

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD Dec 15 10 25 AM '98

In the Matter of
Fact-finding Between:

CITY OF FAIRLAWN

-and-

FRATERNAL ORDER OF POLICE,
OHIO LABOR COUNCIL

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)
)
) Case Nos. 98-MED-09-0784;
) 98-MED-09-0785
)
)
) Jonathan I. Klein,
) Fact-Finder
)
) (Sergeants and Patrol Officers)
)
)

**FACT-FINDING REPORT
and
RECOMMENDATION**

Appearances

For Union:

Charles Choate
FOP, Staff Representative

For Employer:

John C. Burkholder
Attorney for City of Fairlawn

Date of Issuance: December 14, 1998

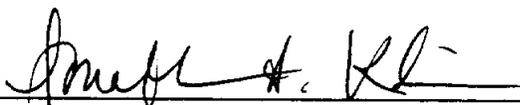
I. PROCEDURAL BACKGROUND

This matter came before Jonathan I. Klein, appointed as fact-finder pursuant to Ohio Rev. Code Section 4117.14, and Ohio Admin. Code Section 4117-9-05 to resolve the disputes between the City of Fairlawn ("Employer"), and the Fraternal Order of Police, Ohio Labor Council ("Union") over the terms and conditions of employment for two separate bargaining units: 1) all sergeants; and 2) full-time patrol officers.

Through negotiations directed toward possible settlement of the unresolved issues, the parties reached tentative agreements on all outstanding issues as set forth in Attachments "A" and "B." The fact-finder, after consideration of the parties' respective positions, finds these agreements to be fair, reasonable and in accordance with the applicable statutory criteria required by Ohio Rev. Code Section 4117.14(C)(4)(e), as listed in 4117.14(G)(7)(a)-(f), and Ohio Admin. Code Section 4117-9-05(K)(1)-(6).

II. FINDINGS OF FACT AND FINAL RECOMMENDATION

It is this fact-finder's finding and final recommendation that the tentative agreements by and between the Employer and Union, appended hereto as Attachments "A" and "B," shall be implemented as full and final settlements of all disputed issues between the parties.

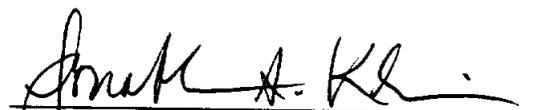


JONATHAN I. KLEIN, FACT-FINDER

Dated: December 14, 1998

CERTIFICATE OF SERVICE

Originals of this Fact-Finding Report and Recommendation were served upon Charles Choate, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc., Northeast - Canal Place, 520 S. Main Street, Suite 2541-X, Akron, Ohio 44311-1010, and upon John C. Burkholder, Esq., Means, Bichimer, Burkholder & Baker Co., L.P.A., Summit One, Suite 540, 4700 Rockside Road, Cleveland, Ohio 44131-2152, and upon G. Thomas Worley, Administrator, Bureau of Mediation, Ohio State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215-4213, each by express mail, sufficient postage prepaid, this 14th day of December, 1998.



JONATHAN I. KLEIN, FACT-FINDER

AGREEMENT BETWEEN
CITY OF FAIRLAWN

AND

THE FRATERNAL ORDER OF POLICE
OHIO LABOR COUNCIL
(SERGEANTS)

Effective

January 1, 1999

through

December 31, 2001

Attachment "A"

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ARTICLE 1 - PREAMBLE

Section 1.1. Preamble. This Agreement is entered into by and between the City of Fairlawn, hereinafter referred to as the "Employer" and Fraternal Order of Police, Ohio Labor Council, hereinafter referred to as the "FOP/OLC." This Agreement is made for the purpose of promoting cooperation and harmonious relations between the administration and the lodge.

ARTICLE 2 - RECOGNITION

Section 2.1. The City hereby recognizes the Fraternal Order of Police, Ohio Labor Council, Inc., as the sole and exclusive bargaining agent for the purpose of collective bargaining on any and all matters related to wages, hours and working conditions of all Sergeants, and Lieutenants employed by the Police Department of the City of Fairlawn.

Section 2.2. ~~Positions excluded from the above-described bargaining unit shall be Patrol officers, two employees holding the rank of Lieutenant and/or captain, the Chief of Police, and all other employees.~~

ARTICLE 3 - DUES DEDUCTION

Section 3.1. Dues Deduction. As bargaining Agent, the Union is required to represent all employees in the Police Department who are members of the bargaining unit fairly and equitably, regardless of their membership, or non membership, in the F.O.P. Ohio Labor Council.

Section 3.2 Requirements for Deduction. The Employer agrees to deduct regular FOP/OLC membership dues once each month from the pay of any employee who has completed sixty (60) days of service in the bargaining unit eligible for such deduction upon receiving written authorization signed individually and voluntarily by the employee. The agreed-to signed payroll deduction form must be presented to the Employer by the employee. Upon receipt of the proper authorization, the Employer will deduct FOP/OLC dues from the first payroll check for each calendar month in which dues are normally deducted. Such dues will be remitted to the FOP/OLC within thirty days from the date of making said deduction.

Section 3.3. The parties agree that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of FOP/OLC dues. The FOP/OLC hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions, or proceedings by any employee arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the FOP/OLC their disposition thereafter shall be the sole and exclusive obligation and responsibility of the FOP/OLC.

Section 3.4 Termination of Deductions. The Employer shall be relieved from making such individual "check-off" deductions upon an employee's : (1) termination of employment; (2) transfer to a job other than one covered by the bargaining unit; (3) layoff from work; (4) written revocation of the check-off authorization in accordance with the terms of this Agreement; or (5) resignation by the employee from the FOP/OLC.

Section 3.5. Notification to Union. Such sums deducted from the employees pay, accompanied by a list of employees from whose pay they have been deducted and the amount deducted, shall be forwarded to FOP/OLC 222 E. Town Street, Columbus, Ohio 43215, with the month such collection was made.

Section 3.6. Union Refund. In the event a refund is due any employee for any sums deducted from wages and paid to the Union, it shall be the responsibility of such employee to obtain appropriate refund from the Union.

Section 3.7. Insufficient Wages for Deduction. The Employer shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of dues.

Section 3.8. Deduction Error. The City shall be liable for the remittance or payment of any sum other than those constituting actual deductions made if for any reason it fails to make a deduction for an employee as above provided, and it shall make the deduction from the employee's next pay in which such deduction is normally deducted after the error has been called to the attention by the employer or Union.

Section 3.9. Notification. The FOP/OLC shall notify the Employer in writing of any increase in the current dues being deducted. Such increase or dues shall be deducted in the second pay period following notification of any increase in dues.

ARTICLE 4- FAIR SHARE

Section 4.1. Fair Share Contribution. The Union shall establish a fair share fee not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union. This fee shall represent the probationary employee's contribution for direct and indirect benefits by the Union and bargaining unit.

After completion of the probationary period, a police officer, who is a member of the bargaining unit covered by this Agreement, as a condition of continued employment, must either become a member of the Union or pay to the Union a "Fair Share Fee" not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union.

Section 4.2. Payroll Deduction. Fair share fees shall be paid by automatic payroll deduction. Fair share fee deductions do not require prior authorization from the affected employees.

Fair share fee deductions and transmittals shall be made in the same manner provided by this Agreement for regular dues deductions.

Fair share fees shall equal regular FOP/OLC dues reduced, in advance, by the payer's proportionate share of all expenses which do not arise, directly, out of the FOP/OLC's duty of fair representation to the employees governed by this Agreement.

Any employee required to pay a fair share fee under this Article may challenge the amount of that fee as set forth in the FOP/OLC challenge and rebate procedure. The Employer's obligation to deduct fair share fees is contingent upon:

- A. The FOP/OLC's fulfillment, on behalf of each non-member, bargaining unit employee, of each obligation established in the FOP/OLC challenge and rebate procedure.
- B. Maintenance of a constitutionally adequate challenge and rebate procedure.
- C. The FOP/OLC may amend its challenge and rebate procedure by providing the employee a written copy of the procedure as amended. Changes in the amounts to be deducted shall become effective on the thirtieth (30) calendar day after their actual receipt by the employer.

The FOP/OLC warrants and guarantees that no provision of this Article violates the laws or constitutions of either the United States of America or the State of Ohio. The Employer's financial liability under this Article is limited to deduction and transmittal of fair share fees. The FOP/OLC shall indemnify, save and hold the employer harmless from any claim, actions or proceedings brought by a person or entity as a result of deductions made by the employer pursuant to this Article.

Section 4.3: Political Contribution. If a unit member does not wish to contribute that portion of his "Fair Share Fee" which is used in support of partisan politics or ideological causes which are not germane to the Union's role in collective bargaining with employer entities, he may seek a rebate of this portion of his "Fair Share Fee" payment. Once such a rebate is requested and granted, it shall be made monthly until the unit member withdraws his request for this rebate.

Section 4.4: Religious Contribution. Any unit member who also is a member of, and adheres to established and traditional tenets and teachings of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization, and which is exempt from taxation under the provisions of the Internal Revenue Code, shall not be required to join or support financially any employee organization as a condition of employment. The unit member shall submit proper proof of religious convictions to the State Employment Relations Board, and if the board shall declare the employee exempt from becoming a member of or financially supporting an employee organization, the employee shall be required, in lieu of a "Fair Share Fee" to contribute a like amount to a non-religious charitable fund exempt from taxation under Sections 501(c)(3) of the Internal Revenue Code mutually agreed upon by the employee and a representative of the employees organization to which the employee would otherwise be required to pay a "Fair Share Fee." The employee shall furnish to the employee organization written receipts evidencing such payment, and failure to make such payment or furnish such receipt shall subject the employee to the same sanctions as would non-payment of dues under the applicable collective bargaining agreement.

This Section shall not be construed as a provision requiring any public employee to become a member of an employee organization as a condition of securing or retaining employment.

ARTICLE 5 - MANAGEMENT RIGHTS

Section 5.1. Management Rights. Any and all rights concerned with the management of the Fairlawn Police Department are the exclusive and sole responsibility of the City. It is further recognized that the City has the right to : (A) determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the city, standards of services, 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 to be conducted; (E) suspend, discipline, demote, or for just cause or lay off, transfer, assign, schedule, promote, or retain employees, limited only by the other Articles in the contract; (F) determine the adequacy of the work force; (G) determine the overall mission of the City as a unit of the government; (H) effectively manage the work force; (I) take actions to carry out the mission the City as a governmental unit.

Section 5.2. Reservation of Rights. The City is not required to bargain on subjects reserved to the management and direction of the City, except as effect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of this agreement.

Section 5.3. Authority of the Chief or Designee. The Chief shall have the authority to make and implement decisions to maintain efficient operations of the Department.

ARTICLE 6 - CONFLICT

~~Section 6.1. Should any provision or provisions of the Agreement be found to be invalid by operation of law or be declared invalid by a tribunal of competent jurisdiction, all other provisions of the Agreement shall remain in full force and effect.~~

~~Should any provision or provisions of this Agreement be found to be invalid as outlined above and upon written request by either party, the parties shall meet within thirty (30) days to discuss the impact and to consider modification of the invalidated provision or provisions.~~

ARTICLE 6- NO STRIKE

Section 6.1: No Strike. The Employer and the FOP/OLC realize that the grievance procedure provided herein is an adequate means to provide for the orderly resolution of grievances. The parties, therefore, agree to the following:

- A. The FOP/OLC agrees that neither it, its officers, agents, representatives, or members will authorize, instigate, cause, aid, condone or participate in any strike, sympathy strike, work stoppage, or any other concerted activities which interrupt the operations or services of the Employer by its members during the life this Agreement.

- B. In all cases of strike, sympathy strike, slowdown, walkout, or any unauthorized cessation of work in violation of this Agreement. The FOP/OLC shall undertake every reasonable means to reduce such employees to return to their jobs during any such period of unauthorized stoppage of work mentioned above, it is specifically understood and agreed that the Employer during such unauthorized work stoppage or job action shall have the whole and complete right to discipline.

Section 6.2. Lockout. The Employer agrees that neither it, its officers, agents, or representatives, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of members of the FOP/OLC.

ARTICLE 7 - WAIVER

Section 7.1. Waiver. The parties hereto agree that they have discussed fully and totally all issues between the parties and they hereby agree and waive bargaining on any other issues, topics or subject not included within the Agreement, and further, the parties waive any and all rights of bargaining on all other subjects not included within the collective bargaining agreement.

ARTICLE 8 - DISCIPLINE

Section 8.1. Discipline. No form of disciplinary action will be taken against any non-probationary employee except for just cause. This just cause standard does not apply to newly hired probationary employees who may be terminated any time during their probationary period without recourse.

Section 8.2. Procedure.

- A. The employer will apply discipline in a corrective, progressive and uniform manner.
- B. Any discipline imposed will be based upon the nature of the violation, and may be based upon the employee's record of previous disciplinary actions from his personnel file.
- C. Except in cases where the facts required the Employer to act immediately, the Employer agrees not to reduce, suspend, or discharge an employee without first arranging for a predisciplinary conference. When the Employer determines that the facts required the employee to be disciplined prior to a predisciplinary conference, the employee will be suspended from the active performance of regular duties without loss of pay until the predisciplinary conference is held regarding these allegations.
- D. Records of oral warnings and written reprimands which are more than two years old shall not be considered when determining the appropriate discipline to be imposed. Such records shall be maintained in a sealed envelope in the personnel file.

ARTICLE 9 - OFFICERS AND LODGE REPRESENTATIVES
AND UNION REPRESENTATION

Section 9.1. The Lodge shall at all times keep the Safety Director or Mayor and the Chief of Police advised in writing of the name and department of its officers and members of all committees authorized to act on behalf of the Lodge. Any changes in lodge personnel are to be immediately forwarded to the above mentioned individuals in writing.

Section 9.2. Lodge members who are working during a Lodge meeting may attend such meeting, but must be available to respond to any dispatched call without delay. Meetings must be conducted in the City of Fairlawn to qualify the member for attendance.

Section 9.3. Three (3) members of the bargaining unit shall be entitled to attend all meetings between the City and the union for the purpose of contract negotiations. When such meetings take place at a time when the members are scheduled to work, the three (3) members shall be granted leave with pay for the period of time such negotiations are in session and one (1) hour prior to the starting time of a negotiating session. The member will only receive payment for the hours they would have worked on their regular schedule. Such attendance shall not interfere with the effective operations of the Department.

Section 9.4. The FOP will notify the Chief of the time and date of the FOP monthly meetings, and such meetings will be within the City of Fairlawn. All officers on duty may attend but must respond to any calls given at the time of the meetings.

Section 9.5. The FOP president shall receive three (3) days each year of the contract and a designated delegate appointed by the president shall receive three (3) days per year of this agreement. Such time shall be for the use of the president and his designated delegate to attend the state conferences for the FOP and the FOP Ohio Labor Council. Notification to the Chief shall be made thirty (30) days prior to the dates requested. Vacation, holidays or compensatory time may be used for the purpose of such leave.

Section 9.6. The FOP president shall be permitted to attend any disciplinary hearings.

Section 9.7. The representative of the FOP Ohio Labor Council may attend any disciplinary hearings should such presence be required.

ARTICLE 10 - GRIEVANCE PROCEDURE

Section 10.1. Grievance Procedure. The term "grievance" shall mean an allegation by a bargaining unit employee that there has been a violation or misinterpretation of the express terms of this Agreement. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement nor those matters not covered by this Agreement.

Section 10.2. Process. All grievances must be processed at the proper Step in order to be considered at subsequent Steps. Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step

to lapse. Any grievance which is not processed by the employee within the time limits provided, shall be considered resolved based upon management's last answer.

Any grievance not answered by management within the stipulated time limits may be advanced by the employee to the next Step in the grievance procedure. All time limits on grievances may be extended upon mutual consent of the parties.

