.

**Section 10. Phone Requirement.** All employees shall be required to have a personal phone number on record with the Employer for purposes of emergency call-in. (See Appendix C for specific protocol). This Article will revert to the pre-2010 FOP version if the mobile phone Appendix C is discontinued.

**Section 11. Shift Trades.** Upon the approval of a designated supervisor, Sergeants shall be permitted to trade shifts with other Sergeants, subject, however, to the following:

- (A) The Employer shall not be required to keep track of the hours traded, but will credit and pay the originally assigned employee as if he had worked his normal schedule for the shift. Such payment shall also include payment for time worked on a holiday, if appropriate.
- (B) The originally assigned employee shall be fully responsible for seeing to it that the assigned hours are actually worked. Any failure of a substitute

employee to show up for work shall subject the originally assigned employee to loss of pay and make the substitute ineligible to participate in shift trades for a period of six (6) months. Shift trades will be limited to two (2) per employee per month.

**Section 12. Payroll Equalization.** In order to eliminate fluctuation in Employee paychecks, Employees will receive bi-weekly paychecks computed on the basis of eighty (80) hours per pay period. Because that may result in temporary payment for more hours than actually worked these “unearned hours” will be recorded as advanced pay and will be paid back by attendance without further compensation at in-service training sessions. In January of each contract year, calculations will be made based on individual Employee’s established work schedule. These calculations will determine the exact number of hours that each individual Employee worked in the previous year. Based upon these calculations, the Employees will either be compensated, prior to January 31<sup>st</sup> for the hours worked in excess of 2080, or payback to the Township the hours worked less than 2080, pursuant to the terms set forth above.

If circumstances beyond the control of the Employee do not allow sufficient training opportunities for the Employee to repay the unearned hours before the close of the calendar year, the balance of the non-paid hours shall be carried forward into the following year, but must be paid by mid-year. Employees shall be able to use vacation time or personal leave to cover the unearned hours. If an Employee terminates employment, any balance owed will be deducted from the final paycheck.

Hours worked for purposes of this Section include all time in paid status.

**Section 13. Educational Incentive Pay.** In an effort to encourage formal educational attainment, Union members who have completed twenty-four (24) months of continuous full-time service with the Miami Township Police Department will be eligible to receive Educational Incentive Pay as follows:

- (A) Associate Degree - 1% of base pay in Educational Incentive Pay.
- (B) Bachelor Degree - 2% of base pay in Educational Incentive Pay.
- (C) In order to receive Educational Incentive Pay, the Union member’s Associate or Bachelors Degree must be in Political Science, Police Administration, Criminal Justice, Law Enforcement, Criminology, Public Administration, Business Administration, Behavioral Science, any other major related to the Union member’s job duties as determined by the Chief of Police.
- (D) Degrees must be from an Accredited institution of higher learning.

Associate and Bachelor degree holders shall be eligible for continuing payment of Educational Incentive Pay at the level provided above without further continuing education requirements or external in-service training requirements.

It is the responsibility of the Union member seeking the Educational Incentive Pay to submit to the Chief of Police a certified transcript of college credits from the accredited institution of higher learning and a copy of all degrees (diploma) earned for consideration. A new transcript and a copy of the degree (diploma) earned must be provided by the Union member each time a higher level of pay is requested.

The Educational Pay Incentive rating shall not be used in base and/or step wage rate calculations, but shall be in addition to the applicable base or step wage rate.

**Section 14. Tuition Reimbursement.** The Chief of Police will budget an amount of money each year to pay for tuition reimbursement and the cost of books for academic classes offered by accredited local colleges and universities. The amount budgeted for tuition reimbursement will be determined by the Chief of Police after an annual review of revenues/expenses for the upcoming fiscal year.

Reimbursement for academic courses will only occur when the Union member takes a course related to the member's job responsibilities or the course(s) are part of a job-related degree program. Reimbursement will be for actual costs, when approval has been obtained prior to incurring the expense for tuition.

Reimbursement will be made to the employee only after receipt of evidence of satisfactory completion of the course(s). Satisfactory completion will be considered no less than a 2.5 grade point average. Union members, who terminate Township employment for any reason, shall reimburse the Township for expenses incurred within the three (3) years prior to termination date. Payment will be deducted from his final pay.

Individuals wishing to participate in the Academic Tuition Reimbursement Program should submit a request in writing to the Chief of Police which specifically identifies the course(s) being requested for reimbursement, the cost of the course(s), and the cost of books. Failure to seek approval prior to registering for classes will disqualify a person for Academic Tuition Reimbursement.

**Section 15. Yearly Time Change.** A member shall be paid for the one extra hour actually worked on the hour of the fall time change to Eastern Standard Time at the applicable rate. A member shall have one hour of pay subtracted if the members works one less hour in the Spring when Daylight Savings Time takes effect.

**ARTICLE 14**  
**Subcontracting and Job Content**

**Section 1. Job Content.** The Employer shall have the right to determine the content of jobs and to modify said content or create new jobs consistent with the efficient and productive operation of the Police Department. In the event a new or modified job is created, the job description shall be reviewed with the Union prior to implementation of the job. Any pay rate for a new or modified job will be established jointly between the employer and the union representative.

**Section 2. Subcontracting.** In the event that the Employer contemplates the subcontracting, transfer, assignment or any other method of relinquishment of substantial work customarily performed by Bargaining Unit members with the reasonable expectancy that such relinquishment of work will result in the layoff of Bargaining Unit members, the Employer will give the Union thirty days' notice, or if thirty days' notice cannot be given, the greatest notice that can be given under the circumstances, prior to the taking of such action. Following notification by the Employer and the making of a demand by the Union, the parties shall meet and confer to consider proposed methods or procedures for the possible retention of the subject work by Bargaining Unit members and the avoidance of layoffs.

**Section 3. Job Descriptions.** The creation and amendment of job descriptions is the responsibility of the Employer. The Employer will only meet with the Union to bargain the effects of the changes an amendment to a job description might cause or the effects the creation of a new job description might cause. The Union will be provided a copy of all new job descriptions and/or revisions.

**Section 4. Annexation.** In the event of the commencement of a process under Ohio law wherein some or all of the territory of the Employer is contemplated to be annexed to an adjacent municipality and said action results in a reduction of staffing or the termination of the operations of the Police Department, to the extent that the impact is not otherwise addressed by statutory procedures under the Ohio Revised Code, the parties agree to meet and commence negotiations as to the effect of said actions upon the employees covered by this Agreement.

**ARTICLE 15**  
**Seniority**

**Section 1. Definition.** Departmental seniority shall be defined as the duration of time an employee has been employed in a sworn capacity on a full-time uninterrupted basis with the Police Department. Classification Seniority shall be defined as the duration of time the employee has served as a Sergeant on a full-time uninterrupted basis with the Police Department. Absent a specific grant in this Agreement the retention of seniority during layoff or leave of absence does not automatically entitle an employee to receive benefits provided to those on the active payroll.

**Section 2. Seniority Date.** Employees with the same employment date shall be assigned to the seniority list in order of their date of promotion to Sergeant.

**Section 3. Termination of Seniority.** An employee's seniority shall cease and his employment terminated upon any of the following:

- (A) Resignation, provided the employee does not return within one (1) year from the date of his resignation. The decision to rehire an employee who has resigned is at the sole discretion of management;
- (B) Termination which is not modified or reversed through grievance or arbitration;
- (C) Retirement (years of service and/or retirement disability);
- (D) Layoff in excess of eighteen (18) months;
- (E) Absence from work due to illness or injury in excess of accrued sick leave or one (1) year, whichever is longer.

**Section 4. Retention of Seniority.** The retention of seniority shall not entitle an employee to any specific benefits or the continued accrual of additional seniority unless specifically set forth in other provisions of this Agreement.

**Section 5. Continued Health Insurance Coverage.** Employees shall continue to be eligible for health insurance coverage as follows:

- (A) During layoff for a period of two (2) months after which as determined by COBRA.
- (B) Absence from work due to illness or injury in excess of accrued sick leave or one (1) year, whichever is longer.

**Section 6. Extension of Time Limits.** The Chief, at his discretion, may extend the time limits provided for in Section 3(E) and 5(B).

## **ARTICLE 16** **Job Vacancies**

**Section 1. Adherence to Process.** The parties agree that all appointments to positions covered by this Agreement shall be filled in accordance with this Article, provided, however, that vacancies in one bargaining unit shall not be filled with employees from another bargaining unit without a fair and impartial testing process. This Article shall not apply to the filling of vacancies in

the Department from outside nor shall it apply to promotion to a rank above Sergeant. Nothing in this Article requires the Employer to fill a vacant position.