Section 10.3. Procedure. It is the mutual desire of the Employer and the FOP/OLC to provide for prompt adjustment of grievances, with a minimum amount of interruption of the work schedules. Every responsible effort shall be made by the Employer and the FOP/OLC to effect the resolution of grievances at the earliest step possible. No settlement of any grievance shall conflict with the terms of this Agreement. In furtherance of this objective, the following procedure shall be followed:

- STEP 1: The grievance must be presented in writing to the designated supervisor within five (5) working days from the date the alleged incident occurred or from the date the grievant should have known the incident occurred, but in no case later than twenty (20) calendar days following the date of such incident. **The grievance shall be presented on the form attached to this Agreement as Appendix A. The grievant shall provide a copy of the grievance form to the local FOP/OLC grievance representative on or before the date the grievance is presented to the designated supervisor.** Within five (5) working days from the date the employee first presents his written grievance, the Supervisor will deliver his written response.
- STEP 2: If the grievance is not resolved, the employee may pursue the matter by presenting the grievance and the Supervisor's response in writing to the Chief of Police, or his designee, within five (5) working days of the reply received in STEP 1. The Chief or his designee, shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step.
- STEP 3: If the grievance is not resolved, the employee may pursue the matter by presenting the written grievance and all written responses to the Safety Director within five (5) working days of the reply received in STEP 2. The Safety Director shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step. **If the Mayor is also serving as Safety Director, Step 3 shall be omitted and the grievance may be advanced from Step 2 to Step 4.**
- STEP 4: If the grievance is not resolved, the employee may pursue the matter by presenting the written grievance and all written responses to the Mayor within five (5) working days of the reply received in STEP 3. The Mayor shall, meet with those concerned and attempt to resolve the matter, and shall respond in

writing within fifteen (15) working days following timely receipt of the grievance at this step.

STEP 5: Arbitration: If the grievance is not satisfactorily settled at STEP 4, the FOP/OLC may file a Notice of Arbitration. A Notice of Arbitration must be mailed, certified mail, return receipt requested, to the Mayor within ten (10) working days following the issuance of the Mayor's written decision in STEP 4. In the event the grievance is not mailed, certified mail, within the time limits prescribed, the grievance shall be considered resolved based upon the STEP 4 reply.

Section 10.4. Grievance Information. All grievances must contain the following information to be considered, and must be filed using the grievance form mutually agreed upon by the parties:

1. Grieved employee's name and signature.
2. Grieved employees classification.
3. Date grievance was filed in writing.
4. Date and time grievance occurred.
5. The location where the grievance occurred.
6. A description of the incident(s) giving rise to the grievance.
7. Specific Articles and section of the Agreement violated.
8. Desired remedy to resolve the grievance.

Section 10.5. Self Representation. When an employee covered by this Agreement chooses to represent himself in the presentation of a grievance, no adjustment of the grievance will be inconsistent with the terms of this Agreement. Prior to the adjustment of any such grievance, the appropriate FOP/OLC grievance representative will be notified of his right to be present at the adjustment.

Section 10.6. Who May File. A grievance may be brought by any employee covered by this Agreement. Where a group of bargaining unit employees desire to file a grievance involving an incident affecting several employees in the same manner, one employee shall be selected by the group to process the grievance. Each employee who desires to be included in such grievance shall be required to sign the grievance.

ARTICLE 11 - ARBITRATION

Section 11.1. Arbitration Submission Agreement. Within fourteen (14) calendar days following the receipt of the FOP/OLC written notification of the FOP/OLC's intention to proceed to

arbitration, the Mayor, Safety Director or the Chief of Police, either personally or through an appropriate representative, and the FOP Representative or his designee, will consult and attempt to draft a written agreement stating the issue(s) to be submitted to arbitration. If no agreement is reached as to the issue(s) by the above-referenced persons, each party shall submit a written document stating the issue(s) to be arbitrated.

Section 11.2. Arbitrator. Within fourteen (14) calendar days following the receipt of the FOP/OLC's written notification to Arbitrate, the parties shall attempt to select an Arbitrator, by mutual agreement. If an agreement is not reached, the FOP/OLC shall request a list of seven (7) Arbitrators from the Federal Mediation and Conciliation Services. Upon receipt of such names, the City and the FOP/OLC shall select one name from the list by alternately striking the names until one name remains.

Section 11.3. Authority of Arbitrator. The arbitrator shall give a fair and impartial hearing on the testimony and evidence from both parties, unless the parties mutually agree to submit their dispute on written stipulations. The arbitrator shall not have authority to add to, subtract from, modify, change or alter any provisions of this Agreement. The arbitrator shall expressly confine himself to the precise issue(s) submitted for arbitration and shall, absent mutual agreement of the parties, have no authority to determine any other issued not so submitted to him.

The arbitrator shall not issue observations or declarations of opinion which are not directly essential in reaching a decision on the issue(s) in question. The arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement. In disciplinary cases, the arbitrator shall have the authority to affirm, disaffirm, or modify said discipline.

The question of arbitrability of a grievance may be raised by either party before the arbitrator hears the merits of the grievance.

If the question of arbitrability is raised, the arbitrator must rule on this issue before hearing evidence or argument on the merits of the grievance.

The decision of the arbitrator shall be final and binding upon the FOP/OLC, their grievant, and the City.

Section 11.4. Costs. The costs of any proof produced at the direction of the arbitrator, and the rent, if any, for the hearing room shall be shared equally between both parties. Each party shall pay the entire cost for any representative engaged by that party. The expenses of any non-employee witnesses shall be borne, if at all, by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. All costs directly related to the service of the arbitrator shall be borne by the losing party. If the arbitrator issues a split decision, the parties shall equally share the costs directly related to the service of the arbitrator.

Section 11.5. Arbitrator's Award. The arbitrator's decision will be in writing and shall be mailed to the FOP/OLC and the City within thirty (30) days from the date the hearing record is closed.

Section 11.6. Rules. The hearing or hearings shall be conducted pursuant to the "Rules of Voluntary Arbitration" of the American Arbitration Association.

Section 11.7. Witnesses. An employee requested to appear at the arbitration hearing by either party shall attend without the necessity of subpoena and shall be compensated at his or her regular hourly rate for all scheduled hours during which his or her attendance is required by either party. Any request made by either party for the attendance of witnesses shall be made in good faith, and employees shall return to work at the earliest time possible following the conclusion of their testimony or other involvement. At no time shall more than two (2) employees be in attendance.

ARTICLE 12 - PRESS RELEASES

Section 12.1. Press Releases. When an officer is charged with or under investigation for violations of the Fairlawn Police Department rules and regulations, reasonable efforts, consistent with applicable law shall be made to withhold the name of such Officer(s) and the extent of disciplinary action taken until such time as the Officer(s) has been served with charges or exonerated.

ARTICLE 13 - CONFORMITY TO LAW

Section 13.1. Conformity to Law. This Agreement supersedes and replaces all applicable laws which it has the authority to supersede and replace.

Section 13.2. Validity. If the enactment of federal or state legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portions of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included herein. **In such event, the Employer and the FOP/OLC will, at the request of either party hereto, promptly enter into negotiations relative to the particular provisions deemed invalid or unenforceable.**

ARTICLE 14 - HOURS OF WORK

Section 14.1. Hours of Work. A week shall be defined as seven (7) days beginning at 0001 hours Monday morning, and ending 2359.59 hours on Sunday night.

A day shall be defined as twenty-four hours, beginning at the starting time of the bargaining unit members scheduled work day.

A work week will consist of five (5) eight-hour days of work, with two consecutive days off except as provided in Section 17.5 on this Agreement.

ARTICLE 15 - OVERTIME PAY

Section 15.1. Overtime. When an employee is required by his/her responsible supervisor or administrator to work in excess of his/her eight-hour work day, or in excess of his/her forty-hour work week, such employee shall be compensated for each hour of fraction thereof at a rate of one and one-half time his/her base hourly rate.

Overtime pay will be included in the pay period such overtime was worked. Holidays, vacation days, and sick days shall be a part of the standard forty hour work week for the purpose of computing overtime.

"Weighted average" methods will not be used to calculate overtime pay.

Section 15.2 Compensatory Time. Each bargaining unit member shall elect to take at his/her discretion, overtime as paid compensation or compensatory time.

Compensatory time shall **may** be taken at the request of the bargaining unit member **should operational needs of the department permit**. Should compensatory time be requested by two or more employees, seniority shall prevail within their rank structure. Such request should be made seven (7) days prior to the days requested. Such time period may be waived by the Safety Director, or his designee, at their discretion. Compensatory time shall be taken for period of time of no less than one hour.

Compensatory time shall be cumulative to 300 hours during the term of this Agreement.

ARTICLE 16 - HOLIDAYS

Section 16.1. Holidays. The following shall be considered legal holidays:

New Year's Day, January 1
Martin Luther King Day, third Monday in January
President's Day, third Monday in February
Easter Sunday
Memorial Day, fourth Monday in May
Independence Day, July 4
Labor Day, first Monday in September
Columbus Day
Veteran's Day, 11th of November
Thanksgiving day, fourth Thursday in November
Christmas Day, December 25
Birthday

In addition, each employee shall receive ~~one~~ **two** personal days.

Section 16.3. Work on a Holiday (1) When one of the following holidays falls on an employee's regularly schedule workday, that employee shall receive eight (8) hours holiday pay or compensatory time, and one and one-half times his or her regular rate of pay for work on:

- New Year's Day
- Easter Sunday
- Independence Day
- Labor Day
- Columbus Day
- Thanksgiving Day
- Christmas Day

(2) When a holiday as set forth in Section 1 of this Article falls on an employee's regularly scheduled day off, that employee shall receive eight (8) hours pay at his or her regular rate of pay.

Section 16.4. Payment. Holiday pay will be included in the paycheck covering the pay period in which the holiday occurred. Employees may elect to take compensatory time in lieu of holiday pay in accordance with Article 16 of this Agreement.

Section 16.5. Scheduling. In order to maintain full staffing on holidays, the City may schedule part-time employees to work each holiday shift so that full-time employees may have the day off. One full-time officer will be scheduled to work each holiday shift, unless he/she has requested the holiday off, and the request was granted.

Section 16.6. Overtime. Employees who work overtime, or are required to work on their regularly scheduled day off on a holiday, shall receive the holiday premium rate of pay for all hours worked.

ARTICLE 17 - VACATION

Section 17.1. Each member of the bargaining unit shall earn and be credited with vacations in such a manner herein provided, upon completion of:

YEARS OF SERVICE	WEEKS OF VACATION
1 but less than 5	2 weeks
5 but less than 12	3 weeks
12 but less than 20	4 weeks
20 but less than 23	5 weeks
over 23 years	6 weeks

Vacation benefits are subject to the following computations and rules.

Section 17.2. In computing service for vacation purposes, full credit shall be given for all services rendered in the probationary status, provided such member immediately after probationary status becomes an employee eligible to receive vacation.

Section 17.3. Vacation requests shall be scheduled at the members' discretion and preference, except that such selection may be denied by the Chief if it interferes with the efficient operations of the department.

Section 17.4. Vacation requests shall be made from January 1, to January 31, for the present year of vacation. The Administrator will acknowledge such request no later than February 15. If more than one request is made for the same date or an overlap should occur of a vacation request, seniority shall have preference. Any vacation requests that are made after January 31 shall be granted by the Administration in such a manner to maintain the greatest efficiency of the department.

Section 17.5. Any member that has received credit of service for employment in another agency or political sub-division for the purpose of vacation benefit shall continue to receive such benefit.

Section 17.6. Vacation benefits shall be effective on January 1 of each calendar year for the bargaining unit members, and shall be taken at any fifty-two weeks of that calendar year.

Section 17.7. Vacation shall be taken for such periods as one day, one week or for however many weeks the member is entitled. The exception shall be the member at the time of vacation request shall only request two (2) weeks for his first selection until the seniority list is exhausted, at which time the list will begin starting with the senior employee for all additional vacation requests.

Section 17.8. The City shall approve request for vacation with the limitation to **that no more than one sergeant and one patrolman or two patrolmen may be on vacation at any one time, with the per shift, or two patrolmen per shift,** and exception that more than the described to be on vacation is at the discretion of the employer.

Section 17.9. Vacation request made after January 31 shall be submitted to the ~~Safety Director~~ **Chief of Police** or his designee **at least** fourteen (14) days prior to the date requested for vacation. Such time period may be waived by the ~~Safety Director~~ **Chief** or his designee.

Section 17.10. The employee may carry over one week of vacation each year, and may carry over vacation earned for three years prior to the employee's retiring date and paid in accordance with the wage rate at the time the vacation is earned.

ARTICLE 18 - SICK LEAVE

Section 18.1. Policy. It shall be the policy of the City to provide sick leave with pay for its permanent, full-time employees; payment for earned sick leave will be paid pursuant to Section 19.2. of this Article upon regular or disability retirement only.

Section 18.2. Eligibility. When attaining rank of sergeant or above, each full-time employee shall retain the sick leave earned as a patrolman. Each employee shall earn one and one-fourth days with pay for each completed month of service. There shall be a limit of 220 days on the amount of sick time earned, and upon retirement the employee shall be paid at his rate of pay at retirement for up to 90 days of unused sick leave. Any employee who was granted more than 90 days prior to this agreement for payment at retirement shall retain the right for said payment, and be paid at his rate of pay at retirement. Employees hired January 2, 1993, or after, and who do not have the option to cash in accumulated sick leave, shall not receive any payment on accumulated but unused sick leave upon retirement.

~~Section 19.3. Death Benefit. When an employee dies while on paid status, all unused sick leave to his credit shall be paid in a lump sum to his surviving spouse, or secondarily to his estate, at the rate set forth above.~~

~~If an employee is on active pay status, all unused and accumulated sick leave to his credit shall be paid hour for hour, at the rate in effect at the time of the member's death, in a lump sum, to his surviving spouse or secondarily to his estate.~~

~~Section 19.5. Injury in the Line of Duty or Injury Leave. Permanent full-time employees who are injured or incapacitated in the actual discharge of duty, and who, as a result thereof, are compelled to be absent from duty, shall upon recommendation of a certified physician and the Safety Director, receive full pay for such time as may be equitable. However, a deduction may be made to the extent of any salary compensation they may receive from any compensation fund to which the State, County, or City contributed; however, said absence must be due to an injury or illness compensable under the Worker's Compensation Act of Ohio. Sick leave as specified in Article 20 need not be utilized by the subject employee if injury leave is approved for payment pursuant hereto.~~

Section 18.3. Bargaining unit members who are temporarily unable to return to their normal **regular** assignment of work because of an injury or illness, may, upon approval of the attending physician **and the Chief of Police**, be assigned temporary **light** duties in the Police Department, and such work shall be in compliance to the physical restrictions set forth in the physicians statement. Temporary shall mean no more than ninety (90) working days. The assignments made by the employer shall not effect the wages of the bargaining unit member, and the member shall continue to receive his or her full salary as set forth in this agreement. ~~The employee will not be forced to accept light-duty assignment.~~ The Chief of Police shall have the right to approve light duty, but such assignment will not be arbitrarily denied.

Section 18.4. Utilization.

- (1) An employee absent on sick leave is required to notify his/her immediate supervisor of his/her inability to report to work ~~as soon after the start of the work day as possible~~ **at least two (2) hours before the start of the employee's regularly scheduled tour of duty, unless extenuating circumstances prohibit. Such notification shall be given on each day of absence unless other arrangements are made with his/her immediate**

supervisor. If such notification is not made, the absence may be charged upon the recommendation of the department head, to leave without pay. Compensation for sick leave absences of more than twenty-four (24) working hours shall require the written excuse of a physician.

- (2) Sick leave shall be charged in minimum units of one-quarter hours. An employee shall be charged for sick leave only for days upon which she/he would otherwise have been scheduled to work.
- (3) Sick leave will be granted to employees only upon approval of the department head for the following reason:
 - A. The illness, injury or **disability related to** pregnancy of the employee or an emergency including **disability related to** pregnancy, in his/her family.
 - B. The affliction of a member of the employee's immediate family with a contagious disease requiring the care and attendance of the employee; or
 - C. Exposure of the employee to a contagious disease such that the presence of the employee at his/her job would jeopardize the health of other employees.
- (4) A home does not necessarily have to be quarantined by health authorities before sick leave may be granted to an employee who is caring for a member of his/her immediate family afflicted with a contagious disease.
- (5) In the case of sick leave absences for reasons specified in subparagraph 3(13) of this section, a written statement from a physician must be supplied to a department head certifying the nature of the absence of the employee.
- (6) Bargaining unit members that have used all of their earned sick leave and any paid leave benefits (vacation, holiday, compensatory), because of an illness or injury may receive contributions of sick leave hours from members in the bargaining units (sergeants and patrol). Bargaining unit members who contribute the unused sick leave must maintain a minimum of 240 hours in their earned but unused sick leave accumulation. Any contribution made is not required to be paid back to the contributor.

~~Section 19.5. Injury in the Line of Duty or Injury Leave. Permanent full-time employees who are injured or incapacitated in the actual discharge of duty, and who, as a result thereof, are compelled to be absent from duty, shall upon recommendation of a certified physician and the Safety Director, receive full pay for such time as may be equitable. However, a deduction may be made to the extent of any salary compensation they may receive from any compensation fund to which the State, County, or City contributed; however, said absence must be due to an injury or illness compensable under the Worker's Compensation Act of Ohio. Sick leave as specified in Article 20 need not be utilized by the subject employee if injury leave is approved for payment pursuant hereto.~~

Section 18.5. Bargaining unit members who are temporarily unable to return to their normal **regular** assignment of work because of an injury or illness, may, upon approval of the attending physician **and the Chief of Police**, be assigned temporary light duties in the Police Department, and such work shall be in compliance to the physical restrictions set forth in the physicians statement. Temporary shall mean no more than ninety (90) working days. The assignments made by the employer shall not effect the wages of the bargaining unit member, and the member shall continue to receive his or her full salary as set forth in this agreement. The employee will not be forced to accept light-duty assignment. The Chief of Police shall have the right to approve light duty, but such assignment will not be arbitrarily denied.

ARTICLE 19 - LEAVE FOR INJURY IN THE LINE OF DUTY

Section 19.1. Permanent full-time employees who are injured in the actual discharge of duty, and who, as a result thereof, are physically unable to perform their regularly assigned duties, shall upon recommendation of a certified physician and approval of the Safety Director, receive full pay and benefits for such time as may be equitable, but not to exceed 90 working days. Leave for injury in the line of duty may be extended beyond 90 working days in the discretion of the Safety Director. However, a deduction may be made to the extent of any payments received under the Workers' Compensation Act. As used in this section, "actual discharge of duty" means injuries incurred specifically in the performance of activities unique to police duties, such as chase and apprehension of suspects and use of firearms, but does not include other types of injuries such as slip and fall or lifting objects (other than at accident scenes) or non-chase automobile accidents. Such leave shall not be charged against use of sick leave.

Section 19.2. The employee requesting such leave shall provide a physician's statement to the Safety Director, certifying that the employee is unable to physically perform his/her regularly assigned duties due to the injury sustained while in the line of duty. The Safety Director may then require the employee requesting such leave to submit to a medical examination by a physician appointed by the City. If the employee's physician and the physician appointed by the City disagree as to whether the employee is physically able to perform his/her regularly assigned duties, the two physicians shall jointly appoint a third physician who shall examine the employee and make the final determination as to whether the employee is unable to physically perform his/her regularly assigned duties.

ARTICLE 20- FUNERAL LEAVE

Section 20.1 Funeral Leave. A full time employee shall be permitted up to three working days off with pay, upon proper notification to the department head of the death of his or her mother, father, child, husband, wife, brother, sister, or grandparent, brother-in-law, sister-in-law, mother-in-law, father-in-law, guardian, spouse's grandparent, or stepchildren.

ARTICLE 21 - SENIORITY

Section 21.1. Seniority. Seniority shall be continuous service as a full-time police officer with the City of Fairlawn Police Department, and such seniority shall begin with the date of hire.

Section 21.2. Break in Seniority. Seniority shall be broken when an employee:

- A. Quits or resigns;
- B. Is discharged for just cause;
- C. Is laid off for a period of more than thirty-six (36) consecutive months;
- D. Is absent without leave for three (3) or more work days unless proper excuse for the absence is approved.
- E. Fails to report to work when recalled from layoff within fourteen (14) calendar days from the date on which the Employer sends the employee notice by registered mail (to the employee's last known address as shown on the Employer's records) unless a different date for returning to work is otherwise mutually agreed upon or a later date is specified in the notice.
- F. Fails to report for work as directed following a leave of absence or separation for more than thirty (30) days.

Section 21.3. Seniority Credit. Employees shall not receive credit for any other service with any other Employer, nor for any time of employment with the City of Fairlawn Police Department which was prior to a break-in service. However, employees with prior service with the City of Fairlawn Police Department shall receive retirement system credit for such time worked in accordance with applicable law. In addition, employees with prior service as a full-time police officer with another political subdivision of the State of Ohio shall receive up to four (4) years service credit for purposes of determining the appropriate wage rate pursuant to Article 23 of this Agreement.

Section 21.4. Seniority Prevails. The date of promotion shall determine seniority in rank and shall prevail for shift selection, vacation and holidays selected, and shall comply with the articles of this Agreement.

ARTICLE 22 - JURY DUTY LEAVE

Section 22.1. Jury Duty leave Any employee who is called for jury duty shall be paid his/or her regular compensation. All compensation received from the court for such duty must be reimbursed to the City upon the employee's return to work.

ARTICLE 23 - WAGES

Section 23.1. Wages. Beginning on January 1, 1999, and effective through December 31, 2001, the wage schedule for Sergeants shall be as follows:

	1999	2000	2001
Sergeant (less than 1 year)	\$46,461.68	\$47,855.53	\$49,291.20
Sergeant (1 year and over)	\$48,310.33	\$49,759.64	\$51,252.43
<u>Sergeant</u> <u>(Over 6 years in grade)</u>	<u>\$50,010.33</u>	<u>\$51,510.64</u>	<u>\$53,055.96</u>

A sergeant attaining 1 full year in rank shall receive the higher rate of pay effective on the anniversary date of his/her promotion. Percentages increases will thereafter be effective on each January 1st.

ARTICLE 24 - UNIFORM ALLOWANCE

Section 24.1.

1. Each full-time officer will be authorized to purchase equipment to be worn or used as part of his official uniform as prescribed by the Chief of Police and in accordance with the following procedure:
2. When authorized items are required in order to meet the requirements established by the Chief, the officer will submit the item to be replaced and previously used by the Officer requesting replacement to the Chief or his designee.

If the Chief or his designee agree, based upon a standard of reasonableness, that the item should be replaced, he will issue an authorization slip to the requesting Officer who can acquire the items at a vendor designated by the Administration.

3. An initial issue of all required uniforms and equipment shall be provided to the employee within a reasonable time following the date of employment.
4. The City of Fairlawn will provide protective vests for all full time Officers employed by the City of Fairlawn. Such vests will be properly maintained by the employee and will be

replaced upon the specified time frames recommended by the manufacturer during the term of this contract.

5. The selection of the vendor to provide the protective vests will rest solely with the Administration of the City of Fairlawn.
6. This procedure in no way releases the dress requirements issued by the Chief of Police or the appearance requirements as currently specified.
7. The following items shall be provided and replaced by the City. The Chief of Police has the authority to add items to the list.

CAPS

1 winter
1 summer
1 baseball P.D.
1 trooper

bulletproof vest
hat badge
RAIN GEAR

5 pair trousers
2 pair thermal underwear
6 pair socks
3 ties
tie tac
patches as required

Coat
Slush boots
cap cover

FOOTWEAR

shoes
boots
Black leather Reeboks (authorized to wear, purchased officer)

EQUIPMENT

SHIRTS

5 winter blue
1 winter white
5 summer blue
1 summer white
6 t-shirts

1 "IKE" jacket
1 car duty/leather jacket
1 windbreaker orange/black
1 "Raid" jacket
2 pc. utility suit

chain
2 name plates
gloves
scarf

LEATHER

Sam Brown belt
Trousler belt
Holster - on duty
Holster - off duty
Speed loader & pouches
clips & clip holders
handcuff case & handcuff key

metal collar insignia

2 breast badges
1 ID badge
ID case
briefcase
2 pair handcuffs
mini-mag light & holder
key holder
keys as required
cite book holder
metal clip board
PR-24 holder
flashlight holder
belt clip for radio
belt keepers
traffic vest/gloves

ARTICLE 25 - INSURANCE

Section 25.1. The City shall provide group health and accident hospitalization insurance, **orthodontic insurance**, and dental insurance for all full-time employees with benefit levels and coverage similar to that which is currently provided. "Similar to" means the carrier(s) and/or terms or benefits may change. However, the total package must be, on balance, substantially equivalent to the coverage in effect at the time of execution of the Agreement. If the insurance benefit is changed during the life of the Agreement, the grievance/arbitration procedures of this Agreement may be used to test whether or not the new benefit is "similar to" the prior benefit. The arbitrator is empowered to award a remedy necessary to cure a breach of this article. Prior to changing providers or coverage, the City will meet with the bargaining unit to notify the employees as to these matters.

If the insurance benefits should increase for other City of Fairlawn employees, then the members shall receive the same increase in benefits.

Each employee shall contribute \$20.00 per month for family coverage or \$10.00 per single coverage toward the payment of the employee's insurance premium paid by for the term of this labor agreement. The amount contributed shall be deducted employee's gross salary before tax deductions per current or future IRS rules.

Any employee who currently receives or is eligible to receive health insurance coverage pursuant to this article, and who chooses to decline the City health insurance coverage for the duration of this contract, shall receive a monthly payment of \$100.00 per month for those declining family coverage or \$75.00 per month for those declining single coverage. Employees retain the right to

receive coverage at any time after they first decline the insurance, pursuant to rules of the insurance carrier.

Section 25.2. The City shall provide a vision care reimbursement plan for each employee that is the same as that provided on the Dispatcher's contract. Payment shall be made in the first pay period following presentation of a receipt of costs by the employee to the responsible City official.

Section 25.3. The City shall provide paid life insurance for the bargaining unit members. The amount of life insurance shall be ~~\$20,000~~: \$50,000.

Employees may purchase at their own cost additional life insurance, if such option is offered by the insurance carrier.

ARTICLE 26 - TRAINING TIME

Section 26.1. Training Time. All training sessions ordered by the Administration, Chief of Police, or his designee, for each employee shall be compensated by the City at one and one-half (1.5) times the wage rate for a minimum of three (3) hours for each session, provided said training time to be paid pursuant herein exceeds forty (40) hours in a workweek. The employee's selection of compensation shall be taken as compensatory time or with pay.

Section 26.2. Normal Shift. Any employee in attendance of such training session on his normal scheduled shift, would be excluded from Section 26.1.

Section 26.3. Mandatory Training. Mandated State and Federal training for certification shall be attended by the Police Officers in this manner:

1. (8) hour course - The employer shall adjust the schedule for that eight (8) hour day of schooling for such officer to attend. Officers may trade a shift with another Officer, with the approval of the Safety Director, or his designee, and such exchange shall not cause payment of overtime.
2. (40) hours or more - The City shall make a shift adjustment for the purpose of the officer to attend such training.

ARTICLE 27 - LEGAL DEFENSE OF OFFICERS

Section 27.1. Legal Defense of Employees. The City agrees to provide the legal defense of any lawsuit against any full-time employee alleged to have arisen out of any act or failure to act within the scope of the regular official duties of such employee, provided that such act or failure to act was not malicious, motivated for private gain and did not constitute ~~with~~ willful misfeasance, malfeasance or nonfeasance.

ARTICLE 28 - BULLETIN BOARDS

Section 28.1 Bulletin Boards. The Employer agrees to provide a bulletin board in a mutually agreed upon area.

Section 28.2 Notices Allowed. All FOP/OLC notices which appear on the bulletin boards shall be signed, posted and removed by the FOP/OLC Officers. All notices are limited to A through H only.

- A. FOP/OLC recreational and social affairs;
- B. Notice of FOP/OLC meeting;
- C. FOP/OLC appointments;
- D. Notice of FOP/OLC elections;
- E. Results of FOP/OLC elections;
- F. Reports on non-political arms of the FOP~OLC; independent non-political arms of the FOP/OLC;
- G. Non-political publications, rulings or policies of the FOP/OLC; and
- H. Any other material reasonably related to police operations or the benefit of the Lodge or its members.

Section 28.3. Material Prohibited. No materials of any kind may be posted anywhere in the Employer's facilities or on the Employer's equipment except on the bulletin board designated for use by the FOP/OLC. The Employer has the right to remove any material which fails to meet the requirements of this Article.

ARTICLE 29 - LAYOFFS/JOB ABOLISHMENTS

Section 29.1. Action. When the Employer determines that a layoff or job abolishment is necessary as a result of lack of work, lack of funds, or reorganization, the Employer shall notify the affected employee(s) and the Union fourteen (14) days in advance of the layoff or job abolishment. Employees within the affected job titles/classifications shall be laid off according to their departmental seniority with the least senior being laid off first, providing that all students, temporary, part-time, seasonal, probational and provisional employees within the affected job titles/classifications, within the' affected department are laid off first in the above respective order.

Section 29.2. Recall and Reinstatement. when employees are laid off, the Employer shall create a recall list. The Employer shall recall employees from layoffs as needed. The recall shall be

according to seniority beginning with the most senior employee and progressing to the least senior employee. An employee shall be eligible for recall for a period of three (3) years after the effective date of the layoff.

Notice of recall from a layoff shall be sent to the Bargaining Unit member by certified mail with copies to the Lodge. The mailing shall be to the last mailing address provided by the Bargaining Unit member and the Bargaining Unit member has an obligation to keep the Employer advised of his current mailing address.

The recalled employee shall have fourteen (14) calendar days following the receipt of the recall notice to notify the Employer of his intention to return to work and shall have fourteen (14) calendar days following the receipt of the recall notice in which to report to duty, unless a different date is otherwise specified.

ARTICLE 30 - PERSONNEL FILES

Section 30.1. Personnel Files. The City of Fairlawn Civil Service Commission shall maintain the only official personnel files of the bargaining unit members. No other file shall be kept or used for the purpose of reference to any action for discipline of the member, or evaluation. Any member of the bargaining units shall, upon written request, be permitted to review his or her personnel file during hours the City Administrative Office is normally open for business. Upon request, the Officers shall have a copy of any material placed in his or her official file.

Should a bargaining unit member upon review of his or her file, read/observe material of an adverse nature, said bargaining unit member may provide a written and signed comment in response to said adverse material. Such comment shall remain in the bargaining unit member's file so long as the adverse material remains.

When a bargaining unit member is charged with or is under investigation of violations of departmental rules and regulations, reasonable efforts consistent with application applicable law, shall be made to withhold publication of the bargaining unit member's name and extent of the disciplinary action taken or contemplated until such time as a final departmental ruling has been made and served on the bargaining unit member. Any confidential investigative report relative to said bargaining unit member shall not be required to be placed in the official Civil Service Commission file of the member.

ARTICLE 31 - LEAVE WITHOUT PAY

Section 31.1. Leave Without Pay. The authorization of leave without pay is a matter of administrative discretion.

ARTICLE 32 - SHIFT PREFERENCE

Any member of the bargaining unit shall have the right to request his/her preference of a scheduled shift established by the Chief of Police or his designee. Such request will be honored

unless two members request the same shift, to determine the selection of both members would be with preference given to the member with the most seniority. Shift selection will only apply to those members who have completed one (1) year of probation from the date of hire.

Availability for such request will be done semi-annually of the calendar year.

The effective date of the schedule shall be on April 1, and October 1, each year.

Any member requesting to change their work with another employee within the scheduled work period, shall request stitch exchange with the immediate supervisor. Any exchange of work hours shall not create additional income from the overtime article of this agreement.

The posting of the scheduled work period shall be thirty days prior to the effective date of the schedule, and shift selection shall be made within thirty (30) working days of the time such schedule is posted.

~~Any member of the Bargaining Unit shall select his days off within the shift he works. Should two or more members request the same days off the officer with the most seniority shall prevail.~~

Any member of the bargaining unit shall have the right to request his/her preference of days off. Such request will be honored unless two members request the same days off, in which case preference will be given to the member with the most seniority. Selection of days off will only apply to those members who have completed one (1) year of probation from the date of promotion to sergeant. Availability for such request will be done semi-annually within the calendar year. The effective date of the schedule shall be on April 1, and October 1, each year.

Should a bargaining unit member be transferred from one assigned duty to another and such transfer would require a shift adjustment, such member shall request placement of the existing schedule to the shift where a member with less seniority has selected. Bumping shall be utilized in accordance with the members' present seniority status.

Should the Chief **of Police** determine that an emergency or a significant problem exists, the Chief **of Police** may require that shifts be rebid in order to solve the problem.

ARTICLE 33 - EXTRA DUTY

Section 33.1. Extra Duty. The primary duty of all Police Officers employed by the City of Fairlawn is to the City, and their primary duty, obligations, and responsibility is to the City of Fairlawn Police Department. As such they are subject to call at all times for emergencies, special assignments, or extra duty and no secondary employment may infringe on these obligations.