**Section 2. Filling a Job Assignment Vacancy.** Whenever a permanent job assignment vacancy exists, a notice of such vacancy shall be posted on the employees' bulletin board for ten (10) days. During the posting period, any bargaining unit member who is qualified to fill the vacancy and who wishes to apply for the vacant position shall do so by submitting a written application to the Employer. The Employer shall not be obligated to consider any applications submitted after the posting date or applications from probationary employees. If qualifications of two (2) or more applicants in the bargaining unit are relatively equal, seniority shall prevail.

**Section 3. Temporary Transfer.** Job vacancies which exist for longer than sixty (60) days and are filled by temporary transfer shall be deemed permanent vacancies and posted as provided in Section 2. Temporary transfers shall be voluntary.

If more than one employee volunteers, the temporary transfer shall be given to the qualified employee with the greatest classification seniority. If there are no volunteers, temporary transfer shall be mandatory with the assignment(s) made to qualified employees in reverse order of classification seniority.

**Section 4. Competitive Evaluation.** In considering qualifications of applicants, the Employer may continue to utilize competitive testing as one of the criteria considered.

## **ARTICLE 17**

### **Layoffs**

**Section 1. Layoff Procedure.** Whenever it is determined by the Employer that a layoff is necessary, the following procedures will apply:

All employees in an initial probationary period working in positions, affected by the layoff, will be assigned to other appropriate positions if available, or, if no other positions are available, shall be laid off prior to displacing any full-time regular employees.

When it is determined by the Employer that regular full-time employees must be laid off from this bargaining unit, the employees will be laid off according to classification seniority with the lowest seniority person laid off first.

**Section 2. Retainment of Seniority.** Employees will retain their seniority and will be reinstated for up to twenty-four (24) months after being laid off and/or bumped down to the other bargaining unit, if an opening arises. Employees will be recalled in reverse order of their displacement.

**ARTICLE 18**  
**Holidays, Personal Leave Days, and Vacations**

**Section 1. Holidays.** Subject to scheduling requirements and consistent with the observance by Miami Township of holidays for its full-time personnel, all full-time employees covered herein shall be entitled to the following paid holidays:

1. New Year's Day
2. Martin Luther King Day
3. Good Friday
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veterans' Day
8. Thanksgiving Day
9. Friday after Thanksgiving
10. Christmas Eve Day
11. Christmas Day

Except for purpose of Article 13 (Hours of Work), Section 5, Holidays which fall on Saturday will be observed on the preceding Friday. Holidays which fall on Sunday will be observed on the following Monday. Employees who are scheduled to work on a holiday shall receive holiday pay or a substitute day off in addition to their regular pay.

Employees who are scheduled to work a holiday may request to take the holiday off and only receive "holiday pay" for compensation. Requests to take a holiday in this manner must be submitted at least twenty-four hours in advance of the holiday (preferably longer). All requests are subject to the written approval of the Chief of Police, or his designee.

**Section 2. Personal Leave Days.** Employees will be given three (3) personal leave days on January 1 of each year, covered by this Agreement. Employees must use three (3) personal leave days between January 1 and December 31 of each contract year, or lose the personal leave days not used by this time (use it or lose it). No compensation will be given for personal leave days not used except as outlined in paragraph two of Section 2.

Employees who make reasonable requests to use personal leave (at times when other employees are not scheduled off) and are denied the opportunity on three (3) different occasions will be paid compensation for the amount of personal leave denied. Waiting until the last month, before an employee's accrued personal leave total equals the cap, does not constitute a reasonable request for personal leave usage. Employees have open access to "schedule books" and have no reason to

submit a personal leave request when someone else is already scheduled off for the time period they were going to request.

**Section 3. Accrual of Vacation.** Only full-time employees may accrue vacation leave. Vacation leave accrued is based on the employment anniversary date with Miami Township. Vacation leave is accrued starting at the time of employment; however, an employee is not entitled to use vacation leave until they have completed six months on the job. Employees, should they leave employment for whatever reason, are not entitled to be compensated for vacation time earned until they have completed twelve (12) months of employment. Vacation leave is not earned during periods of time in which the employee is in a non-pay status, except when the employee is on the first twelve (12) months of Workers' Compensation for a Miami Township-related employment injury or illness.

**Section 4. Hours Earned.** Regular full-time employees will accrue vacation as follows:

	<b>6/3 WORK SCHEDULE</b>	<b>40 HOURS/WEEK WORK SCHEDULE</b>
Years 1 – 7	3.269 Vac Hrs/Pay Period 85 Vacation Hrs/Year	3.076 Vac Hrs/Pay Period 80 Vacation Hrs/Year
Years 8 – 13	4.903 Vac Hrs/Pay Period 127.5 Vacation Hrs/Year	4.615 Vac Hrs/Pay Period 120 Vacation Hrs/Year
Years 14 - 21	6.54 Vac Hrs/Pay Period 170 Vacation Hrs/Year	6.154 Vac Hrs/Pay Period 160 Vacation Hrs/Year
Years 22 plus	8.173 Vac Hrs/Pay Period 212.5 Vacation Hrs/Year	7.692 Vac Hrs/Pay Period 200 Vacation Hrs/Year

A change in Article 13, Hours of Work, will result in a corresponding change in Article 18, section 4 dealing with Vacation Leave.

**Section 5. Accumulation of Vacation.** Vacation accumulation shall be based on an accrual basis. Each employee covered under this Agreement, shall be subject to a cap of maximum limit on the amount of vacation credits that may be carried on their individual account. The cap is equal to the total amount of vacation credit that the employee is entitled to for a full year of accruals, based upon years of service. Employees who only earn eighty (80) hours of vacation per year may accumulate up to one hundred (100) hours of vacation and employees who earn eighty-five (85) hours of vacation per year may accumulate up to one hundred and six (106) hours of vacation. Employees may exceed this cap during the calendar year, but must be at or below this cap on December 31<sup>st</sup> of each year. It is the employee's responsibility to manage their vacation balance or lose what they would accrue above their individual cap. Employees will be paid for vacation hours that exceed the cap after having three reasonable requests for use of vacation denied per Section 7 of this Article.

**Section 6. Pre-Approved Vacation.** Between December 1 and December 31 of each year, employees have the opportunity to guarantee up to two weeks of vacation for the subsequent year. Employees may submit in December for either a two-week vacation or two one-week vacations that, if approved by the Chief of Police, are guaranteed. The approval process will be based upon departmental seniority, in the event two or more employee's request the same time period for vacation and all cannot be approved. By January 10, the Chief of Police will post a list of vacation leave requests, approved during the pre-approval process. The "Black-Out-Day" list does not apply to members of this Agreement.

**Section 7. Unreasonable Denial of Vacation.** Employees who make reasonable requests to use vacation (at times when other employees are not scheduled off) and are denied the opportunity on three different occasions will be compensated for the amount of vacation time that would exceed their individual cap. Waiting until the last month, before an employee's accrued vacation total exceeds the cap, does not constitute a reasonable request for vacation usage. Employees have open access to "schedule books" and have no reason to submit a vacation request when someone else is already scheduled off for the period they were going to request.

**Section 8. Approved Use of Vacation.** Employees shall be allowed time off for vacation as determined by the Police Chief; however, the wishes of employees will be taken into consideration when the efficient operation of the Department permits.

**Section 9. Conversion of Vacation at Termination of Employment.** Unused accrued vacation leave shall be paid as termination pay to employees who have provided at least one (1) year of continuous service with Miami Township. Employees who voluntarily terminate their employment with Miami Township must give a two (2) week notice of such termination to be entitled to be paid for unused accrued vacation leave unless emergency circumstances precluded such notice being given. In the event of an employee's death, unused accrued vacation leave shall be paid to the next of kin, beneficiary or to the estate.

## **ARTICLE 19** **Sick Leave**

**Section 1. Accrual.** Sick leave for full-time employees begins to accrue from the first day of employment and may be used when necessary any time during the period of employment. Sick leave is not earned during periods of time in which the employee is in a non-pay status, except sick leave shall continue to be earned during the first twelve (12) months when the employee is on Workers' Compensation for a Miami Township-related employment injury or illness.