Should the City receive a request for a police Officer to work for a private company, commercial business, self employment, or any other entity for the purpose of security or traffic control, the police Officer may voluntarily accept such request, and such acceptance will not be considered as

the Officer's work day or week. Such secondary employment will be permitted subject to the following:

1. No secondary employment will be permitted where alcoholic beverages are dispensed and/or sold without the approval of the Safety Director or his designee.
2. No secondary employment will interfere with the Officer's assigned duties during his regularly scheduled shift for the City of Fairlawn.
3. Any Officer who does not report for official duty due to illness or injury, shall not be permitted to perform any secondary employment within sixteen (16) hours from the time he/she is scheduled to report for duty unless he/she has worked a regularly scheduled shift for the City of Fairlawn during that sixteen (16) hour period. This restriction shall not apply where the Officer's illness or injury occurred on the day prior to a scheduled two days off in which event this Officer may work secondary employment on the said days off.
4. Any Officer on sick leave, probation or suspension shall be prohibited from engaging in outside employment in any capacity.
5. When it is apparent from sick leave records, or other evidence that the secondary employment is having an adverse effect on his or her physical condition, or ability to perform required police duties for the City of Fairlawn, he/she will be prohibited from all secondary employment until approved by the Chief and Safety Director.
6. No police officer shall engage in employment by any person or commercial entity that provides any services, supplies or goods to the City of Fairlawn and which association can be considered a conflict of interest.
7. A request for secondary employment must be submitted by application to the Chief of Police for approval prior to accepting the secondary employment position.
8. Any Officer that is requested by a private company, and when the form is submitted and approved by the Chief of Police, shall have the first choice of that specific job.
9. Should there be no response to the extra job request from a full-time police Officer, a part-time Officer may be used.
10. All full-time Officers will be restricted to no more than thirty (30) hours of extra duty in any seven day calendar week, consistent with the departmental rules and regulations and this Article.
11. Any provision in this Article may be waived for good cause in the discretion of the Chief or his designee.

ARTICLE 34- FATAL FORCE

Section 34.1. Fatal Force. Any time a bargaining unit member participated in administering fatal force, the following provisions shall apply:

- A. The employee shall receive seven (7) working days off.
 - 1. An extension of time shall be granted by the Safety Director if he deems necessary.
- B. The employee shall continue to receive his or her City benefits for this seven-day period, or an approved extension thereof.
- C. Time off from the duties of the employee for fatal force shall not be deducted from any benefit of this agreement.
- D. Should the employee require medical treatment for any mental disorder from his or her actions of using fatal force, the City shall provide the cost for the necessary treatment beyond the present hospitalization benefit provided that the employee submits:
 - 1. Verification of the treatment needed;
 - 2. Treatment does not exceed \$1,500.00; and
 - 3. Permission to exceed this cost limit must be approved, in writing, by the Mayor.

Should a suspension of the employee pending investigation of the fatal force be implemented, the employee shall continue to receive full pay and benefits during such suspension.

ARTICLE 35 - EMPLOYEES BILL OF RIGHTS

Section 35.1. Employee Rights. When a member of the bargaining unit is subject to formal interview in regard to a matter directly related to immediate disciplinary action or apparent future disciplinary action such as suspension, demotion or dismissal the interview shall be conducted under the following conditions.

Interviews shall be conducted at a reasonable hour when the member is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

Such interview shall take place at the Police Headquarters of the City of Fairlawn.

The member under interview shall be informed of the officer in charge of the interview, and all persons present during the interview. All questions directed to the member shall be asked by and through one interrogator, unless waived by the member.

The member under interview shall be informed of the nature of the investigation prior to any interview.

Interview sessions shall be for a reasonable period and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

At the request of the bargaining unit member under interview, he shall have the right to be represented by counsel, or any other bargaining unit member designated as a representative, who shall be present at times during the interview, unless waived by the member. The interview shall be suspended for a reasonable time until representation can be obtained.

The member under interview shall not be threatened during any interview, but if applicable, shall be advised that they may be temporarily suspended, or transferred until completion of the investigation.

If a member while being interviewed becomes a suspect to a criminal action, and/or such interview becomes an interrogation, as a result of the interview, he shall be completely informed of his constitutional rights.

A complete record, either written, taped or transcribed, shall be kept of the complete interview of the member, including all recess periods. A copy of the record shall be available to the member or his counsel upon request.

The member shall receive a copy of the final Departmental or Administrative decision as to the investigation.

Any section of this article that refers to any member, also refers to any bargaining unit member of this agreement.

This article provides for the protection of the bargaining unit members of job-related incidents that require interviews stemming from an ongoing investigation.

Any member who has been accused of misconduct, or a violation of the departmental rules and regulations, and such accusations are made by a citizen, which requires an investigation by the department, shall be provided a written and signed statement by the party or parties who have made such accusations. A copy of this report shall be made available to the bargaining unit member upon any interview.

ARTICLE 36 - COURT TIME

Section 36.1. Court Time. All bargaining unit employees who are required to appear in court or an administrative agency pursuant to his actions as a responsible employee of the Fairlawn Police Department may elect to be paid or receive compensatory time, for a minimum of three

(3) hours time at a rate of pay at one and one half (1.5) times his/her regular rate of pay.

Section 36.2. Off-duty Time. Any member assisting or initiating his/her powers off duty and such actions are to protect life, prevent a crime in progress, assist a fellow police officer or witness an act that necessitates the member to give testimony shall receive the benefit of section 36.1, except for private duty contractual assignments with employees other than the City of Fairlawn.

Section 36.3. Limitation. Compensation shall not be paid more than one for the same hours under the provisions of this article.

ARTICLE 37 - INCENTIVE PROGRAMS

Section 37.1. Tuition Reimbursement. The City of Fairlawn will reimburse full-time police officers for job-related, pre-approved coursework for which an officer receives a "C" or better final grade in accordance with the provisions of this Article.

Section 37.2. Coursework Qualifying for Reimbursement. Full-time police officers will be reimbursed for a job-related graduate, undergraduate, secondary or vocational school course of study, at an accredited institution which are approved by the supervising department head and the Director of Finance before the period of study for the course begins.

Section 37.3. Payment for Qualifying Coursework. A full-time police officer who achieves a "C" or better final grade in a pre-approved qualifying course shall receive reimbursement for tuition and required textbook costs as follows: 100 percent for an "A," 90 percent for a "B," and 80 percent for a "C."

Section 37.4. STEP Officer Plan. The City of Fairlawn shall retain the use of the Special Traffic Enforcement Plan (S.T.E.P.) program. Preference for S.T.E.P. work will be given to full-time police officers.

Section 37.5. STEP Officer Compensation. Bargaining unit members employed under the plan will receive ~~\$20.00 per hour~~ **the following amounts** for each STEP hour or fraction of an hour worked. S.T.E.P. pay will be paid to the employee in the same pay period as it was earned. ~~In 1996 the rate for each STEP hour or fraction of an hour worked shall become \$21.00 per hour. In 1997 the rate shall be \$21.50. In 1998 the rate shall be \$22.00.~~ **In 1999 the rate for each STEP hour or fraction of an hour worked shall be \$22.50 per hour. In 2000 the rate shall be \$23.00 per hours. In 2001 the rate shall be \$23.50 per hour.**

Section 37.6. STEP Officer Deductions. The city will deduct Police and Firemen's Disability Pension Fund (PFDP & F) contributions or PERS contributions for the straight time STEP wages of a police officer under this section. PFDP & F deductions will also be made from the overtime payments which result from a police officer working STEP duties.

ARTICLE 38 - PENSION PICK-UP PLAN

Section 38.1. Pension Pick-Up Plan. The City will, as soon as practicable, initiate a pension "pick-up" plan where the City shall "pick up" the employee's required contribution to Police and Firemen's Disability and Pension Fund without additional cost to the City and in accordance with applicable Internal Revenue Service rulings and Ohio Attorney General Opinions. The employee's contributions which are "picked-up" by the City shall be treated in the same manner as contributions made by the employees prior to the commencement of the "pick-up" plan and will, therefore, be included in "compensation" for Police and Fire Disability and Pension Fund calculations, and for fixing compensation of employees as set forth in this Agreement. For all other purposes, except for deferring state and federal taxes, the employee's wages shall remain as he or she is currently placed on the wage scale.

[Note: existing Article 39 - Drug Testing is deleted and the following new Article 39 is inserted.]

ARTICLE 39 - DRUG TESTING

Section 39.1

Employee Education Regarding Drug Testing. There will be a ninety (90) day education and information period prior to the implementation of testing hereunder. All employees will be informed of the Department's drug testing procedures. Employees will be provided with information concerning the impact of the use of drugs on job performance. In addition, the Employer will inform the employees of the manner in which these tests are conducted, the reliability of the tests performed, under what circumstances employees will be subject to testing, what the tests can determine, and the consequences of testing positive. All new employees will be provided with this information when initially hired. A record will be maintained of the employees' receipt of this information.

Section 39.2

Drug Testing. Drug testing shall be conducted at times of pre-employment; where there is reasonable suspicion (described below); upon an employee's return to duty after completion of a rehabilitation program, or upon return to duty after being off duty for six (6) months or more.

Reasonable suspicion that an employee is using or abusing drugs must be based upon objective facts or specific circumstances found to exist which present a reasonable basis to believe that an employee is using or abusing drugs. Examples of where reasonable suspicion shall be deemed to exist include, without limitation, the following:

where there has been a serious on-duty injury to an employee or another person, the cause of which is otherwise unexplained;

1. where an employee, while operating a City vehicle, becomes involved in a traffic accident which results in physical harm to persons or property, and where the circumstances raise a question as to the existence of substance abuse by the employee involved;

2. where there is observable phenomena, such as direct observation of drug use, possession or distribution, or the physical symptoms of being under the influence of drugs (e.g., slurred, rambling or incoherent speech, dilated pupils or bloodshot eyes, odor of marijuana, unexplained lack of coordination, impaired reaction time, sweaty or flushed skin, staggering or unsteady walk, changes in affect, dynamic mood swings, etc.);

3. where there is a pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance which appears to be related to substance abuse and does not appear to be attributable to other factors; and

4. where an employee is identified as the focus of a criminal investigation into unauthorized drug possession, use or trafficking; or a report of drug use provided by a reliable and credible source.

Drug testing hereunder shall be conducted solely for administrative purposes and the results obtained shall not be used in criminal proceedings. Under no circumstances may the results of this drug testing be released to a third party for the use in a criminal prosecution against the affected employee. The following procedure shall not preclude the employer from other administrative action.

Section 39.3

Authorized Laboratories. All drug tests shall be conducted by laboratories certified by the Federal Department of Health and Human Services (DHHS). The procedure utilized by the testing lab shall include a chain of custody procedure in compliance with DHHS recommendations and Gas Chromatography/Mass Spectrometry (GC/MS) confirmation of any positive initial drug screening.

Section 39.4

Procedure. Drug tests shall be administered by urinalysis for the following drugs: amphetamines, barbiturates, benzodiazepines (valium, librium, etc.), cannabinoids (THP), cocaine (including crack), methadone, methaqualones, opiates, phencyclidine (PCP) and propoxyphene (darvon). An employee who initially tests positive shall be immediately removed from duty and placed on unpaid leave. If the initial screening is positive, within 72 hours of notification from the medical review officer, the employee may request a confirmation test of a split specimen, at a different DHHS approved laboratory. If the confirmation test is negative, the employee shall be immediately returned to duty and reimbursed for all lost wages. Any employee who refuses to submit to the above identified tests shall be prohibited from performing or continuing to perform his/her duties.

If an employee voluntarily enrolls in a qualified treatment program the City shall permit the employee to participate in a rehabilitation program specified by a substance abuse professional, if such program is covered by the employee's health insurance program. An employee who participates in a rehabilitation program shall be allowed to use sick leave, vacation leave, or available compensatory time for the period of the program. Apart from such use of paid leave, the employee will be relieved from duty in unpaid status. Upon evaluation and certification by a substance abuse professional or medical review officer that the employee has successfully completed the recommended rehabilitation program and a return to duty test that demonstrates that the employee is no longer using/abusing drugs, the employee shall be returned to his or her position. Such employee shall be subject to follow up testing for a period of one year from the date of his or her return to work.

For the purpose of this Article, follow up testing shall involve a minimum of four (4) unannounced tests during the year following his or her return except that drug tests may be performed at any time upon reasonable suspicion. Costs of all drug screening and confirmation tests which are required by the City shall be borne by the City.

An employee will be subject to disciplinary action under this Article for any of the following reasons: when the employee reports for duty or performs work and tests positive for using a prohibited drug after having once completed a drug rehabilitation program; refuses to submit to a drug test; fails to complete rehabilitation program the employee has entered pursuant to this Article; alters or attempts to alter drug test results; or if the employee tests positive at any time within the year following his or her return to work.

Section 39.5

Medical Releases. For purposes of implementing the provisions of this Article, each employee shall execute medical releases in order for the City to obtain the results of the physical examinations and drug testing provided for in this Article. Except as otherwise provided by state or federal law with regard to communicable diseases or with the permission of the employee, the releases referred to in this section shall authorize only the release of examination results and progress reports pertaining to the drug test results. No other medical finding may be released without the express written permission of the employee, except that without a release from the employee, the employer may disclose information pertaining to an employee's drug testing to a decision-maker in a grievance or other proceeding initiated by or on behalf of an employee and arising from the results of a drug test.

ARTICLE 40 - OUT OF CLASSIFICATION WAGE

Section 40.1. Out of Classification Wage. When a sergeant works in a higher rank (Lieutenant or Captain) he/she shall be paid at the straight time pay in the higher rank he/she works, or his own rate of pay, whichever is greater.

ARTICLE 41 - LABOR MANAGEMENT SAFETY COMMITTEE

Section 41.1. Purpose. In the interest of sound labor/management relations and safety and health, the City and the FOP agree to create and maintain a Labor Management Safety Committee. The Labor Management Safety Committee shall consist of the mayor or designee, Safety Director or designee, the Chief of Police or designee, and one member of the Sergeant bargaining unit and two members of the bargaining unit (a total of three members of the FOP). It is mutually agreed that this committee shall meet when it is determined by either party to be reasonable and necessary for the purpose of:

1. Discussing the administration of this Agreement.
2. Notifying the FOP of changes made by the City which affect bargaining unit members of the FOP.
3. Disseminating general information of interest to the parties.
4. Providing the FOP Representatives and the City Representatives the opportunity to share views and/or suggestions on the subjects of interest to their members and/or the City.
5. Discussing ways to improve efficiency within the Department.
6. Promoting harmonious relations between the City and the FOP.
7. Discussing safety and health issues.

Section 41.2. Commitments. The success of the Labor Management and Safety Committee meetings will depend upon the strength of the commitment made jointly and independently by the City and the FOP. The City and the FOP agree that:

1. They will use the forum for constructive exploration of difficult issues.
2. They will make every effort to develop the meetings into substantive, open, non-emotional explorations of the issues which form the mutually agreed upon agenda for such meetings.
3. They will recognize their separate viewpoints on and responsibilities for issues, but attempt to hear the viewpoints of others with the objective of finding constructive resolutions for problems.
4. Agreements shall be reduced to writing and appended to this contract as a part thereof.

The City agrees:

1. It will work in good faith with the FOP to attempt to reach consensus on the best means of resolving issues.
2. For each person selected to represent the FOP at the Labor Management Safety Committee meetings, the City will consider such service to be a part of his or her job duties when the meeting occurs during the assigned work hours of the representatives.

The FOP agrees:

1. It will work in good faith with the City to attempt to reach consensus on the best means of resolving issues.
2. It will take whatever actions are necessary to keep the bargaining unit members informed about developments in the Labor Management Safety Committee meetings and decisions made through this process.

Section 41.3. Agreement to Meet/Meeting Agenda. It is further agreed that if Labor Management Safety Committee meetings have been requested they shall be convened as soon as possible. An agenda will be furnished by the party requesting the meeting at least five (5) working days in advance of the scheduled meeting with a list of the matters to be taken up in the meeting.

Section 41.4. Occupational Safety and Health. Safety and health is a mutual concern of the FOP and the Employer. The FOP will cooperate with the Employer in encouraging BARGAINING UNIT employees to comply with applicable safety rules, regulations, and common knowledge safety standards of the law enforcement industry. The Employer agrees to operate and maintain a safe working environment for all bargaining unit members.

*no caps
caps*

Section 41.5. Compliance. The Employer and the FOP shall comply with all applicable Federal and State laws, rules, and regulations with regard to safety and health.

ARTICLE 42 - SENIORITY INCENTIVE

Section 42.1. Seniority Incentive. ~~Beginning January 1, 1996, each~~ **Each** employee who accumulates the following years of service with the Fairlawn Police Department shall be entitled to the following amounts:

8 years	\$ 250.00
12 years	\$ 750.00
15 years	\$1,000.00
<u>20 years</u>	<u>\$1,250.00</u>

Each of the following payments shall be made one time on the last payroll of the calendar year in which the employee becomes eligible for such payment, ~~except that Beverly shall receive the 15 year benefit in 1996 notwithstanding that he has passed the eligible date.~~

Section 42.2. Effective Service Date. Effective service date for the seniority incentive shall be the employee's date of hire with Fairlawn. This section will be applied prospectively effective the date of this agreement being applicable to each Employee who accumulates the appropriate number of years of service as the Employee reaches that service milestone. No retroactive application will be made.

Section 42.3. Service Determination. This section applies to Employees who have accumulated the appropriate number of years of active service with the Fairlawn Police Department in good standing as determined by the Chief of Police.

ARTICLE 43 - DURATION OF AGREEMENT

Section 43.1. Duration of Agreement. This Agreement shall be effective as of January 1, ~~1996~~ 1999, and shall remain in full force and effect through midnight, December 31, ~~1998~~ 2001.

Section 43.2. Notice to Negotiate. If either party desires to modify or amend this Agreement, it shall be given written notice of such intent no earlier than one hundred twenty (120) calendar days prior to nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt requested. The parties shall commence negotiations within two (2) calendar weeks upon receiving such notice.

Section 43.3. Entire Agreement. The provisions of this Agreement constitute the entire agreement between the parties.

Section 43.4. Signatures. Signed and dated at Fairlawn, Ohio, on this _____ day of December, 1998.

FOR THE CITY OF FAIRLAWN:

FOR THE FRATERNAL ORDER OF
POLICE/OHIO LABOR COUNCIL:

Mayor William T. Roth, Jr.

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FOR THE CITY OF FAIRLAWN:

FOR THE FRATERNAL ORDER OF
POLICE/OHIO LABOR COUNCIL:

Mayor William T. Roth, Jr.

AGREEMENT BETWEEN
CITY OF FAIRLAWN

AND

THE FRATERNAL ORDER OF POLICE
OHIO LABOR COUNCIL
(PATROL OFFICERS)

Effective

January 1, 1999

through

December 31, 2001

Attachment "B"

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ARTICLE 1 - PREAMBLE

Section 1.1. Preamble. This Agreement is entered into by and between the City of Fairlawn, hereinafter referred to as the "Employer" and Fraternal Order of Police, Ohio Labor Council, hereinafter referred to as the "FOP/OLC." This Agreement is made for the purpose of promoting cooperation and harmonious relations between the administration and the lodge.

ARTICLE 2 - RECOGNITION

Section 2.1. The City hereby recognizes the Fraternal Order of Police, Ohio Labor Council, Inc., as the sole and exclusive bargaining agent for the purpose of collective bargaining on any and all matters related to wages, hours and working conditions of Patrol Officers employed by the Police Department of the City of Fairlawn.

Section 2.2. Positions excluded from the above-described bargaining unit shall be any employee in the rank of Sergeant or above including but not limited to Sergeants, Lieutenants, Captains, and the Chief of Police, **part-time and intermittent patrol officers,** and all other employees.

ARTICLE 3 - DUES DEDUCTION

Section 3.1. Dues Deduction. As bargaining Agent, the Union is required to represent all employees in the Police Department who are members of the bargaining unit fairly and equitably, regardless of their membership, or non membership, in the F.O.P. Ohio Labor Council.

Section 3.2 Requirements for Deduction. The Employer agrees to deduct regular FOP/OLC membership dues once each month from the pay of any employee who has completed sixty (60) days of service in the bargaining unit eligible for such deduction upon receiving written authorization signed individually and voluntarily by the employee. The agreed-to signed payroll deduction form must be presented to the Employer by the employee. Upon receipt of the proper authorization, the Employer will deduct FOP/OLC dues from the first payroll check for each calendar month in which dues are normally deducted. Such dues will be remitted to the FOP/OLC within thirty days from the date of making said deduction.

Section 3.3. The parties agree that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of FOP/OLC dues. The FOP/OLC hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions, or proceedings by any employee arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the FOP/OLC their disposition thereafter shall be the sole and exclusive obligation and responsibility of the FOP/OLC.

Section 3.4 Termination of Deductions. The Employer shall be relieved from making such individual "check-off" deductions upon an employee's : (1) termination of employment; (2) transfer to a job other than one covered by the bargaining unit; (3) layoff from work; (4) written revocation of the check-off authorization in accordance with the terms of this Agreement; or (5) resignation by the employee from the FOP/OLC.

Section 3.5. Notification to Union. Such sums deducted from the employees pay, accompanied by a list of employees from whose pay they have been deducted and the amount deducted, shall be forwarded to FOP/OLC 222 E. Town Street, Columbus, Ohio 43215, with the month such collection was made.

Section 3.6. Union Refund. In the event a refund is due any employee for any sums deducted from wages and paid to the Union, it shall be the responsibility of such employee to obtain appropriate refund from the Union.

Section 3.7. Insufficient Wages for Deduction. The Employer shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of dues.

Section 3.8. Deduction Error. The City shall be liable for the remittance or payment of any sum other than those constituting actual deductions made if for any reason it fails to make a deduction for an employee as above provided, and it shall make the deduction from the employee's next pay in which such deduction is normally deducted after the error has been called to the attention by the employer or Union.

Section 3.9. Notification. The FOP/OLC shall notify the Employer in writing of any increase in the current dues being deducted. Such increase or dues shall be deducted in the second pay period following notification of any increase in dues.

ARTICLE 4- FAIR SHARE

Section 4.1. Fair Share Contribution. The Union shall establish a fair share fee not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union. This fee shall represent the probationary employee's contribution for direct and indirect benefits by the Union and bargaining unit.

After completion of the probationary period, a police officer, who is a member of the bargaining unit covered by this Agreement, as a condition of continued employment, must either become a member of the Union or pay to the Union a "Fair Share Fee" not to exceed, on a monthly basis, the monthly Union dues paid by members of the Union.

Section 4.2. Payroll Deduction. Fair share fees shall be paid by automatic payroll deduction. Fair share fee deductions do not require prior authorization from the affected employees.

Fair share fee deductions and transmittals shall be made in the same manner provided by this Agreement for regular dues deductions.

Fair share fees shall equal regular FOP/OLC dues reduced, in advance, by the payer's proportionate share of all expenses which do not arise, directly, out of the FOP/OLC's duty of fair representation to the employees governed by this Agreement.

Any employee required to pay a fair share fee under this Article may challenge the amount of that fee as set forth in the FOP/OLC challenge and rebate procedure. The Employer's obligation to deduct fair share fees is contingent upon:

- A. The FOP/OLC's fulfillment, on behalf of each non-member, bargaining unit employee, of each obligation established in the FOP/OLC challenge and rebate procedure.
- B. Maintenance of a constitutionally adequate challenge and rebate procedure.
- C. The FOP/OLC may amend its challenge and rebate procedure by providing the employee a written copy of the procedure as amended. Changes in the amounts to be deducted shall become effective on the thirtieth (30) calendar day after their actual receipt by the employer.

The FOP/OLC warrants and guarantees that no provision of this Article violates the laws or constitutions of either the United States of America or the State of Ohio. The Employer's financial liability under this Article is limited to deduction and transmittal of fair share fees. The FOP/OLC shall indemnify, save and hold the employer harmless from any claim, actions or proceedings brought by a person or entity as a result of deductions made by the employer pursuant to this Article.

Section 4.3. Political Contribution. If a unit member does not wish to contribute that portion of his "Fair Share Fee" which is used in support of partisan politics or ideological causes which are not germane to the Union's role in collective bargaining with employer entities, he may seek a rebate of this portion of his "Fair Share Fee" payment. Once such a rebate is requested and granted, it shall be made monthly until the unit member withdraws his request for this rebate.

Section 4.4. Religious Contribution. Any unit member who also is a member of, and adheres to established and traditional tenets and teachings of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization, and which is exempt from taxation under the provisions of the Internal Revenue Code, shall not be required to join or support financially any employee organization as a condition of employment. The unit member shall submit proper proof of religious convictions to the State Employment Relations Board, and if the board shall declare the employee exempt from becoming a member of or financially supporting an employee organization, the employee shall be required, in lieu of a "Fair Share Fee" to contribute a like amount to a non-religious charitable fund exempt from taxation under Sections 501(c)(3) of the Internal Revenue Code mutually

agreed upon by the employee and a representative of the employees organization to which the employee would otherwise be required to pay a "Fair Share Fee." The employee shall furnish to the employee organization written receipts evidencing such payment, and failure to make such payment or furnish such receipt shall subject the employee to the same sanctions as would non-payment of dues under the applicable collective bargaining agreement.

This Section shall not be construed as a provision requiring any public employee to become a member of an employee organization as a condition of securing or retaining employment.

ARTICLE 5 - MANAGEMENT RIGHTS

Section 5.1. Management Rights. Any and all rights concerned with the management of the Fairlawn Police Department are the exclusive and sole responsibility of the City. It is further recognized that the City has the right to : (A) determine matters of inherent managerial policy which include, but are not limited to, areas of discretion or policy such as the functions and programs of the city, standards of services, 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 to be conducted; (E) suspend, discipline, demote, or for just cause or lay off, transfer, assign, schedule, promote, or retain employees, limited only by the other Articles in the contract; (F) determine the adequacy of the work force; (G) determine the overall mission of the City as a unit of the government; (H) effectively manage the work force; (I) take actions to carry out the mission the City as a governmental unit.

Section 5.2. Reservation of Rights. The City is not required to bargain on subjects reserved to the management and direction of the City, except as effect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of this agreement.

Section 5.3. Authority of the Chief or Designee. The Chief shall have the authority to make and implement decisions to maintain efficient operations of the Department.

ARTICLE 6- NO STRIKE

Section 6.1. No Strike. The Employer and the FOP/OLC realize that the grievance procedure provided herein is an adequate means to provide for the orderly resolution of grievances. The parties, therefore, agree to the following:

- A. The FOP/OLC agrees that neither it, its officers, agents, representatives, or members will authorize, instigate, cause, aid, condone or participate in any strike, sympathy strike, work stoppage, or any other concerted activities which interrupt the operations or services of the Employer by its members during the life this Agreement.

- B. In all cases of strike, sympathy strike, slowdown, walkout, or any unauthorized cessation of work in violation of this Agreement, the FOP/OLC shall undertake every reasonable means to reduce such employees to return to their jobs during any such period of unauthorized stoppage of work mentioned above. It is specifically understood and agreed that the Employer during such unauthorized work stoppage or job action shall have the whole and complete right to discipline.

Section 6.2. Lockout. The Employer agrees that neither it, its officers, agents, or representatives, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of members of the FOP/OLC.

ARTICLE 7 - WAIVER

Section 7.1. Waiver. The parties hereto agree that they have discussed fully and totally all issues between the parties and they hereby agree and waive bargaining on any other issues, topics or subject not included within the Agreement, and further, the parties waive any and all rights of bargaining on all other subjects not included within the collective bargaining agreement.

ARTICLE 8 - DISCIPLINE

Section 8.1. Discipline. No form of disciplinary action will be taken against any non-probationary employee except for just cause. This just cause standard does not apply to newly hired probationary employees who may be terminated any time during their probationary period without recourse.

Section 8.2. Procedure.

- A. The employer will apply discipline in a corrective, progressive and uniform manner.
- B. Any discipline imposed will be based upon the nature of the violation, and may be based upon the employee's record of previous disciplinary actions from his personnel file.
- C. Except in cases where the facts required the Employer to act immediately, the Employer agrees not to reduce, suspend, or discharge an employee without first arranging for a predisciplinary conference. When the Employer determines that the facts require the employee to be disciplined prior to a predisciplinary conference, the employee will be suspended from the active performance of regular duties without loss of pay until the predisciplinary conference is held regarding these allegations.

- D. Records of oral warnings and written reprimands which are more than two years old shall not be considered when determining the appropriate discipline to be imposed. Such records shall be maintained in a sealed envelope in the personnel file.

ARTICLE 9 - OFFICERS AND LODGE REPRESENTATIVES
AND UNION REPRESENTATION

Section 9.1. The Lodge shall at all times keep the Safety Director or Mayor and the Chief of Police advised in writing of the name and department of its officers and members of all committees authorized to act on behalf of the Lodge. Any change in lodge personnel are to be immediately forwarded to the above mentioned individuals in writing.

Section 9.2. Lodge members who are working during a Lodge meeting may attend such meeting, but must be available to respond to any dispatched call without delay. Meetings must be conducted in the City of Fairlawn to qualify the member for attendance.

Section 9.3. Three (3) members of the bargaining unit shall be entitled to attend all meetings between the City and the union for the purpose of contract negotiations. When such meetings take place at a time when the members are scheduled to work, the three (3) members shall be granted leave with pay for the period of time such negotiations are in session and one (1) hour prior to the starting time of a negotiating session. The member will only receive payment for the hours they would have worked on their regular schedule. Such attendance shall not interfere with the effective operations of the Department.

Section 9.4. The FOP will notify the Chief of the time and date of the FOP monthly meetings, and such meetings will be within the City of Fairlawn. All officers on duty may attend but must respond to any calls given at the time of the meetings.

Section 9.5. The FOP president shall receive three (3) days each year of the contract and a designated delegate appointed by the president shall receive three (3) days per year of this agreement. Such time shall be for the use of the president and his designate to attend the state conferences for the FOP and the FOP Ohio Labor Council. Notification to the Chief shall be made thirty (30) days prior to the dates requested. Vacation, holidays or compensatory time may be used for the purpose of such leave.

Section 9.6. The FOP president shall be permitted to attend any disciplinary hearings.

Section 9.7. The representative of the FOP Ohio Labor Council may attend any disciplinary hearings should such presence be required.

ARTICLE 10 - GRIEVANCE PROCEDURE

Section 10.1. Grievance Procedure. The term "grievance" shall mean an allegation by a bargaining unit employee that there has been a violation or misinterpretation of the express terms of this Agreement. It is not intended that the grievance procedure be used to effect changes in the Article of this Agreement nor those matters not covered by this Agreement.

Section 10.2. Process. All grievances must be processed at the proper Step in order to be considered at subsequent Steps. Any employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse. Any grievance which is not processed by the employee within the time limits provided, shall be considered resolved based upon management's last answer.

Any grievance not answered by management within the stipulated time limits may be advanced by the employee to the next Step in the grievance procedure. All time limits on grievances may be extended upon mutual consent of the parties.

Section 10.3. Procedure. It is the mutual desire of the Employer and the FOP/OLC to provide for prompt adjustment of grievances, with a minimum amount of interruption of the work schedules. Every responsible effort shall be made by the Employer and the FOP/OLC to effect the resolution of grievances at the earliest step possible. No settlement of any grievance shall conflict with the terms of this Agreement. In furtherance of this objective, the following procedure shall be followed:

STEP 1: The grievance must be presented in writing to the designated supervisor within five (5) working days from the date the alleged incident occurred or from the date the grievant should have known the incident occurred, but in no case later than twenty (20) calendar days following the date of such incident. **The grievance shall be presented on the form attached to this Agreement as Appendix A. The grievant shall provide a copy of the grievance form to the local FOP/OLC grievance representative on or before the date the grievance is presented to the designated supervisor.** Within five (5) working days from the date the employee first presents his written grievance, the Supervisor will deliver his written response.

STEP 2: The grievance is not resolved, the employee may pursue the matter by presenting the grievance and the Supervisor's response in writing to the Chief of Police, or his designee, within five (5) working days of the reply received in STEP 1. The Chief or his designee, shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step.

STEP 3: If the grievance is not resolved, the employee may pursue the matter by presenting the written grievance and all written responses to the Safety Director within five (5) working days of the reply received in STEP 2. The Safety Director shall, if it is deemed necessary, meet with those concerned and attempt to resolve the matter, and shall respond in writing within ten (10) working days following timely receipt of the grievance at this step. **If the Mayor is also serving as the Safety Director, this Step 3 shall be omitted and the grievance may be advanced from Step 2 to Step 4.**

STEP 4: If the grievance is not resolved, the employee may pursue the matter by presenting the written grievance and all written responses to the Mayor within five (5) working days of the reply received in STEP 3. The Mayor shall, meeting with those concerned and attempt to resolve the matter, and shall respond in writing within fifteen (15) working days following timely receipt of the grievance at this step.