**Section 2. Accrual Rate.** Employees shall accrue sick leave at the rate of 4.6 hours per pay period.

**Section 3. Accumulation.** Employees are entitled to accumulate sick leave subject to Section 8 – Conversion.

**Section 4. Verification/Approved Uses.** Sick leave may be used for:

- (A) Incapacitating illnesses or injury of the employee;
- (B) Contagious diseases; or
- (C) Incapacity due to pregnancy;
- (D) An illness or injury in the employee’s immediate family which because of the demonstrated seriousness of the illness and/or injury or absence of the spouse requires the employee to be at home with that ill family member. Spouse, children, foster children, step-children are the only members of the employee’s immediate family that sick time may be used for other than the employee himself.
- (E) Sick leave shall be approved for use when an employee’s parents suffer a demonstrated serious illness and/or injury and no other family member is available to provide care. The use of sick leave for this purpose shall be limited to three days. Use of sick leave, under this section for parents, will be counted as a sick leave occurrence for purposes of determining whether a person is in violation of the sick leave abuse policy.
- (F) During the birth of the employee’s child (up to eight and one-half (8.5) hours);
- (G) When spouse or newborn is discharged from the hospital (up to eight and one-half (8.5) hours);
- (H) Medical or dental appointments (not to exceed three (3) hours, not to exceed three (3) during any six month period) unless excused by written permission of physician or dentist indicating that treatment rendered required employee to take off longer period. Use of sick leave for a medical or dental appointment under this section shall not be counted as an occurrence under Section 11 of this Article if the employee requesting the sick leave provides a statement from the medical/dental provider confirming the appointment and treatment.

**Section 5. Doctor’s Certification Required.** Sick leave absences of three (3) consecutive days or more must be supported by the employee with a written statement from his

doctor. The Chief of Police may require similar statements for shorter periods of sick leave absence consistent with attendance rules which may be adopted by the Employer.

In situations where an employee is off sick for an extended period of time, due to injury or illness, the Chief of Police may require the employee to provide documentation from his doctor on an Employer-provided medical/psychological form. This form will solicit information from the doctor that relates to the employee's abilities, capabilities or inability to perform job functions specifically related to the employee's job classification. Once the information is received from the doctor, it will be used to determine whether an employee can perform none, part or all of his job functions and whether the employee should return to full duty, light duty or remain off work on sick leave.

**Section 6. Fitness for Duty Evaluation.** If the Police Chief has reasonable cause to believe that an employee is mentally or physically unable to perform his required duties, he may require the employee to take an examination to determine his physical or mental capacity to perform his required duties, which exam will be scheduled at the earliest available date and time. The Employer shall bear the cost of such exam.

If the examination determines that the employee is unable to perform his required duties or that his condition jeopardizes his or other's health and safety, the employee may be placed on sick leave.

If the employee disagrees with the results of a mental or physical examination, the employee may, at his own expense, obtain an examination and opinion from his own personal physician, and if the results of the examination and/or opinion differ, the respective physicians shall select a third physician who shall examine the employee and render the final decision which shall be binding on both parties. The expense of the third physician shall be covered by the Employer.

**Section 7. Reporting Requirement.** Employees are required to notify their immediate supervisor, or other designated persons, at least one (1) hour prior to their scheduled reporting time on the first day of absence unless emergency conditions or the absence of any personnel at the Police Department make such reporting impossible.

**Section 8. Conversion.** Employees will be permitted to accrue up to 3,500 hours of sick leave. Upon the retirement or death of an employee, unused accrued sick leave will be paid at the following conversion rate:

- (A) Employees who were full-time Employees before December 1, 1992 shall have a conversion of full payment on an hour-for-hour basis for the first two thousand (2,000) hours. The Employees entitled to this benefit are listed in Appendix D.

- (B) Employees who became full-time Employees after December 1, 1992, shall have a conversion of full payment on an hour-for-hour basis for the first one thousand two hundred fifty (1,250) hours earned.
- (C) Full payment of 100% accumulated hours for all employees killed in the line of duty.

Employees who have accrued in excess of seven hundred fifty (750) hours of sick leave may convert up to fifteen (15) days of sick leave each year at the rate of three hours of sick leave to one hour of vacation leave. The conversion process will occur in January of each year with the written request of the employee and the converted days will be counted towards the maximum number of vacation leave days that can be carried over at the end of the year.

**Section 9. Receipt of Other Benefits.** In the event an employee receives Workers' Compensation benefits from a third-party employer to offset lost Miami Township wages during the period of his illness or injury, sick leave benefits will only be paid in such amount as is necessary to supplement the Workers' Compensation benefits up to that amount that would have otherwise been earned at Miami Township, had the employee not been off work due to the illness or injury.

**Section 10. Administrative Transfer to Vacation Leave.** Employees who remain absent on sick leave, beyond the number of accrued hours of sick leave, will have their continued absence charged first to compensatory time and then to vacation leave.

**Section 11. Sick Leave Abuse.** Sick leave is granted by the Employer in order to prevent undue hardship to the employee. It is not to be considered as, or used as, personal days or vacation time. Sick leave may be used only for the purposes stated in this Article. Any abuse of sick leave, including falsification of sick leave records, in violation of policies established by the Department or any patterned use of sick leave shall be sufficient cause for discipline. A regularly scheduled course of medical treatment for the employee, pre-approved by the Employer, which is verified by a physician, and which cannot be scheduled outside of regular working hours, shall not be deemed a "patterned use."

- (A) Application by an employee for sick leave, through fraud or dishonesty, will result in denial of such leave together with disciplinary action.
- (B) Physician's statement to verify sick leave shall be required for the following: absences of three (3) consecutive days or more; more than two (2) individual instances of sick leave usage during a two (2) month calendar period; every individual instance of sick leave usage more than six (6) during a twelve (12) month period.
- (C) In the event the Employer determines than an employee has developed an excessive, or patterned, use of sick leave, or a consistent pattern of reporting

off sick on certain days of the week or following regular days off or overtime assignment, the Chief of Police, or his designee, shall provide a written memorandum to the employee notifying him of this problem. This written memorandum shall not be considered a warning, reprimand or other form of disciplinary action; however, it shall be placed in the employee's personnel file in order to substantiate the development of a pattern of sick leave usage.

- (D) Discipline for sick leave shall be administered in accordance with Article 7 - (Discipline) and may result in written warnings, time off without pay or discharge. Sick leave abuse may include: falsification/dishonesty; excessive or patterned use; violation of other sick leave policies established by the Department.
- (E) In addition to the above-referenced sanctions for sick leave abuse, the Employer shall have the discretion to impose the following restriction upon any employee who uses sick leave on more than six (6) separate occasions during a twelve (12) month period: "All subsequent use of sick leave shall be restricted so that payment for sick leave shall not commence until the second consecutive day off (i.e., the first day off shall be unpaid.)"

## **ARTICLE 20** **Injury Leave**

**Section 1. Eligibility.** Any full-time employee shall be eligible to be granted injury leave for work-related injuries in accordance with the following provisions.

**Section 2. Written Request.** Employees applying for injury leave must submit a request in writing to the Chief of Police for processing.

**Section 3. Benefits.** Since all Township employees are covered under the benefits provided by the Bureau of Workers' Compensation, payment for all approved medical and surgical treatment, compensation for lost work time and other benefits will be provided as determined by the state law.

**Section 4. Compensation.** In the event any full-time regular Employee suffers a Miami Township work-connected occupational injury, and such Employee is determined to be entitled to receive temporary total disability benefits as a result of such injury by the Bureau of Workers' Compensation or the Industrial Commission of Ohio, the Township upon receipt of certification of temporary total disability from a licensed medical doctor will pay such Employee the difference between his regular earnings, and the total sum of his temporary total disability benefit wage rate and any other Township coverage, during the first 30 calendar days including the date of such injury.

**Section 5. Supplemental Compensation.** In the event the employee remains disabled and unable to return to work and continues to receive Workers' Compensation benefits, he may be permitted to receive additional supplemental compensation for up to an additional sixty (60) calendar days, subject to Chief of Police.

**Section 6. Charged to Leave.** Any compensation provided by the Township may be chargeable against accumulated sick leave, personal leave, compensatory time, and vacation leave.

**Section 7. Physician Certification.** The Township may require the employee at any time during the injury leave to present a certificate by a licensed physician certifying that such employee is not available for gainful employment due to such injury.

**Section 8. Separation of Injuries.** Each injury shall be considered separate from all other job related injuries when applying the provisions of the injury leave policy.

**Section 9. Denial of Supplemental Leave.** The Chief of Police shall have the right to deny any or all supplemental injury leave compensation. This right is maintained even though the Bureau of Workers' Compensation may approve the employee's claim. It is agreed, however, that the Chief of Police shall not unreasonably deny such supplemental leave compensation. His decision shall be subject to the grievance procedure.

**Section 10. Benefits Maintained.** While on injury leave of absence, the employee's regular benefits as provided by the Township shall be maintained, except as otherwise provided in this Article.

**Section 11. Return from Injury Leave.** The employee returning from injury leave of absence must submit a doctor's statement verifying the employee's ability to return to his regular job functions.

**Section 12. Job Assignment.** An employee returning from injury leave of absence shall be placed on his former job, if in existence, or if not in existence shall be offered a substantially equivalent vacant position as his seniority, skill, ability and physical fitness warrant.

**Section 13. Continued Seniority.** While on injury leave of absence, the employee's seniority will continue to accumulate until such time as he is determined by the State, Federal Government or private insurance carrier to be "totally and permanently disabled."

**Section 14. Physician Examination.** The Employer maintains the right to require the employee to be examined by a physician of the Employer's choosing to determine the employee's eligibility for an injury leave of absence or for an employee's continuation of an approved injury leave of absence. The physician's decision shall be final except as provided elsewhere in this Article.

**ARTICLE 21**  
**Funeral Leave**

**Section 1. Number of Days.** An employee shall have up to three (3) days paid leave to attend the funeral of a member of the employee's immediate family.

**Section 2. Definition: Immediate Family.** Immediate family is defined as grandparents, brother, sister, brother-in-law, sister-in-law, son, daughter, son-in-law, daughter-in-law, Father, Mother, father-in-law, mother-in-law, spouse, grandchild, legal guardian, and a step-child resulting from a legal marriage to an employee.

**Section 3. Chief's Discretion.** The Chief of Police may permit an employee to take additional time in special cases and charge said time against accrued sick leave.

**ARTICLE 22**  
**Health and Safety**

**Section 1. Safe Work Practices.** The Employer and the Union agree that the safety and health of all employees are matters of the highest importance and each will cooperate in an effort to prevent injury.

The Union agrees that careful observance of safe working practices and Employer safety rules is a primary duty of all employees. The Employer agrees that there will be uniform enforcement of such rules against employees similarly situated within the bargaining unit. Violation of Employer safety rules subjects the offending employee to disciplinary action.

**Section 2. Cooperation Between Employer and Union.** The Employer agrees to maintain adequate provisions for the health and safety of its employees during the hours of their employment. The Union and all employees agree to cooperate with the Employer on all matters pertaining to safety.

**Section 3. Safety Hazards/Unsafe Equipment.** If the Union, or an employee, reasonably believes a safety hazard exists, such as unsafe equipment, conditions or practices, the condition shall be reported to the Police Chief, or his designee.

**ARTICLE 23**  
**Uniforms and Equipment**

**Section 1. Original Issue Uniforms.** All Sergeants shall be provided uniforms as set forth in current policy. Employees are responsible for the proper maintenance of issued uniforms.

**Section 2. Original Issue Equipment.** At the discretion of the Chief of Police, the employer will provide for Sergeants all required leather gear, handcuffs, a weapon, an ASP, pepper spray, key ring, whistle, bullet proof vest, nameplate, badge, and collar brass. The Employer agrees to repair and/or replace all issued items worn out or damaged in the course of employment. Sergeants are responsible for the proper maintenance of issued equipment.

**Section 3. Non-Uniform Positions.** The Detective Sergeant, if applicable, shall receive a clothing allowance of \$800.00 per year. This clothing allowance must be used by the Detective Sergeant between January 2 and November 15 of each year. The Detective Sergeant will lose his/her clothing allowance if not used by November 15 of each year. The Detective Sergeant is responsible for maintaining a professional appearance with the clothing allowance.

**Section 4. Repair/Replacement of Personal Property.** The Employer agrees to repair and/or replace any personal property damaged during the course of employment while performing the duties of assigned work with due caution and without interference by other employees, up to a cost of \$115.00 per item excluding eye glasses, contact lenses, and dental plates. These items will be reimbursed at actual replacement cost for like and similar items. The Employer agrees to repair or replace any property the Employer requires the employee to provide that is damaged or worn out during the course of employment.

**Section 5. Footwear.** The Employer will purchase for the employee one new pair of uniform shoes or boots once every three years. The employee may choose the boot or shoe to be purchased, providing it meets the requirements of the employer. The purchase must be made through a vendor the police department has a purchasing relationship with, and the Employer's total cost of the purchase may not exceed \$115.00. Any amount over the \$115.00 must be paid to Miami Township within thirty (30) days of the expenditure. If the Chief or his designee determine that footwear has been damaged during the performance of official duties, it will be replaced.

#### **ARTICLE 24** **Bulletin Boards**

**Section 1. Bulletin Board Space.** The Employer agrees to furnish the Union bulletin board space within the Police Department to be used by the Union for the posting of notices and bulletins relating to official Union business. All items so posted will bear the signature of the Union Director or another official of the Union. The location of said bulletin board space shall be designated by the Employer.

#### **ARTICLE 25** **Jury Duty and Court Appearance**

**Section 1. Jury Duty.** Any employee required to serve on a jury before a court empowered by law to require such service shall be released from duty with sufficient time to clean up and appear and be paid his regular full pay for hours he would otherwise have worked, less any net compensation (i.e. after deduction of verified expenses for parking, mileage in accordance with IRS approved rates and meals, etc.) for jury service.

**Section 2. Court Appearance Compensation.** Any employee required to appear during his scheduled shift before a court, legislative committee, judicial or quasi-judicial body as a witness in response to a subpoena, to testify concerning work related matter, originating while employed by Miami Township, shall be compensated in the same manner as for jury duty.

If an employee is required to appear other than during his scheduled shift he shall receive a guaranteed three (3) hours pay at 1½ times his regular rate provided said time does not overlap into his regular shift.

After the first three (3) hours the employee shall receive his regular hourly rate with all actual court appearance time worked applied to the normally scheduled work hours twenty-eight day accumulation for calculation of overtime eligibility.

If an employee is not notified of court cancellation in advance of appearance, the employee shall be paid the three (3) hours pay providing he or she did show up at the prescribed location of the appearance.

An employee may elect to be credited with compensatory time in lieu of pay, for the total amount of court time compensation due for a single appearance, provided that the Chief of Police, shall have the right to suspend the election of compensatory time for a court appearance if the chief, in his sole discretion, determines that the further accrual of compensatory time is not in the best interest of department. Suspension of the election of compensatory time for court appearances shall be department wide and shall not be applied on an individual basis. Notification of suspension of the election of compensatory time for court appearances shall be posted before the suspension takes place.

**Section 3. Employee Responsibilities.** Employees must call the court one (1) hour before appearance to check the status of the case.

The employee shall reimburse the Township for witness fees received from the court for testifying.

**Section 4. Miscellaneous Expenses.** Parking expenses associated with court appearances will be paid for by the Employer, however the Township shall not be obligated to pay for mileage, etc. unless the court appearance is outside of Montgomery County.

**Section 5. Time Stamp Requirement.** A time stamp on the subpoena or notice from the applicable Clerk of Courts shall be presented to the employee's supervisor to provide evidence of date and time for audit back-up of the Department expenditure.

**ARTICLE 26**  
**Health and Life Insurance**

**Section 1. Health Insurance.** The Employer shall provide the same hospitalization and medical insurance to all full-time employees covered herein in such amounts and benefits that other non-organized Township employees receive.

The Employer shall pay 80% and the employee shall pay 20% of the monthly premium for the hospitalization insurance.

The Employer agrees to a joint review, in conjunction with representatives of all other Township employee bargaining units, of existing health insurance coverage prior to the date of program renewal. The Employer agrees to consider Union and employee representative recommendations, suggestions and criticisms in its selection of health insurance coverage and carriers.

**Section 2. Life Insurance.** The Employer shall continue to provide group term life insurance of \$25,000 and extended benefits to all full-time employees covered herein in such amounts and benefits as are in effect on the date of this Agreement. Employees shall not be required to contribute to the cost of this insurance.

**ARTICLE 27**  
**Wages**

**Section 1. Wage Schedule.** All wage rates shall be increased by 2.5% effective on January 1, 2014, 1.75% effective on January 1, 2015 and 1.5% effective on January 1, 2016. All wage rates are contained in Appendix A of this Agreement.

**Section 2. Pension Pick-Up.** The Employer shall cease paying a 10.1% employee contribution to the applicable pension fund and will instead include that amount (10.1%) in the Employee's wages, which is reflected in Appendix A of this Agreement.