STEP 5: **Arbitration:** If the grievance is not satisfactorily settled at STEP 4, the FOP/OLC may file a Notice of Arbitration. A Notice of Arbitration must be mailed, certified mail, return receipt requested, to the Mayor within ten (10) working days following the issuance of the Mayor's written decision in STEP 4. In the event the grievance is not mailed, certified mail, within the time limits prescribed, the grievance shall be considered resolved based upon the STEP 4 reply.

Section 10.4. Grievance Information. All grievances must contain the following information to be considered, and must be filed using the grievance form mutually agreed upon by the parties:

1. Grievied employee's name and signature.
2. Grievied employees classification.
3. Date grievance was filed in writing.
4. Date and time grievance occurred.
5. The location where the grievance occurred.
6. A description of the incident(s) giving rise to the grievance.
7. Specific Articles and section of the Agreement violated.
8. Desired remedy to resolve the grievance.

Section 10.5. Self Representation. When an employee covered by this Agreement chooses to represent himself in the presentation of a grievance, no adjustment of the grievance will be inconsistent with the terms of this Agreement. Prior to the adjustment of any such grievance, the appropriate FOP/OLC grievance representative will be notified of his right to be present at the adjustment.

Section 10.6. Who May File. A grievance may be brought by any employee covered by this Agreement. Where a group of bargaining unit employees desire to file a grievance involving an incident affecting several employees in the same manner, one employee shall be selected by the group to process the grievance. Each employee who desires to be included in such grievance shall be required to sign the grievance.

ARTICLE 11 - ARBITRATION

Section 11.1. Arbitration Submission Agreement. Within fourteen (14) calendar days following the receipt of the FOP/OLC written notification of the FOP/OLC's intention to proceed to arbitration, the Mayor, Safety Director or the Chief of Police, either personally or through an appropriate representative, and the FOP Representative or his designee, will consult and attempt to draft a written agreement stating the issue(s) to be submitted to arbitration. If no agreement is reached as to the issue(s) by the above-referenced persons, each party shall submit a written document stating the issue(s) to be arbitrated.

Section 11.2. Arbitrator. Within fourteen (14) calendar days following the receipt of the FOP/OLC's written notification to Arbitrate, the parties shall attempt to select an Arbitrator, by mutual agreement. If an agreement is not reached, the FOP/OLC shall request a list of seven (7) Arbitrators from the Federal Mediation and Conciliation Services. Upon receipt of such names, the City and the FOP/OLC shall select one name from the list by alternately striking the names until one name remains.

Section 11.3. Authority of Arbitrator. The arbitrator shall give a fair and impartial hearing on the testimony and evidence from both parties, unless the parties mutually agree to submit their dispute on written stipulations. The arbitrator shall not have authority to add to, subtract from, modify, change or alter any provisions of this Agreement. The arbitrator shall expressly confine himself to the precise issue(s) submitted for arbitration and shall, absent mutual agreement of the parties, have no authority to determine any other issued not so submitted to him.

The arbitrator shall not issue observations or declarations of opinion which are not directly essential in reaching a decision on the issue(s) in question. The arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement. In disciplinary cases, the arbitrator shall have the authority to affirm, disaffirm, or modify said discipline.

The question of arbitrability of a grievance may be raised by either party before the arbitrator hears the merits of the grievance.

If the question of arbitrability is raised, the arbitrator must rule on this issue before hearing evidence or argument on the merits of the grievance.

The decision of the arbitrator shall be final and binding upon the FOP/OLC, their grievant, and the City.

Section 11.4. Costs. The costs of any proof produced at the direction of the arbitrator, and the rent, if any, for the hearing room shall be shared equally between both parties. Each party shall pay the entire cost for any representative engaged by that party. The expenses of any non-employee witnesses shall be borne, if at all by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. All costs directly related to the service of the arbitrator shall be borne by the losing party. If the arbitrator issues a split decision, the parties shall equally share the costs directly related to the service of the arbitrator.

Section 11.5. Arbitrator's Award. The arbitrator's decision will be in writing and shall be mailed to the FOP/OLC and the City within thirty (30) days from the date the hearing record is closed.

Section 11.6. Rules. The hearing or hearings shall be conducted pursuant to the "Rules of Voluntary Arbitration" of the American Arbitration Association.

Section 11.7. Witnesses. An employee requested to appear at the arbitration hearing by either party shall attend without the necessity of subpoena and shall be compensated at his or her regular hourly rate for all scheduled hours during which his or her attendance is required by either party. Any request made by either party for the attendance of witnesses shall be made in good faith, and employees shall return to work at the earliest time possible following the conclusion of their testimony or other involvement. At no time shall more than two (2) employees be in attendance.

ARTICLE 12 - PRESS RELEASES

Section 12.1. Press Releases. When an officer is charged with or under investigation for violations of the Fairlawn Police Department rules and regulations, reasonable efforts, consistent with applicable law shall be made to withhold the name of such Officer(s) and the extent of disciplinary action taken until such time as the Officer(s) has been served with charges or exonerated.

ARTICLE 13 - CONFORMITY TO LAW

Section 13.1. Conformity to Law. This Agreement supersedes and replaces all applicable laws which it has the authority to supersede and replace.

Section 13.2. Validity. If the enactment of federal or state legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one

not between the parties) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portions of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included herein. **In such event, the Employer and the FOP/OLC will, at the request of either party hereto, promptly enter into negotiations relative to the particular provisions deemed invalid or unenforceable.**

ARTICLE 14 - HOURS OF WORK

Section 14.1. Hours of Work. A week shall be defined as seven (7) days beginning at 0001 hours Monday morning, and ending 2359.59 hours on Sunday night.

A day shall be defined as twenty-four hours, beginning at the starting time of the bargaining unit members scheduled work day.

A work week will consist of five (5) eight-hour days of work, with two consecutive days off except as provided in Section 16.5 on this Agreement.

ARTICLE 15 - OVERTIME PAY

Section 15.1. Overtime. When an employee is required by his/her responsible supervisor or administrator to work in excess of his/her eight-hour work day, or in excess of his/her forty-hour work week, such employee shall be compensated for each hour or fraction thereof at a rate of one and one-half time his/her base hourly rate.

Overtime pay will be included in the pay period such overtime was worked. Holidays, vacation days, and sick days shall be a part of the standard forty hour work week for the purpose of computing overtime.

"Weighted average" methods will not be used to calculate overtime pay.

Section 15.2 Compensatory Time. Each bargaining unit member shall elect to take at his/her discretion, overtime as paid compensation or compensatory time.

Compensatory time **shall may** be taken at the request of the bargaining unit member **should operational needs of the department permit**. Should compensatory time be requested by two or more employees, seniority shall prevail within their rank structure. Such request should be made seven (7) days prior to the days requested. Such time period may be waived by the Safety Director, or his designee, at their discretion.

Compensatory time shall be taken for period of time of no less than one hour.

Compensatory time shall be cumulative to 300 hours during the term of this Agreement.

ARTICLE 16 - HOLIDAYS

Section 16.1. Holidays. The following shall be considered legal holidays:

New Year's Day, January 1
Martin Luther King Day, third Monday in January
President's Day, third Monday in February
Easter Sunday
Memorial Day, fourth Monday in May
Independence Day, July 4
Labor Day, first Monday in September
Columbus Day
Veteran's Day, 11th of November
Thanksgiving day, fourth Thursday in November
Christmas Day, December 25
Birthday

In addition, each employee shall receive ~~one~~ two personal days.

Section 16.2. Holiday Pay. When a holiday as set forth in Section 1 of this Article falls on an employee's regularly scheduled day off, that employee shall receive eight (8) hours pay at his or her regular rate of pay.

Section 16.3. Work on a Holiday (1) When one of the following holidays falls on an employee's regularly schedule workday, that employee shall receive eight (8) hours holiday pay or compensatory time, and one and one-half times his or her regular rate of pay for work on:

New Year's Day
Easter Sunday
Independence Day
Labor Day
Columbus Day
Thanksgiving Day
Christmas Day

(2) When a holiday as set forth in Section 1 of this Article falls on an employee's regularly scheduled day off, that employee shall receive eight (8) hours pay at his or her regular rate of pay.

Section 16.4. Payment. Holiday pay will be included in the paycheck covering the pay period in which the holiday occurred. Employees may elect to take compensatory time in lieu of holiday pay in accordance with Article 15 of this Agreement.

Section 16.5. Scheduling. In order to maintain full staffing on holidays, the City may schedule part-time employees to work each holiday shift so that full-time employees may have the day off. One full-time officer will be scheduled to work each holiday shift, unless he/she has requested the holiday off, and the request was granted.

Section 16.6. Overtime. Employees who work overtime, or are required to work on their regularly scheduled day off on a holiday, shall receive the holiday premium rate of pay for all hours worked.

ARTICLE 17 - VACATION

Section 17.1. Each member of the bargaining unit shall earn and be credited with vacations in such a manner herein provided, upon completion of:

YEARS OF SERVICE	WEEKS OF VACATION
1 but less than 5	2 weeks
5 but less than 12	3 weeks
12 but less than 20	4 weeks
20 but less than 23	5 weeks
over 23 years	6 weeks

Vacation benefits are subject to the following computations and rules.

Section 17.2. In computing service for vacation purposes, full credit shall be given for all services rendered in the probationary status, provided such member immediately after probationary status becomes an employee eligible to receive vacation.

Section 17.3. Vacation requests shall be scheduled at the members' discretion and preference, except that such selection may be denied by the Chief if it interferes with the efficient operations of the department.

Section 17.4. Vacation requests shall be made from January 1, to January 31, for the present year of vacation. The Administrator will acknowledge such request no later than February 15. If more than one request is made for the same date or an overlap should occur of a vacation request, seniority shall have preference. Any vacation requests that are made after January 31 shall be granted by the Administration in such a manner to maintain the greatest efficiency of the department.

Section 17.5. Any member that has received credit of service for employment in another agency or political sub-division for the purpose of vacation benefit shall continue to receive such benefit.

Section 17.6. Vacation benefits shall be effective on January 1 of each calendar year for the bargaining unit members, and shall be taken at any fifty-two weeks of that calendar year.

Section 17.7. Vacation shall be taken for such periods as one day, one week or for however many weeks the member is entitled. The exception shall be the member at the time of vacation request shall only request two (2) weeks for his first selection until the seniority list is exhausted, at which time the list will begin starting with the senior employee for all additional vacation requests.

Section 17.8. The City shall approve request for vacation with the limitation to **that no more than** one sergeant and one patrolman **or two patrolmen may be** on vacation **at any one time,** ~~with the per shift, or two patrolmen per shift and~~ exception that more than the described to be on vacation is at the discretion of the employer.

Section 17.9. Vacation request made after January 31 shall be submitted to the ~~Safety Director~~ **Chief of Police** or his designee **at least** fourteen (14) days prior to the date requested for vacation. Such time period may be waived by the ~~Safety Director~~ **Chief** or his designee.

Section 17.10. The employee may carry over one week of vacation each year, and may carry over vacation earned for three years prior to the employee's retiring date and paid in accordance with the wage rate at the time the vacation is earned.

ARTICLE 18 - SICK LEAVE

Section 18.1. Policy. It shall be the policy of the City to provide sick leave with pay for its permanent, full-time employees; payment for earned sick leave will be paid pursuant to Section 18.2. of this Article upon regular or disability retirement only.

Section 18.2. Eligibility. When attaining rank of sergeant or above, each full-time employee shall retain the sick leave earned as a patrolman. Each employee shall earn one and one-fourth days with pay for each completed month of service. There shall be a limit of 220 days on the amount of sick time earned, and upon retirement the employee shall be paid at his rate of pay at retirement for up to 90 days of unused sick leave. Any employee who was granted more than 90 days prior to this agreement for payment at retirement shall retain the right for said payment, and be paid at his rate of pay at retirement. Employees hired January 2, 1993, or after, and who do not have the option to cash in accumulated sick leave, shall not receive any payment on accumulated but unused sick leave upon retirement.

~~Section 18.3. Death Benefit. When an employee dies while on paid status, all unused sick leave to his credit shall be paid in a lump sum to his surviving spouse, or secondarily to his estate, at the rate set forth above:~~

~~If an employee is on active pay status, all unused and accumulated sick leave to his credit shall be paid hour for hour, at the rate in effect at the time of the member's death, in a lump sum, to his surviving spouse or secondarily to his estate.~~

Section 18.3. Utilization.

- (1) An employee absent on sick leave is required to notify his/her immediate supervisor of his/her inability to report to work ~~as soon after the start of the work day as possible~~ **at least two (2) hours before the start of the employee's regularly scheduled tour of duty, unless extenuating circumstances prohibit. Such notification shall be given on each day of absence unless other arrangements are made with his/her immediate supervisor.** If such notification is not made, the absence may be charged upon the recommendation of the department head, to leave without pay. Compensation for sick leave absences of more than twenty-four (24) working hours shall require the written excuse of a physician.
- (2) Sick leave shall be charged in minimum units of one-quarter hours. An employee shall be charged for sick leave only for days upon which she/he would otherwise have been scheduled to work.
- (3) Sick leave will be granted to employees only upon approval of the department head for the following reason:
 - A. The illness, injury or **disability related to** pregnancy of the employee or an emergency including **disability related to** pregnancy, in his/her family.
 - B. The affliction of a member of the employee's immediate family with a contagious disease requiring the care and attendance of the employee; or
 - C. Exposure of the employee to a contagious disease such that the presence of the employee at his/her job would jeopardize the health of other employees.
- (4) A home does not necessarily have to be quarantined by health authorities before sick leave may be granted to an employee who is caring for a member of his/her immediate family afflicted with a contagious disease.
- (5) In the case of sick leave absences for reasons specified in subparagraph 3(13) of this section, a written statement from a physician must be supplied to a department head certifying the nature of the absence of the employee.
- (6) Bargaining unit members that have used all of their earned sick leave and any paid leave benefits (vacation, holiday, compensatory), because of an illness or injury may receive contributions of sick leave hours from members in the bargaining units (sergeants and patrol). Bargaining unit members who contribute the unused sick leave must maintain a minimum of 240 hours in their earned but unused sick leave accumulation. Any contribution made is not required to be paid back to the contributor.

~~Section 18.5. Injury in the Line of Duty or Injury Leave. Permanent full-time employees who are injured or incapacitated in the actual discharge of duty, and who, as a result thereof, are~~

compelled to be absent from duty, shall upon recommendation of a certified physician and the Safety Director, receive full pay for such time as may be equitable. However, a deduction may be made to the extent of any salary compensation they may receive from any compensation fund to which the State, County, or City contributed; however, said absence must be due to an injury or illness compensable under the Workers' Compensation Act of Ohio. Sick leave as specified in Article 20 need not be utilized by the subject employee if injury leave is approved for payment pursuant hereto.

Section 18.4 Bargaining unit members who are temporarily unable to return to their normal **regular** assignment of work because of an injury or illness, may, upon approval of the attending physician **and the Chief of Police**, be assigned temporary **light** duties in the Police Department, and such work shall be in compliance to the physical restrictions set forth in the physicians statement. Temporary shall mean no more than ninety (90) working days. The assignments made by the employer shall not effect the wages of the bargaining unit member, and the member shall continue to receive his or her full salary as set forth in this agreement. ~~The employee will not be forced to accept light-duty assignment.~~ The Chief of Police shall have the right to approve light duty, but such assignment will not be arbitrarily denied.

ARTICLE 19 - LEAVE FOR INJURY IN THE LINE OF DUTY

Section 19.1. Permanent full-time employees who are injured in the actual discharge of duty, and who, as a result thereof, are physically unable to perform their regularly assigned duties, shall upon recommendation of a certified physician and approval of the Safety Director, receive full pay and benefits for such time as may be equitable, but not to exceed 90 working days. Leave for injury in the line of duty may be extended beyond 90 working days in the discretion of the Safety Director. However, a deduction may be made to the extent of any payments received under the Workers' Compensation Act. As used in this section, "actual discharge of duty" means injuries incurred specifically in the performance of activities unique to police duties, such as chase and apprehension of suspects and use of firearms, but does not include other types of injuries such as slip and fall or lifting objects (other than at accident scenes) or non-chase automobile accidents. Such leave shall not be charged against use of sick leave.