**ARTICLE 28**  
**Selection of Shift and Job Assignments**

**Section 1.** Between November 1 and November 10, each year, supervisors will select their shift assignments and job assignments. The bidding will be done by classification seniority with the most senior supervisor having the first selection. All of the positions held by supervisors will be open to shift bidding. Road patrol assignments will be bid yearly and supervisors must change shifts at least once every five years. The Staff Sergeant and Detective Sergeants' positions (as well as any other specialty positions created) shall be up for selection once every four years. A supervisor selecting one of the specialty positions must vacate that position at the end of four years unless no other supervisor bids for that position. The supervisor displaced from the specialty position will be eligible to bid that specialty position again in four years' time. The Employer will make notification to the supervisors, annually, by November 30th of their assignments for the subsequent calendar year. The changes, if any, shall take effect at the start of the first full pay period in January. It is the responsibility of the Employer to ensure that each of the supervisors is adequately trained in a manner to ensure successful completion of their assignment.

Employees assigned to their initial tour as Staff Sergeant and Detective Sergeant will be subject to a six month probationary period. Supervisors during their initial term will be subject to monthly performance evaluations by their immediate supervisor. An employee may only be removed with the approval of the Township Administrator. Two consecutive substandard rating periods will justify removal from the position and return to a road patrol supervisory position pending the selection of a replacement, pursuant to the process set forth in this Article.

## **ARTICLE 29** **Severability and Savings**

**Section 1. Invalid Articles and Sections.** In the event that any Article or Section is held invalid, or enforcement or compliance is not possible, then the parties hereto shall enter into immediate collective bargaining negotiations for the purpose of arriving at mutually satisfactory replacement for such Article or Section during the period of invalidity or restraint. The Union or the Employer may request the collective bargaining negotiations. Failure of the parties to agree on a satisfactory replacement shall cause any dispute resolution procedure contained herein and the applicable provisions of the Ohio Revised Code 4117 to be invoked. If this Agreement differs from State law in regard to a matter subject to collective bargaining, then the Agreement shall prevail over State law, Ohio Revised Code 4117. The parties agree that some sections of the Agreement may specifically identify certain Ohio laws that are superseded and others may not. If a section does not specifically indicate that Ohio law is superseded, that section shall nevertheless be interpreted to supersede Ohio law.

**Section 2. Effect of Laws.** In the event that any provision of this Agreement is found to be contrary to law by a court or other authority having jurisdiction, it shall be void, but the remainder of the Agreement shall remain in effect.

**ARTICLE 30**  
**Entire Agreement**

During the negotiations resulting in this Agreement, the Employer and the Union each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter as to which the State Employment Relations Act imposes an obligation to bargain.

Except as specifically set forth elsewhere in this Agreement, the Union and Employer expressly waive their right to require the other to bargain collectively over all matters as to which the State Employment Relations Act imposes an obligation to bargain, whether or not:

- (A) Such matters are specifically referred to in this Agreement;
- (B) Such matters were discussed between the Employer and the Union during the negotiations which resulted in this Agreement; or
- (C) Such matters were within the contemplation or knowledge of the Employer or the Union at the time this Agreement was negotiated and executed.

As used in this Article, the waiver of the right to “bargain collectively” includes the waiver of the right to require the other party to negotiate, and the right to obtain information from the other party.

This Agreement contains the entire understanding, undertaking, and agreement of the Employer and the Union, after exercise of the right and opportunity referred to in the first sentence of this Article, and finally determines all matters of collective bargaining for its term.

Changes in this Agreement, whether by addition, waiver, deletion, amendment, or modification, must be reduced to writing and executed by both the Employer and the Union.

**ARTICLE 31**  
**Transfer of Personnel**

Employees who are approved by their physician for return from sick leave on a restricted activity basis are not guaranteed a light-duty assignment. If there is a valid need for a light-duty assignment within the department as determined in the sole discretion of the Employer, then the employee returning from sick leave on a restricted activity basis may be considered to fill the position. The Employer is under no obligation to create a light-duty position for employees returning from sick leave on a restricted activity basis.

**ARTICLE 32**  
**Drug and Alcohol Testing**

Management and the Union agree to a Drug and Alcohol Testing program. This program is outlined in Appendix B, Drug and Alcohol Testing Policy.

**ARTICLE 33**

**Purchase of a Duty Weapon**

**Section 1.** Purchase of a duty weapon. A union member who honorably retires with a service retirement or duty-related disability (other than a psychological or mental disability) from active duty may purchase his service weapon from the department for fifty (\$50.00) dollars. A union member who retires with an off-duty disability (other than a psychological or mental disability) from active duty may purchase his service weapon from the department for three hundred (\$300.00) dollars.

**ARTICLE 34**

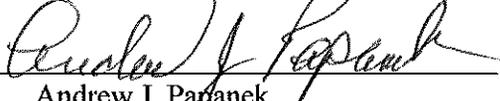
**Duration**

This Agreement shall be effective from January 1, 2014 through 11:59 p.m., December 31, 2016. If a new agreement has not been entered into prior to that time, this Agreement shall continue in effect thereafter until replaced, or until notice of not less than sixty (60) calendar days is given by either party to the other in writing.

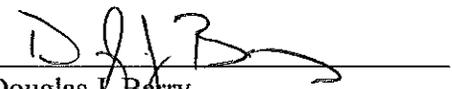
IN WITNESS WHEREOF, the parties set their hand on the date(s) set forth below.

MIAMI TOWNSHIP BOARD OF TRUSTEES

Signed by the Employer on June 3<sup>rd</sup>, 2014:

By:   
Andrew J. Papanek  
President, Board of Trustees

By:   
Robert H. Matthews, Jr.  
Vice President, Board of Trustees

By:   
Douglas J. Barry  
Trustee, Board of Trustees

By:   
Gregory S. Rogers  
Township Administrator

By:   
Ronald L. Hess  
Chief of Police

By:   
W. Joseph Scholler  
Legal Counsel

Attest:   
Ann M. Barhorst  
Fiscal Officer

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

Signed by the Union on June 3<sup>rd</sup>, 2014:

By:   
Scott Fitzgerald  
Sergeant

By:   
Paul Nienhaus  
Sergeant

By:   
Joe Hegedus  
OPBA Representative

Attest: \_\_\_\_\_

**APPENDIX A**

<b>January 1, 2014 THROUGH DECEMBER 31, 2014</b>		
Increase of 2.5%		
	Step A (0-12 months)	Step B (13 months +)
Sergeant	33.02	36.69

<b>JANUARY 1, 2015 THROUGH DECEMBER 31, 2015</b>		
Increase of 1.75%		
	Step A (0-12 months)	Step B (13 months +)
Sergeant	33.60	37.33

<b>JANUARY 1, 2016 THROUGH DECEMBER 31, 2016</b>		
Increase of 1.5%		
	Step A (0-12 months)	Step B (13 months +)
Sergeant	34.10	37.89

## APPENDIX B

### DRUG AND ALCOHOL TESTING POLICY

**Section 1. Policy Statement.** Illegal drugs and alcohol misuse are inconsistent with the Township's commitment to a safe and productive work environment. The public has the right to expect employees of the police department to be free from the effects of illegal drugs and the impairment from alcohol or legal drugs while on duty. The Township, as the Employer, has the right to expect its employees to report to work fit and able for duty and to set a positive example for the community. Moreover, the illegal use of drugs or an employee's impairment resulting from known adverse side effects of prescription drugs, or from consumption of alcohol presents unacceptable risks to the safety and well-being of the employees and the public, results in accidents, and injuries, and reduces productivity. This policy is not intended to violate any established constitutional rights of the employees of the Miami Township Police Department.

This policy statement is based upon the combined commitment of the Union and the Employer to maintain a safe, healthful and productive work environment for all employees and to ensure the safe and efficient delivery of services to the citizens of Miami Township. It also reflects the combined commitment of both groups to the "Drug Free Workplace Act of 1988."

**Section 2. Definitions.** The clarification of certain terms is extremely important to the clear understanding of this Policy. Listed below are those terms, along with their definitions.

**Alcohol** means beer or intoxicating liquor as defined in Section 4301.01 of the Ohio Revised Code.

**Alcohol Misuse** means the consumption of beer or intoxicating liquor as defined in Section 4301.01 of the Ohio Revised Code, resulting in the presence in an on-duty employee of a concentration of four hundredths of one percent (.04), or more, by weight of alcohol in his/her blood or four hundredths of one gram (.04), or more, by weight of alcohol per two hundred ten (210) liters of his/her blood, or an off-duty employee being under the influence of such intoxicant above the legal limit which is in violation of any state or local law.

**Alcohol Test** means a procedure to identify the presence of a minimum specified level of alcohol in an employee. Breath tests to determine the level of alcohol must be given by a Breath Alcohol Technician (BAT) trained to proficiency and certified by the appropriate state agency in the operation of the Evidential Breath Testing instrument (EBT). If an employee is hospitalized, such blood/alcohol testing shall be conducted in accordance with the guidelines of the medical facility.