Section 19.2. The employee requesting such leave shall provide a physician's statement to the Safety Director, certifying that the employee is unable to physically perform his/her regularly assigned duties due to the injury sustained while in the line of duty. The Safety Director may then require the employee requesting such leave to submit to a medical examination by a physician appointed by the City. If the employee's physician and the physician appointed by the City disagree as to whether the employee is physically able to perform his/her regularly assigned duties, the two physicians shall jointly appoint a third physician who shall examine the employee and make the final determination as to whether the employee is unable to physically perform his/her regularly assigned duties.

ARTICLE 20- FUNERAL LEAVE

Section 20.1 Funeral Leave. A full time employee shall be permitted up to three working days off with pay, upon proper notification to the department head of the death of his or her mother, father, child, husband, wife, brother, sister, or grandparent, brother-in-law, sister-in-law, mother-in-law, father-in-law, guardian, spouse's grandparent, or stepchildren.

ARTICLE 21 - SENIORITY

Section 21.1. Seniority. Seniority shall be continuous service as a full-time police officer with the City of Fairlawn Police Department, and such seniority shall begin with the date of hire.

Section 21.2. Break in Seniority. Seniority shall be broken when an employee:

- A. Quits or resigns;
- B. Is discharged for just cause;
- C. Is laid off for a period of more than thirty-six (36) consecutive months;
- D. Is absent without leave for three (3) or more work days unless proper excuse for the absence is approved.
- E. Fails to report to work when recalled from layoff within fourteen (14) calendar days from the date on which the Employer sends the employee notice by registered mail (to the employee's last known address as shown on the Employer's records) unless a different date for returning to work is otherwise mutually agreed upon or a later date is specified in the notice.
- F. Fails to report for work as directed following a leave of absence or separation for more than thirty (30) days.

Section 21.3. Seniority Credit. Employees shall not receive credit for any other service with any other Employer, nor for any time of employment with the City of Fairlawn Police Department which was prior to a break-in service. However, employees with prior service with the City of Fairlawn Police Department shall receive retirement system credit for such time worked in accordance with applicable law. In addition, employees with prior service as a full-time police officer with another political subdivision of the State of Ohio shall receive up to four (4) years service credit for purposes of determining the appropriate wage rate pursuant to Article 23 of this Agreement.

Section 21.4. Seniority Prevails. The date of promotion shall determine seniority in rank and shall prevail for shift selection, vacation and holidays selected, and shall comply with the articles of this Agreement.

ARTICLE 22 - JURY DUTY LEAVE

Section 22.1. Jury Duty leave Any employee who is called for jury duty shall be paid his/or her regular compensation. All compensation received from the court for such duty must be reimbursed to the City upon the employee's return to work.

ARTICLE 23 - WAGES

Section 23.1. Wages. Beginning on January 1, 1999, and effective through December 31, 2001, the wage schedule for Patrol Officers shall be as follows:

	1996 1999	1997 2000	1998 2001
0-1 year	\$28,588.62	\$29,446.28	\$30,329.67
1-2 years	\$37,810.07	\$38,944.38	\$40,112.71
2-3 years	\$39,979.53	\$41,178.92	\$42,414.29
3-4 years	\$42,151.95	\$43,416.50	\$44,719.00
Over 4 years	\$44,321.25	\$45,650.89	\$47,020.41

Section 23.2. The wage rate shall be determined at the police officer's completed years of service, effective on the officer's anniversary date of his or her date of employment.

ARTICLE 24 - UNIFORM ALLOWANCE

Section 24.1.

1. Each full-time officer will be authorized to purchase equipment to be worn or used as part of his official uniform as prescribed by the Chief of Police and in accordance with the following procedure:
2. When authorized items are required in order to meet the requirements established by the Chief, the officer will submit the item to be replaced and previously used by the Officer requesting replacement to the Chief or his designee.

If the Chief or his designee agree, based upon a standard of reasonableness, that the item should be replaced, he will issue an authorization slip to the requesting Officer who can acquire the items at a vendor designated by the Administration.

3. An initial issue of all required uniforms and equipment shall be provided to the employee within a reasonable time following the date of employment.

4. The City of Fairlawn will provide protective vests for all full time Officers employed by the City of Fairlawn. Such vests will be properly maintained by the employee and will be replaced upon the specified time frames recommended by the manufacturer during the term of this contract.
5. The selection of the vendor to provide the protective vests will rest solely with the Administration of the City of Fairlawn.
6. This procedure in no way releases the dress requirements issued by the Chief of Police or the appearance requirements as currently specified.
7. The following items shall be provided and replaced by the City. The Chief of Police has the authority to add items to the list.

CAPS

- 1 winter
- 1 summer
- 1 baseball P.D.
- 1 trooper

- 5 pair trousers
- 2 pair thermal underwear
- 6 pair socks
- 3 ties
- tie tac
- patches as required

SHIRTS

- 5 winter blue
- 1 winter white
- 5 summer blue
- 1 summer white
- 6 t-shirts
- 1 "IKE" jacket
- 1 car duty/leather jacket
- 1 windbreaker orange/black
- 1 "Raid" jacket
- 2 pc. utility suit

metal collar insignia

bulletproof vest

hat badge

RAIN GEAR

space

Coat

Slush boots

cap cover

FOOTWEAR

shoes

boots

Black leather Reeboks (authorized to wear, purchased officer)

EQUIPMENT

chain

2 name plates

gloves

scarf

LEATHER

Sam Brown belt

Trouser belt

Holster - on duty

Holster - off duty

Speed loader & pouches

clips & clip holders

handcuff case & handcuff key

- 2 breast badges
- 1 ID badge
- ID case
- briefcase
- 2 pair handcuffs
- mini-mag light & holder
- key holder
- keys as required
- cite book holder
- metal clip board
- PR-24 holder
- flashlight holder
- belt clip for radio
- belt keepers
- traffic vest/gloves

8. Each detective shall receive a clothing allowance of \$700.00 per year ~~per the schedule below~~. This allowance shall be paid in two installments, on January 1 and July 1 of each year of this Agreement. The dress code for civilian attire shall be at the discretion of the Chief of Police.

~~1996 \$700.00~~ ————— ~~1997 \$700.00~~ ————— ~~1998 \$700.00~~

ARTICLE 25 - INSURANCE

Section 25.1. The City shall provide group health and accident hospitalization insurance, **orthodontic insurance**, and dental insurance for all full-time employees with benefit levels and coverage similar to that which is currently provided. "Similar to" means the carrier(s) and/or terms or benefits may change. However, the total package must be, on balance, substantially equivalent to the coverage in effect at the time of execution of the Agreement. If the insurance benefit is changed during the life of the Agreement, the grievance/arbitration procedures of this Agreement may be used to test whether or not the new benefit is "similar to" the prior benefit. The arbitrator is empowered to award a remedy necessary to cure a breach of this article. Prior to changing providers or coverage, the City will meet with the bargaining unit to notify the employees as to these matters.

If the insurance benefits should increase for other City of Fairlawn employees, then the members shall receive the same increase in benefits.

Each employee shall contribute \$20.00 per month for family coverage or \$10.00 per single coverage toward the payment of the employee's insurance premium paid by for the term of this labor

agreement. The amount contributed shall be deducted employee's gross salary before tax deductions per current or future IRS rules.

Any employee who currently receives or is eligible to receive health insurance coverage pursuant to this article, and who chooses to decline the City health insurance coverage for the duration of this contract, shall receive a monthly payment of \$100.00 per month for those declining family coverage or \$75.00 per month for those declining single coverage. Employees retain the right to receive coverage at any time after they first decline the insurance, pursuant to rules of the insurance carrier.

Section 25.2. The City shall provide a vision care reimbursement plan for each employee that is the same as that provided on the Dispatcher's contract. Payment shall be made in the first pay period following presentation of a receipt of costs by the employee to the responsible City official.

Section 25.3. The City shall provide paid life insurance for the bargaining unit members. The amount of life insurance shall be ~~\$20,000~~ \$50,000.

Employees may purchase at their own cost additional life insurance, if such option is offered by the insurance carrier.

ARTICLE 26 - TRAINING TIME

Section 26.1. Training Time. All training sessions ordered by the Administration, Chief of Police, or his designee, for each employee shall be compensated by the City at one and one-half (1.5) times the wage rate for a minimum of three (3) hours for each session, provided said training time to be paid pursuant herein exceeds forty (40) hours in a workweek. The employee's selection of compensation shall be taken as compensatory time or with pay.

Section 26.2. Normal Shift. Any employee in attendance of such training session on his normal scheduled shift, would be excluded from Section 26.1.

Section 26.3. Mandatory Training. Mandated State and Federal training for certification shall be attended by the Police Officers in this manner:

1. (8) hour course - The employer shall adjust the schedule for that eight (8) hour day of schooling for such officer to attend. Officers may trade a shift with another Officer, with the approval of the Safety Director, or his designee, and such exchange shall not cause payment of overtime.
2. (40) hours or more - The City shall make a shift adjustment for the purpose of the officer to attend such training.

ARTICLE 27 - LEGAL DEFENSE OF OFFICERS

Section 27.1. Legal Defense of Employees. The City agrees to provide the legal defense of any lawsuit against any full-time employee alleged to have arisen out of any act or failure to act within the scope of the regular official duties of such employee, provided that such act or failure to act was not malicious, motivated for private gain and did not constitute will misfeasance, malfeasance or nonfeasance.

ARTICLE 28 - BULLETIN BOARDS

Section 28.1 Bulletin Boards. The Employer agrees to provide a bulletin board in a mutually agreed upon area.

Section 28.2 Notices Allowed. All FOP/OLC notices which appear on the bulletin boards shall be signed, posted and removed by the FOP/OLC Officers. All notices are limited to A through H only.

- A. FOP/OLC recreational and social affairs;
- B. Notice of FOP/OLC meeting;
- C. FOP/OLC appointments;
- D. Notice of FOP/OLC elections;
- E. Results of FOP/OLC elections;
- F. Reports on non-political arms of the FOP/OLC; independent non-political arms of the FOP/OLC;
- G. Non-political publications, rulings or policies of the FOP/OLC; and
- H. Any other material reasonably related to police operations or the benefit of the Lodge or its members.

Section 28.3. Material Prohibited. No materials of any kind may be posted anywhere in the Employer's facilities or on the Employer's equipment except on the bulletin board designated for use by the FOP/OLC. The Employer has the right to remove any material which fails to meet the requirements of this Article.

ARTICLE 29 - LAYOFFS/JOB ABOLISHMENTS

Section 29.1. Action. When the Employer determines that a layoff or job abolishment is necessary as a result of lack of work, lack of funds, or reorganization, the Employer shall notify the affected employee(s) and the Union fourteen (14) days in advance of the layoff or job

abolishment. Employees within the affected job titles/classifications shall be laid off according to their departmental seniority with the least senior being laid off first, providing that all students, temporary, part-time, seasonal, probational and provisional employees within the affected job titles/classifications, within the affected department are laid off first in the above respective order.

Section 29.2. Recall and Reinstatement. When employees are laid off, the Employer shall create a recall list. The Employer shall recall employees from layoffs as needed. The recall shall be according to seniority beginning with the most senior employee and progressing to the least senior employee. An employee shall be eligible for recall for a period of three (3) years after the effective date of the layoff.

Notice of recall from a layoff shall be sent to the Bargaining Unit member by certified mail with copies to the Lodge. The mailing shall be to the last mailing address provided by the Bargaining Unit member and the Bargaining Unit member has an obligation to keep the Employer advised of his current mailing address.

The recalled employee shall have fourteen (14) calendar days following the receipt of the recall notice to notify the Employer of his intention to return to work and shall have fourteen (14) calendar days following the receipt of the recall notice in which to report to duty, unless a different date is otherwise specified.

ARTICLE 30 - PERSONNEL FILES

Section 30.1. Personnel Files. The City of Fairlawn Civil Service Commission shall maintain the only official personnel files of the bargaining unit members. No other file shall be kept or used for the purpose of reference to any action for discipline of the member, or evaluation. Any member of the bargaining units shall, **upon written request**, be permitted to review his or her personnel file **during hours the City Administrative Office is normally open for business**. Upon request, the Officers shall have a copy of any material placed in his or her official file.

Should a bargaining unit member upon review of his or her file, read/observe material of an adverse nature, said bargaining unit member may provide a written and signed comment in response to said adverse material. Such comment shall remain in the bargaining unit member's file so long as the adverse material remains.

When a bargaining unit member is charged with or is under investigation of violations of departmental rules and regulations, reasonable efforts consistent with **application applicable** law, shall be made to withhold publication of the bargaining unit member's name and extent of the disciplinary action taken or contemplated until such time as a final departmental ruling has been made and served on the bargaining unit member. Any confidential investigative report relative to said bargaining unit member shall not be required to be placed in the official Civil Service Commission file of the member.

ARTICLE 31 - LEAVE WITHOUT PAY

Section 31.1. Leave Without Pay. The authorization of leave without pay is a matter of administrative discretion.

ARTICLE 32 - SHIFT PREFERENCE

Any member of the bargaining unit shall have the right to request his/her preference of a scheduled shift established by the Chief or his designee. Such request will be honored unless two members request the same shift, to determine the selection of both members would be with preference given to the member with the most seniority. SHIFT SELECTION WILL ONLY APPLY TO THOSE MEMBERS WHO HAVE COMPLETED ONE (1) YEAR OF PROBATION FROM THE DATE OF HIRE.

Availability for such request will be done semi-annually of the calendar year.

The effective date of the schedule shall be on April 1, and October 1, each year.

Any member requesting to change their work with another employee within the scheduled work period, shall request shift exchange with the immediate supervisor. Any exchange of work hours shall not create additional income from the overtime article of this agreement.

The posting of the scheduled work period shall be thirty days prior to the effective date of the schedule, and shift selection shall be made within thirty (30) working days of the time such schedule is posted.

Any member of the Bargaining Unit shall select his days off within the shift he works. Should two or more members request the same days off the officer with the most seniority shall prevail.

Should a bargaining unit member be transferred from one assigned duty to another and such transfer would require a shift adjustment, such member shall request placement of the existing schedule to the shift where a member with less seniority has selected. Bumping shall be utilized in accordance with the members' present seniority status.

Should the Chief determine that an emergency or a significant problem exists, the Chief may require that shifts be rebid in order to solve the problem.

ARTICLE 33 - EXTRA DUTY

Section 33.1. Extra Duty. The primary duty of all Police Officers employed by the City of Fairlawn is to the City, and their primary duty, obligations, and responsibility is to the City of Fairlawn Police Department. As such they are subject to call at all times for emergencies, special assignments, or extra duty and no secondary employment may infringe on these obligations.

Should the City receive a request for a police Officer to work for a private company, commercial business, self employment, or any other entity for the purpose of security or traffic control, the police Officer may voluntarily accept such request, and such acceptance will not be considered as the Officer's work day or week. Such secondary employment will be permitted subject to the following:

1. No secondary employment will be permitted where alcoholic beverages are dispensed and/or sold without the approval of the Safety Director or his designee.
2. No secondary employment will interfere with the Officer's assigned duties during his regularly scheduled shift for the City of Fairlawn.
3. Any Officer who does not report for official duty due to illness or injury, shall not be permitted to perform any secondary employment within sixteen (16) hours from the time he/she is scheduled to report for duty unless he/she has worked a regularly scheduled shift for the City of Fairlawn during that sixteen (16) hour period. This restriction shall not apply where the Officer's illness or injury occurred on the day prior to a scheduled two days off in which event this Officer may work secondary employment on the said days off.
4. Any Officer on sick leave, probation or suspension shall be prohibited from engaging in outside employment in any capacity.
5. When it is apparent from sick leave records, or other evidence that the secondary employment is having an adverse effect on his or her physical condition, or ability to perform required police duties for the City of Fairlawn, he/she will be prohibited from all secondary employment until approved by the Chief and Safety Director.
6. No police officer shall engage in employment by any person or commercial entity that provides any services, supplies or goods to the City of Fairlawn and which association can be considered a conflict of interest.
7. A request for secondary employment must be submitted by application to the Chief of Police for approval prior to accepting the secondary employment position.
8. Any Officer that is requested by a private company, and when the form is submitted and approved by the Chief of Police, shall have the first choice of that specific job.
9. Should there be no response to the extra job request from a full-time police Officer, a part-time Officer may be used.
10. All full-time Officers will be restricted to no more than thirty (30) hours of extra duty in any seven day calendar week, consistent with the departmental rules and regulations and this Article.

11. Any provision in this Article may be waived for good cause in the discretion of the Chief or his designee.

ARTICLE 34- FATAL FORCE

Section 34.1. Fatal Force. Any time a bargaining unit member participated in administering fatal force, the following provisions shall apply:

- A. The employee shall receive seven (7) working days off.
1. An extension of time shall be granted by the Safety Director if he deems necessary.
- B. The employee shall continue to receive his or her City benefits for this seven-day period, or an approved extension thereof.
- C. Time off from the duties of the employee for fatal force shall not be deducted from any benefit of this agreement.
- D. Should the employee require medical treatment for any mental disorder from his or her actions of using fatal force, the City shall provide the cost for the necessary treatment beyond the present hospitalization benefit provided that the employee submits:
1. Verification of the treatment needed;
 2. Treatment does not exceed \$1,500.00; and
 3. Permission to exceed this cost limit must be approved, in writing, by the Mayor.

Should a suspension of the employee pending investigation of the fatal force be implemented, the employee shall continue to receive full pay and benefits during such suspension.

ARTICLE 35 - EMPLOYEES BILL OF RIGHTS

Section 35.1. Employee Rights. When a member of the bargaining unit is subject to formal interview in regard to a matter directly related to immediate disciplinary action or apparent future disciplinary action such as suspension, demotion or dismissal the interview shall be conducted under the following conditions.

Interviews shall be conducted at a reasonable hour when the member is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

Such interview shall take place at the Police Headquarters of the City of Fairlawn.

The member under interview shall be informed of the officer in charge of the interview, and all persons present during the interview. All questions directed to the member shall be asked by and through one interrogator, unless waived by the member.

The member under interview shall be informed of the nature of the investigation prior to any interview.

Interview sessions shall be for a reasonable period and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

At the request of the bargaining unit member under interview, he shall have the right to be represented by counsel, or any other bargaining unit member designated as a representative, who shall be present at times during the interview, unless waived by the member. The interview shall be suspended for a reasonable time until representation can be obtained.

The member under interview shall not be threatened during any interview, but if applicable, shall be advised that they may be temporarily suspended, or transferred until completion of the investigation.

If a member while being interviewed becomes a suspect to a criminal action, and/or such interview becomes an interrogation, as a result of the interview, he shall be completely informed of his constitutional rights.

A complete record, either written, taped or transcribed, shall be kept of the complete interview of the member, including all recess periods. A copy of the record shall be available to the member or his counsel upon request.

The member shall receive a copy of the final Departmental or Administrative decision as to the investigation.

Any section of this article that refers to any member, also refers to any bargaining unit member of this agreement.

This article provides for the protection of the bargaining unit members of job-related incidents that require interviews stemming from an ongoing investigation.

Any member who has been accused of misconduct, or a violation of the departmental rules and regulations, and such accusations are made by a citizen, which requires an investigation by the department, shall be provided a written and signed statement by the party or parties who have made such accusations. A copy of this report shall be made available to the bargaining unit member upon any interview.

ARTICLE 36 - COURT TIME

Section 36.1. Court Time. All bargaining unit employees who are required to appear in court or an administrative agency pursuant to his actions as a responsible employee of the Fairlawn Police Department may elect to be paid or receive compensatory time, for a minimum of three (3) hours time at a rate of pay at one and one half (1.5) times his/her regular rate of pay.

Section 36.2. Off-duty Time. Any member assisting or initiating his/her powers off duty and such actions are to protect life, prevent a crime in progress, assist a fellow police officer or witness an act that necessitates the member to give testimony shall receive the benefit of section 36.1, except for private duty contractual assignments with employees other than the City of Fairlawn.

Section 36.3. Limitation. Compensation shall not be paid more than one for the same hours under the provisions of this article.

ARTICLE 37 - INCENTIVE PROGRAMS

Section 37.1. Tuition Reimbursement. The City of Fairlawn will reimburse full-time police officers for job-related, pre-approved coursework for which an officer receives a "C" or better final grade in accordance with the provisions of this Article.

Section 37.2. Coursework Qualifying for Reimbursement. Full-time police officers will be reimbursed for a job-related graduate, undergraduate, secondary or vocational school course of study, at an accredited institution which are approved by the supervising department head and the Director of Finance before the period of study for the course begins.

Section 37.3. Payment for Qualifying Coursework. A full-time police officer who achieves a "C" or better final grade in a pre-approved qualifying course shall receive reimbursement for tuition and required textbook costs as follows: 100 percent for an "A," 90 percent for a "B," and 80 percent for a "C."

Section 37.4. STEP Officer Plan. The City of Fairlawn shall retain the use of the Special Traffic Enforcement Plan (S.T.E.P.) program. Preference for S.T.E.P. work will be given to full-time police officers.

Section 37.5. STEP Officer Compensation. Bargaining unit members employed under the plan will receive ~~\$20.00 per hour~~ **the following amounts** for each STEP hour or fraction of an hour worked. S.T.E.P. pay will be paid to the employee in the same pay period as it was earned. ~~In 1996 the rate for each STEP hour or fraction of an hour worked shall become \$21.00 per hour. In 1997 the rate shall be \$21.50. In 1998 the rate shall be \$22.00. In 1999 the rate for each STEP hour or fraction of an hour worked shall be \$22.50 per hour. In 2000 the rate shall be \$23.00 per hour. In 2001 the rate shall be \$23.50 per hour.~~

Section 37.6. STEP Officer Deductions. The city will deduct Police and Firemen's Disability Pension Fund (PFDP & F) contributions or PERS contributions for the straight time STEP wages of a police officer under this section. PFDP & F deductions will also be made from the overtime payments which result from a police officer working STEP duties.

ARTICLE 38 - PENSION PICK-UP PLAN

Section 38.1. Pension Pick-Up Plan. The City will, as soon as practicable, initiate a pension "pick-up" plan where the City shall "pick up" the employee's required contribution to Police and Firemen's Disability and Pension Fund without additional cost to the City and in accordance with applicable Internal Revenue Service rulings and Ohio Attorney General Opinions. The employee's contributions which are "picked-up" by the City shall be treated in the same manner as contributions made by the employees prior to the commencement of the "pick-up" plan and will, therefore, be included in "compensation" for Police and Fire Disability and Pension Fund calculations, and for fixing compensation of employees as set forth in this Agreement. For all other purposes, except for deferring state and federal taxes, the employee's wages shall remain as he or she is currently placed on the wage scale.

[Note: existing Article 39 - Drug Testing is deleted and the following new Article 39 is inserted.]

ARTICLE 39 - DRUG TESTING

Section 39.1. Employee Education Regarding Drug Testing. There will be a ninety (90) day education and information period prior to the implementation of testing hereunder. All employees will be informed of the Department's drug testing procedures. Employees will be provided with information concerning the impact of the use of drugs on job performance. In addition, the Employer will inform the employees of the manner in which these tests are conducted, the reliability of the tests performed, under what circumstances employees will be subject to testing, what the tests can determine, and the consequences of testing positive. All new employees will be provided with this information when initially hired. A record will be maintained of the employees' receipt of this information.

Section 39.2. Drug Testing. Drug testing shall be conducted at times of pre-employment; where there is reasonable suspicion (described below); upon an employee's return to duty after completion of a rehabilitation program, or upon return to duty after being off duty for six (6) months or more.

Reasonable suspicion that an employee is using or abusing drugs must be based upon objective facts or specific circumstances found to exist which present a reasonable basis to believe that an employee is using or abusing drugs. Examples of where reasonable suspicion shall be deemed to exist include, without limitation, the following:

1. where there has been a serious on-duty injury to an employee or another person, the cause of which is otherwise unexplained;
2. where an employee, while operating a City vehicle, becomes involved in a traffic accident which results in physical harm to persons or property, and where the circumstances raise a question as to the existence of substance abuse by the employee involved;
3. Where there is observable phenomena, such as direct observation of drug use, possession or distribution, or the physical symptoms of being under the influence of drugs (e.g., slurred, rambling or incoherent speech, dilated pupils or bloodshot eyes, odor of marijuana, unexplained lack of coordination, impaired reaction time, sweaty or flushed skin, staggering or unsteady walk, changes in affect, dynamic mood swings, etc.);
4. where there is a pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance which appears to be related to substance abuse and does not appear to be attributable to other factors; and
5. where an employee is identified as the focus of a criminal investigation into unauthorized drug possession, use or trafficking; or a report of drug use provided by a reliable and credible source.

Drug testing hereunder shall be conducted solely for administrative purposes and the results obtained shall not be used in criminal proceedings. Under no circumstances may the results of this drug testing be released to a third party for the use in a criminal prosecution against the affected employee. The following procedure shall not preclude the employer from other administrative action.

Section 39.3. Authorized Laboratories. All drug tests shall be conducted by laboratories certified by the Federal Department of Health and Human Services (DHHS). The procedure utilized by the testing lab shall include a chain of custody procedure in compliance with DHHS recommendations and Gas Chromatography/Mass Spectrometry (GC/MS) confirmation of any positive initial drug screening.

Section 39.4. Procedure. Drug tests shall be administered by urinalysis for the following drugs: amphetamines, barbiturates, benzodiazepines (valium, librium, etc.), cannabinoids (THP), cocaine (including crack), methadone, methaqualones, opiates, phencyclidine (PCP) and propoxyphene (darvon). An employee who initially tests positive shall be immediately removed from duty and placed on unpaid leave. If the initial screening is positive, within 72 hours of notification from the medical review officer, the employee may request a confirmation test of a split specimen, at a different DHHS approved laboratory. If the confirmation test is negative, the employee shall be immediately returned to duty and reimbursed for all lost wages. Any employee who refuses to submit to the above identified tests shall be prohibited from performing or continuing to perform his/her duties.

If an employee voluntarily enrolls in a qualified treatment program the City shall permit the employee to participate in a rehabilitation program specified by a substance abuse professional, if such program is covered by the employee's health insurance program. An employee who participates in a rehabilitation program shall be allowed to use sick leave, vacation leave, or available compensatory time for the period of the program. Apart from such use of paid leave, the employee will be relieved from duty in unpaid status. Upon evaluation and certification by a substance abuse professional or medical review officer that the employee has successfully completed the recommended rehabilitation program and a return to duty test that demonstrates that the employee is no longer using/abusing drugs, the employee shall be returned to his or her position. Such employee shall be subject to follow up testing for a period of one year from the date of his or her return to work.

For the purpose of this Article, follow up testing shall involve a minimum of four (4) unannounced tests during the year following his or her return except that drug tests may be performed at any time upon reasonable suspicion. Costs of all drug screening and confirmation tests which are required by the City shall be borne by the City.

An employee will be subject to disciplinary action under this Article for any of the following reasons: when the employee reports for duty or performs work and tests positive for using a prohibited drug after having once completed a drug rehabilitation program; refuses to submit to a drug test; fails to complete rehabilitation program the employee has entered pursuant to this Article; alters or attempts to alter drug test results; or if the employee tests positive at any time within the year following his or her return to work.

Section 39.5. Medical Releases. For purposes of implementing the provisions of this Article, each employee shall execute medical releases in order for the City to obtain the results of the physical examinations and drug testing provided for in this Article. Except as otherwise provided by state or federal law with regard to communicable diseases or with the permission of the employee, the releases referred to in this section shall authorize only the release of examination results and progress reports pertaining to the drug test results. No other medical finding may be released without the express written permission of the employee, except that without a release from the employee, the employer may disclose information pertaining to an employee's drug testing to a decision-maker in a grievance or other proceeding initiated by or on behalf of an employee and arising from the results of a drug test.

ARTICLE 40 - OUT OF CLASSIFICATION WAGE

Section 40.1. Out of Classification Wage. When a sergeant works in a higher rank (Lieutenant or Captain) he/she shall be paid at the straight time pay in the higher rank he/she works, or his own rate of pay, whichever is greater.

ARTICLE 41 - LABOR MANAGEMENT SAFETY COMMITTEE

Section 41.1. Purpose. In the interest of sound labor/management relations and safety and health, the City and the FOP agree to create and maintain a Labor Management Safety Committee. The Labor Management Safety Committee shall consist of the mayor or designee, Safety Director or designee, the Chief of Police or designee, and one member of the Sergeant bargaining unit and two members of the bargaining unit (a total of three members of the FOP). It is mutually agreed that this committee shall meet when it is determined by either party to be reasonable and necessary for the purpose of:

1. Discussing the administration of this Agreement.
2. Notifying the FOP of changes made by the City which affect bargaining unit members of the FOP.
3. Disseminating general information of interest to the parties.
4. Providing the FOP Representatives and the City Representatives the opportunity to share views and/or suggestions on the subjects of interest to their members and/or the City.
5. Discussing ways to improve efficiency within the Department.
6. Promoting harmonious relations between the City and the FOP.
7. Discussing safety and health issues.

Section 41.2. Commitments. The success of the Labor Management and Safety Committee meetings will depend upon the strength of the commitment made jointly and independently by the City and the FOP. The City and the FOP agree that:

1. They will use the forum for constructive exploration of difficult issues.
2. They will make every effort to develop the meetings into substantive, open, non-emotional explorations of the issues which form the mutually agreed upon agenda for such meetings.
3. They will recognize their separate viewpoints on and responsibilities for issues, but attempt to hear the viewpoints of others with the objective of finding constructive resolutions for problems.

4. Agreements shall be reduced to writing and appended to this contract as a part thereof.

The City agrees:

1. It will work in good faith with the FOP to attempt to reach consensus on the best means of resolving issues.
2. For each person selected to represent the FOP at the Labor Management Safety Committee meetings, the City will consider such service to be a part of his or her job duties when the meeting occurs during the assigned work hours of the representatives.

The FOP agrees:

1. It will work in good faith with the City to attempt to reach consensus on the best means of resolving issues.
2. It will take whatever actions are necessary to keep the bargaining unit members informed about developments in the Labor Management Safety Committee meetings and decisions made through this process.

Section 41.3. Agreement to Meet/Meeting Agenda. It is further agreed that if Labor Management Safety Committee meetings have been requested they shall be convened as soon as possible. An agenda will be furnished by the party requesting the meeting at least five (5) working days in advance of the scheduled meeting with a list of the matters to be taken up in the meeting.

Section 41.4. Occupational Safety and Health. Safety and health is a mutual concern of the FOP and the Employer. The FOP will cooperate with the Employer in encouraging BARGAINING — *no caps* UNIT employees to comply with applicable safety rules, regulations, and common knowledge safety standards of the law enforcement industry. The Employer agrees to operate and maintain a safe working environment for all bargaining unit members.

Section 41.5. Compliance. The Employer and the FOP shall comply with all applicable Federal and State laws, rules, and regulations with regard to safety and health.

ARTICLE 42 - SENIORITY INCENTIVE

Section 42.1. Seniority Incentive. ~~Beginning January 1, 1996, each~~ **Each** employee who accumulates the following years of service with the Fairlawn Police Department shall be entitled to the following amounts:

8 years	\$ 250.00
12 years	\$ 750.00
15 years	\$1,000.00
<u>20 years</u>	<u>\$1,250.00</u>

Each of the following payments shall be made one time on the last payroll of the calendar year in which the employee becomes eligible for such payment, except that Clevenger and Smith shall receive the 20 year benefit in 1999 notwithstanding that they have passed the eligible date.

Section 42.2. Effective Service Date. Effective service date for the seniority incentive shall be the employee's date of hire with Fairlawn. This section will be applied prospectively effective the date of this agreement being applicable to each Employee who accumulates the appropriate number of years of service as the Employee reaches that service milestone. No retroactive application will be made.

Section 42.3. Service Determination. This section applies to Employees who have accumulated the appropriate number of years of active service with the Fairlawn Police Department in good standing as determined by the Chief of Police.

ARTICLE 43 - DURATION OF AGREEMENT

Section 43.1. Duration of Agreement. This Agreement shall be effective as of January 1, 1996 1999, and shall remain in full force and effect through midnight, December 31, 1998 2001.

Section 43.2. Notice to Negotiate. If either party desires to modify or amend this Agreement, it shall be given written notice of such intent no earlier than one hundred twenty (120) calendar days prior to nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt requested. The parties shall commence negotiations within two (2) calendar weeks upon receiving such notice.

Section 43.3. Entire Agreement. The provisions of this Agreement constitute the entire agreement between the parties.

Section 43.4. Signatures. Signed and dated at Fairlawn, Ohio, on this _____ day of December, 1998.

FOR THE CITY OF FAIRLAWN:

FOR THE FRATERNAL ORDER OF
POLICE/OHIO LABOR COUNCIL:

Mayor William T. Roth, Jr.