**Collection Site** means a place where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs. The site will be the facility or satellite facility of the mutually agreed upon drug testing laboratory in the case of random drug testing. Such laboratory or satellite facility shall also be used for just cause or reasonable suspicion drug testing whenever possible. If the Employee is hospitalized or if the laboratory site is

unavailable, the collection site will be either the location where the employee is hospitalized or another site mutually agreed upon by the Employer and the Union.

**Confirmation Drug Test** means a second procedure to identify the presence of a specific drug or metabolite that is independent of the initial test and that uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. At this time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines and phencyclidine.

**Confirmed Drug Test Result** means a positive confirmatory drug test that has been confirmed by the Medical Review Officer (MRO), who will be a licensed physician.

**Initial Drug Test** (also known as a Screening Test) means an immunoassay test to eliminate negative urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation through further testing.

**Illegal Drug** means any "controlled substance," as defined in the Ohio Revised Code, Section 3710.01(D), and any "dangerous drug," as defined in Section 4729.02 of the Ohio Revised Code, the possession or sale of which, without prescription or license, is prohibited by law.

**Illegal Drug Use** means the use of any "controlled substance" or "dangerous drug" that has not been legally prescribed and/or dispensed, or the use of a prescription drug that is not in accordance with the manner in which it was prescribed.

**Legal Drug** means any substance, the possession or sale of which is not prohibited by law.

**Legal Drug Misuse** means the overuse or inappropriate use of any legal drug.

**Negative Drug Test Result** means the absence of illegal drugs in any form or metabolites in sufficient quantities such that the illegal drug or its metabolites is not at or above the specified cutoff level in accordance with the National Institute of Drug Abuse (NIDA) standard or the standards set forth in this Policy, or the absence of a confirmed positive result.

**Positive Alcohol Test** means the presence in an on-duty employee of a concentration of four hundredths of one percent (.04), or more by weight of alcohol in his/her blood, or four hundredths of one gram (.04), or more by weight of alcohol, per two hundred ten (210) liters of his/her blood or the presence of a concentration of alcohol above the legal limits under the state or local law in an off-duty employee.

**Prescription Drug** means any "controlled substances" or "dangerous drug" for which possession and use are legal when "prescribed" by licensed medical personnel. "Prescribed" means a written or oral order for a controlled substance for the use of a particular person given by a practitioner in the

course of professional practice and in accordance with the regulations promulgated by the United States Drug Enforcement Administration, pursuant to the federal drug abuse control laws.

**Section 3. Work Rules.** The following rules apply to all members of the bargaining unit.

- (A) Whenever employees are on-duty, operating Township vehicles, using an employee's personal vehicle while on Township business, or present on Township premises, they are prohibited from using, possessing, buying, selling, manufacturing, delivering or dispensing illegal drugs; except as may be necessary in the performance of duty.
- (B) Employees are prohibited from using, possessing, buying, selling, manufacturing, delivering or dispensing illegal drugs at any time or place, on or off-duty, except as may be necessary in the performance of duty.
- (C) This Policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their physicians about the medication's effect on their ability to work safely, and promptly disclose any restrictions to their supervisor. Employees should not, however, disclose underlying medical conditions, unless specifically directed to do so.
- (D) No employee shall consume alcohol, as defined in this Policy, while on-duty, except in the performance of a police duty.
- (E) No employee shall consume alcohol, as defined in this Policy, in such a way that when he/she is on-duty, there is a concentration of four hundredths of one percent (.04), or more by weight of alcohol in the employee's blood, or four hundredths of one gram (.04), or more by weight of alcohol per two hundred ten (210) liters, of the employee's blood.
- (F) Employees are required to cooperate in the types of tests described in this Policy and are prohibited from tampering with or otherwise obstructing such tests.

**Section 4. Reasonable Suspicion Drug and Alcohol Testing.** Reasonable suspicion testing for drugs and alcohol must be based upon the following considerations:

- (A) Reasonable suspicion of the illegal use of drugs and/or alcohol must be based on specific, objective facts. Any derived inferences from those facts about the conduct of an employee, must be sufficient to lead a reasonable person to suspect that the employee is engaged in illegal drug use or legal drug misuse while on or off-duty, or alcohol misuse while on-duty.

- (B) Reasonable suspicion of the above is based upon a combination of a number of behavioral and performance factors, some of which may include, but are not limited to:
1. Disturbances in gait;
  2. Slurred speech;
  3. Odor of alcohol, marijuana or other illegal drug;
  4. Impaired gross or fine motor skills;
  5. Changes in appearance such as flushed face, red or blurry eyes, carelessness in dress or appearance, hand tremors, etc.;
  6. Needle marks on body;
  7. Excessive or repetitive vehicular, equipment or workplace accidents;
  8. Inconsistent work patterns or disruption of work patterns;
  9. Decreasing reliability or dependability;
  10. Neglecting details formerly not neglected;
  11. A history of repeated citizen complaints;
  12. A record of decreased productivity or quality of work.
- (C) Supervisors encountering such trends or actions by employees must use good judgment in evaluating the situation. Supervisors must document patterns of deteriorating work performance, in a written report, to establish factual data in establishing reasonable suspicion. Supervisors are never to act upon hearsay, unless other corroborating information is established.
- (D) A supervisor requesting a drug screen and/or Evidential Breath Testing (EBT), as a result of reasonable suspicion, must submit a written report to the Chief of Police. This report will outline the facts and/or observations gathered by the supervisor on which he bases reasonable suspicion. The Chief of Police, or his designee, will review the supervisor's report and then determine if sufficient facts and/or observations have been gathered to establish reasonable suspicion.

- (E) In the event that time will not permit a written report to be submitted, supervisors must obtain verbal approval from the Chief of Police, or his designee, prior to initiating drug or alcohol testing for reasonable suspicion. The supervisor shall document, in a written report, the facts and/or observations gathered to request verbal approval from the Chief of Police prior to completing his/her tour of duty and submit it to the Chief of Police.
- (F) If the Chief of Police, or his designee, upon review, determines reasonable suspicion requirements have been met, he may order an immediate drug and/or alcohol test. These tests will be administered according to the specimen collection and testing procedures set forth in this Policy.

**Section 5. Just Cause and Post-Accident Testing.** Just cause for drug testing (urine or blood) and/or alcohol testing (Evidential Breath Testing or blood) shall exist when:

- (A) There is direct observation of illegal drug use on or off-duty or alcohol usage on-duty.
- (B) An on-duty employee possesses alcohol or an on or off-duty employee possesses drugs or related drug paraphernalia that is outside the scope of his/her job duties or outside the guidelines of physician-prescribed medication.
- (C) An employee admits to illegal drug use or possession or alcohol misuse.
- (D) An employee returns to duty after an absence of thirty (30) calendar days, or more, from a drug or alcohol-related suspension.
- (E) An employee, on-duty or driving a Township vehicle, causes a traffic accident that results in either death or "serious physical harm to a person," as defined in Ohio Revised Code Section 2901.01(E), or "serious physical harm to property," as defined in Ohio Revised Code Section 2901.01(F).
- (F) An employee, in pursuit of another vehicle, that appears to have violated the Department's pursuit policy causing an accident resulting in serious physical harm to the employee, serious physical harm to the subjects in the pursued vehicle, serious physical harm to a third party, or serious physical harm to property.
- (G) An officer fires a weapon at someone, whether or not the person is injured.
- (H) An employee has caused "serious physical harm," by virtue of violating the Department's use of force policy, to an individual, by any means, during the performance of his/her police duties.

**Section 6. Alcohol Testing Procedures.** Employees subject to alcohol testing shall be sent or driven to a Township designated clinic and directed to provide breath specimens in a private setting. Specimens shall be collected only by trained technicians, using testing devices approved for Evidential Breath Testing by the federal government, that are regularly calibrated and capable of producing printed results that identify the employee.

The technician shall first conduct a screening test. If the screening test results are less than .04, then the employee will be treated as passing the alcohol test. If the screening test results in an alcohol concentration of at least .04, the technician shall instruct the employee not to belch or put anything in his/her mouth and conduct another confirmation test, fifteen to twenty minutes later. If the confirmation test results in an alcohol concentration of less than .04, the employee shall be treated as passing the test. If the confirmation test results in an alcohol concentration of .04 or more, the employee shall be subjected to the consequences described later in this Policy.

**Section 7. Drug Testing Procedures.** Random drug testing is a critical component of the "Drug Free Workplace Act of 1988." Listed below are the procedures for random drug testing:

- (A) The Union and the Employer shall mutually agree upon an independent drug testing laboratory to conduct tests and to select the MRO who will perform the independent computerized probability sampling process. All laboratory contacts shall require that the contractor comply with the Privacy Act, 5 U.S.C., Section 522(a). In addition, laboratory contracts shall require compliance with patient access and confidentiality provisions of Section 503 of Public Law 100-71. The agency shall establish a Privacy Act System of Records such that the employee records will be maintained and used with the highest regard for employee privacy.
- (B) Sample collection will adhere to the following procedures:
  1. When an employee has been directed by a supervisor to provide a urine specimen for any of the reasons detailed in this Policy, he/she will be taken immediately to the collection site by a supervisor. The collection site will be the facility of the mutually agreed upon drug testing laboratory in the case of random drug testing. Such laboratory shall also be used for just cause or reasonable suspicion drug testing if the laboratory is available. If the employee is hospitalized or the laboratory site is unavailable, the collection site will be either the location where the employee is hospitalized or another site mutually agreed upon by the Employer and the Union.
  2. The employee will be required to sign the laboratory's "Drug Screen Consent" form at the time he/she is taken to the collection site.
  3. Failure or refusal to submit to the requirement that a specimen be provided or any undue delay by the employee or failure or refusal to execute the appropriate

“Drug Screen Consent” form or any other form or cooperate in good faith with the testing and laboratory procedures may result in discharge .

4. The employee may make arrangements for a Union representative to witness the testing procedure; however, the employee must obtain the witness within one-half hour of the scheduled test time. The witness will be prohibited from any action other than witnessing the test procedure.
  5. Specimen collection will be in accordance with the guidelines of the NIDA-certified testing facility, mutually agreed upon by the Employer and the Union, or in accordance with the guidelines of the medical facility being used in the case of a hospitalized employee or where the laboratory is unavailable. In the case of reasonable suspicion and for cause testing, if the laboratory site is unavailable and the employee is not hospitalized, the specimen will be collected following, as closely as possible, the DHHS procedures for collection and done at a mutually agreed upon site.
  6. Each step in the collecting and processing of the urine specimens shall be documented to establish procedural integrity and the Chain of Custody, as prescribed by the guidelines of the mutually agreed upon testing laboratory or the medical facility. In the event that laboratory procedures change, the Union and the Employer will be notified. The implementation of change will be mutually agreed upon.
  7. The employee designated to give a sample must be positively identified with either an Ohio operator’s license or a police identification card.
  8. The medical testing laboratory will furnish urine sample containers, pre-labeled with the employee’s testing identification number, date and time of collection. After collection, the sample will be split into two (2) containers and will be sealed, the laboratory’s Chain of Custody form will be completed, and the employee will be asked to confirm the information contained on the sample container and the form, by signing the laboratory’s Chain of Custody form.
  9. Where the testing laboratory is unavailable for reasonable suspicion or just cause testing, the urine sample provided at another location will be preserved and transmitted to the testing laboratory, as soon as possible, on the next workday. A Chain of Custody form will be completed by the supervisor and the form will accompany the sample to the laboratory.
- (C) The testing laboratory, selected by the Employer and the Union to conduct the analysis, must be NIDA-certified, experienced and capable of quality control,

documentation, Chain of Custody, technical expertise and demonstrated proficiency in urinalysis testing.

1. The testing or processing phase shall consist of a two-step procedure that includes an Initial Drug Test and a Confirmation Drug Test.
  2. The initial urine drug screening test shall be an Enzyme/Multiple/Immunoassay/Testing procedure, a NIDA-certified method of testing.
  3. If the initial drug screen test indicates a positive result, a confirmation drug test shall be conducted. The confirmation test shall be a Gas Chromatograph/Mass Spectrometry procedure, a NIDA-certified method of testing.
  4. An initial positive report will not be considered a positive, rather it will be classified as "confirmation pending." When a confirmation pending report is received, urine specimens shall be maintained under secured storage for an indefinite period of time. Notification of the test results shall be held until confirmation test results are obtained.
  5. All drug test results shall be evaluated by NIDA-certified medical or scientific personnel, who are qualified to collect urine samples and trained in collection procedures, prior to being reported to the MRO. The testing laboratory shall forward all drug test results only to the MRO. It is the intent of the parties that any such drug test results shall be afforded the highest degree of confidentiality. All test results shall be treated with the same confidentiality as other employee medical records and will be disclosed only to those administrative personnel involved in the screening, rehabilitation or discipline process.
  6. Any sample that has been adulterated or is shown to be a substance other than urine shall be reported as such. Any adulterated sample or samples, otherwise tampered with, may be treated for disciplinary purposes as a positive result.
- (D) There shall be a ten-panel screening process and the substances to be tested for, and the threshold substance levels that shall be considered a positive test result, are as follows:

DRUG	STANDARD	
	Screen Confirmation	
	Ng/ml	Ng/ml
Amphetamines/Meth	1000	300
Barbiturates	300	200
Benzodiazepines	300	300
Cannabinoids/THC	50	10a
Cocaine Metabolite	300	150b
Methadone	300	100
Methaqualone	300	200
Opiates	300	200*
Phencyclidine (PCP)	25	20
Propoxyphene	300	200

\* Ng/ml if immunoassay specific for free morphine

a Delta-9-tetrahydrocannabinol-9-carboxylic acid

b benzoylecgonine

Should NIDA add to or delete from the current panel of controlled substances or alter the initial screening or confirmation levels, the Employer and the Union will meet to discuss revising the list or testing levels to conform to NIDA standards. Employees will be notified, in writing, of such changes.

- (E) If the screen results are negative, the results will be reported in writing to the MRO and the sample will be discarded. All records relating to a negative drug screen test shall become a part of the employee's medical record and shall remain confidential and restricted.
- (F) If the screen results are positive, the following process will be followed:
1. If the results of the first screen are "confirmation pending," the test laboratory will immediately conduct a second testing procedure that is technologically different and more sensitive than the initial screen test on a different portion of the original sample.
  2. If the confirmatory drug test is positive, the MRO will use his/her best efforts to notify the employee, either in writing, sent to the employee's home address, or by telephone, to appear for a verification interview. In the event that the MRO is unsuccessful in reaching the employee, he will seek the assistance of the Union Director, but not the Chief of Police. No other Township employee or agent shall be informed of the positive confirmatory

drug test until the verification interview is held. If the employee refuses to participate in the verification interview, the MRO will report the confirmed positive test result to the Chief of Police.

3. At the interview, the employee shall be provided an opportunity to provide the MRO with any prescription drug container, along with the identity of the prescribing/dispensing physician or health care provider, or any other evidence. The MRO shall then contact the prescribing/dispensing physician or health care provider for confirmation.
4. The MRO shall contact the testing laboratory in an effort to verify that the prescription drug presented by the employee matches the drug identified in the positive confirmatory drug test. If the prescription drug and the drug identified in the positive confirmatory drug test match, then the drug test result shall be considered as a negative drug test result and discarded.
5. The MRO shall report the results of positive confirmation test results to the Chief of Police. Confirmed positive test results are for administrative purposes only and shall not be used against the employee during any phase of any criminal proceeding.
6. An employee whose drug test result is a confirmed positive drug test may demand that the second portion of the split urine specimen be tested by a NIDA-certified laboratory of his/her choice. If the employee desires to test the second portion of the split urine specimen, the following process to effect the second testing procedure will be required.
  - a) The employee shall, within five (5) working days following the date on which he/she received notification of the positive test result, submit a written notice to the Chief of Police and a written directive to the MRO who will then notify the NIDA-certified laboratory that processed the random drug sample and issued the positive result.
  - b) The NIDA-certified laboratory that issued the positive test result shall, within seventy-two hours (72) after receiving such written directive by the employee through the MRO, cause the second portion of the split urine sample to be delivered to the NIDA-certified laboratory chosen by the employee for the second drug test.
  - c) Appropriate Chain of Custody procedures described in Section G, below, shall be closely followed in all cases. The alternate testing laboratory will be required to complete a Chain of Custody form.

- d) The testing laboratory shall notify the employee and the Chief of Police of the test results within twenty-four hours (24) of completion of the second testing procedure.
  - e) Re-testing expenses, related to the second drug screen test, shall be paid by the employee. If the drug test result from the laboratory chosen by the employee is negative, the original confirmed test shall be considered negative and no disciplinary action will be initiated. The Employer shall fully reimburse the employee for the cost of the second drug test if the test result is negative.
- (G) A Chain of Custody procedure shall be utilized by the mutually agreed upon laboratory and any other mutually agreed upon facilities to be used as collection sites and test site. These procedures shall account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an approved agency Chain of Custody form be used from time of collection to receipt by the laboratory; and that upon receipt by the laboratory, an appropriate laboratory Chain of Custody form shall account for the sample or a portion of the sample within the laboratory. Chain of Custody forms shall, at a minimum, include an entry documenting date and purpose each time a specimen or portion of a specimen is handled or transferred and identifying every individual in the Chain of Custody.

All records pertaining to Department required drug tests shall remain confidential insofar as they shall not be provided to other employees or agencies without the written permission of the person whose records are sought. Drug test results and records shall be stored and retained in compliance with Ohio Revised Code Chapter 149.

**Section 8. Consequences.** Listed below are the various consequences related to this drug and alcohol policy.

- (A) Employees who refuse to cooperate in required tests, test positive for illegal drugs or use, possess, buy, sell, manufacture, deliver or dispense illegal drugs in violation of this Policy will be placed on leave pending termination.
- (B) Unless aggravating circumstances are present (in which case the employee may be terminated), the first time an employee tests positive for alcohol or possesses, consumes or is under the influence of alcohol, they will be subject to disciplinary action short of termination.
- (C) Employees who test positive for alcohol or violate these alcohol rules, more than once, are subject to further disciplinary action, up to, and including termination or may be referred to an Employee Assistance Provider, in which case, continued

employment and/or reinstatement will be conditioned upon cooperation with the EAP, successful completion of any prescribed treatment, passing follow-up tests and other appropriate conditions.

**Section 9. Confidentiality.** The Employer shall treat initial positive test results as confidential pending final confirming reports. To the extent permitted by law, the Employer will attempt to maintain the confidentiality of information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations provided by the employee's physician. Such information shall be maintained in secure files separate from other information contained in the employee's personnel file. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may be disclosed to others where required by law, where the subject of the information consents or where a grievance charge, claim or other legal proceeding is initiated by or on behalf of a test subject, in which the records or information are relevant.

**Section 10. Voluntary Request for Assistance.** The Employer shall take no adverse employment action against any employee who voluntarily seeks treatment, counseling or other support for an alcohol or drug-related problem (prior to taking an alcohol or drug screen test), other than the Chief of Police may require the reassignment of the employee with pay or place the employee on sick leave if the employee is unfit for duty in their current assignment. The foregoing is conditioned upon:

- (A) The employee agreeing to appropriate treatment, as determined by a physician.
- (B) The employee discontinues his/her use of illegal drugs or abuse of alcohol or abuse of prescription drugs.
- (C) The employee completes the course of treatment prescribed including an "aftercare group" for a period of twelve months.
- (D) The employee agrees to submit to random and/or periodic testing twice during any calendar year, during hours of work, for up to two (2) years after entering a treatment program.
- (E) Employees who do not agree to act or who do not act in accordance with the foregoing shall be subject to discipline, up to and including discharge. This Policy shall not be construed as an obligation on the part of the Employer to retain an employee on active status throughout the period of rehabilitation, if it is appropriately determined that the employee's current use of alcohol or drugs prevent such individual from performing the duties of their position or whose continuance on active status would constitute a direct threat to the property and safety of others.

Employees shall be afforded the opportunity, at their option, to use accumulated paid leave or take an unpaid leave of absence for the necessity of time off involved in the rehabilitation program. The Employer's responsibility to pay for any treatment and rehabilitation costs shall be limited to costs paid for by the Employer's insurance program in which the employee is enrolled.

**Section 11. Frequency of Random Testing.** It is important that all parties to this Agreement, clearly understand the number of people to be tested each year and the frequency of the testing. Twenty five percent of the sworn employees will be tested on a yearly basis for alcohol and fifty percent of the sworn employees will be tested on a yearly basis for drugs. Selections will be made by using a scientifically valid method in which employee will have an equal chance of being tested each time selections are made.

**Section 12. Employee Assistance Program.** The Employer shall immediately establish an Employee Assistance Program to provide counseling and/or referral service for employees who have drug or alcohol-related problems that may adversely affect their work performance. A list of counselors and/or treatment facilities that are covered by employees' existing health insurance plans will be attached as an Exhibit to this Agreement.

Referrals to treatment or counseling may be initiated by the Employer or the employee through the Chief of Police. All referrals are strictly confidential and, unless otherwise prohibited by law, no records of referrals will be kept in the employee's personnel file to which public access is permitted. EAP services may be either voluntary or mandatory, depending on the circumstances. Initial costs associated with preliminary interviews, counseling or referral shall be borne by the Employer. Costs associated with any ongoing counseling or other professional services shall be the responsibility of the employee, unless otherwise covered by applicable health insurance programs. No professional-type counseling will be conducted at the workplace. Supervisors will be briefed annually on how to properly respond to employees who seek assistance.

## APPENDIX C

### MOBILE PHONE POLICY

The parties have an established Pager Policy that provides the employees with a pager to receive Township communications. At the request of the bargaining unit members the Township has agreed to permit Sergeants to utilize their personal Mobile Phones and Mobile Phone Services.

In response to the Sergeants' request to use their personal Mobile Phones and Mobile Phone Services for communications, the Township agrees to the following.

All Sergeants consent to receiving communications from the Township via their personal Mobile Phones and Mobile Phone Service in accordance with the below.

If any Sergeant ceases to consent to this Article then this Article shall revert to the Pager Policy previously addressed in the FOB Contract of 2007-2010.

To establish a procedure to cover responding to Township communications. The use of Mobile Phones is necessary to facilitate quick access to Sergeants in case of an emergency and to assist in filling available overtime in a timely manner.

**Section 1. Mobile Phones.** Sergeants are responsible for providing their own Mobile Phone and Mobile Phone Service in order to receive and respond to Township communications.

- (A) The Mobile Phone and Mobile Phone service must be capable of receiving and sending text messages.
- (B) Allowing Sergeants to receive Township communications on their Mobile Phones will never result in costs to the Employer.
- (C) Sergeants do not need to alter their lifestyle in any way other than to carry the Mobile Phone at all times.
- (D) Sergeants may also receive other Township texts via Mobile Phone.

**Section 2. Carrying of Mobile Phone.** Sergeants of the Miami Township Police Department shall keep the Mobile Phone, either on their person or close enough at hand to be alerted when the Mobile Phone is activated, when the employee cannot be reached by phone directly at home. "Directly at home" will mean where they will be available by a telephone number for their residence on file with the department and the caller will not encounter an answering machine.

- (A) Sergeants will leave the Mobile Phone in the “on mode” at all times. The Mobile Phone can be left in the “vibrate” position or in the “audible” position.
- (B) When the Mobile Phone is carried on duty, the Mobile Phone shall be kept in the “vibrate position”. This mode will not alert possible suspects to the officer’s position, if the Mobile Phone is activated when concealment is necessary for officer safety.
- (C) A Mobile Phone must be carried by all Sergeants.

**Section 3. Use of Mobile Phones.** Sergeants’ personal MPs will provide a means for the Police Department to be able to contact employees when necessary, in a timely manner. The text sent to the Sergeants’ MPs by the Township will notify the Sergeants whether the text regards an emergency or non-emergency situation.

- (A) If the text message is in regard to an emergency situation the Sergeant must respond to the text within 15 minutes.
- (B) If the text message is in regard to a non-emergency situation the Sergeant must respond to the text within 30 minutes.

**Section 4. Mobile Phone Range and Reporting When Out of Mobile Phone Range.** Sergeants traveling outside the coverage area of their Mobile Phone Services are responsible for notify the Chief or designee. The Sergeants must also notify Chief or designee upon returning to the Mobile Phone Services areas.

**Section 5. Conditions of the Mobile Phone Article.** The parties agree that the Sergeants will receive text messages on their Mobile Phones rather than pagers conditioned on the following:

- (A) The Sergeants recognize that the Sergeants’ responsibilities have not changed from those under the current Pager Language and that there are no changes in job responsibilities.
- (B) Allowing Sergeants to receive messages on their mobile phones will never result in costs the Employer.
- (C) The Sergeants understand the risks that may be associated with receiving messages on their personal mobile phones.
- (D) All bargaining unit members must agree to receive messages on mobile phones because the township intends to discontinue its pager lease.

- (E) This program will begin no later than January 1, 2012.
- (F) After the program has been in effect for at least one year, if the Chief determines that the use of personal mobile phones instead of pagers creates any adverse operational issues, the parties will revert to the current pager language.

**APPENDIX D**  
**SICK LEAVE CONVERSION**

- Jay Phares
- Rex Thompson
- Scott Fitzgerald
- Any future employee who becomes a member of this bargaining unit and was hired by the Township before December 1, 1992.

FBT Law Documents 0116631.0576723 4837-7198-5945v13