

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:)	
)	Chapter 9
CITY OF DETROIT, MICHIGAN,)	
)	Case No. 13-53846
Debtor.)	
)	Hon. Steven W. Rhodes

**REPLY IN SUPPORT OF MOTION OF THE OFFICIAL COMMITTEE OF
RETIRES FOR AN ORDER ALLOWING AN ADMINISTRATIVE EXPENSE
CLAIM AND IN RESPONSE TO CITY'S OPPOSITION THERETO**

The Committee¹ files this reply in support of the Motion for Entry of an Order Allowing an Administrative Expense Claim (the "Motion") (ECF #2660) and in response to the City's Opposition to the Motion ("Opposition") (ECF #2706), and states:

1. *First*, contrary to its assertions, the City expressly consented to the payment of Committee Members' expenses and, therefore, Bankruptcy Code section 904 is not implicated and cannot preclude the requested relief. The Fee Review Order, para. 11, provides that "the City agrees to pay promptly eighty five percent (85%) of the requested fees and one hundred percent (100%) of the requested expenses to the applicable Professionals and Retiree Committee Member." (ECF #810, attached hereto as Exhibit 1).² Even if such consent had not been given, Chapter 9 does not give a municipal debtor authority to dictate its allowed administrative expenses.³

¹ Capitalized terms not defined herein have the meaning ascribed in the Motion.

² Payment of Committee fees and expenses was a major concern, if not an implied condition of the Court and others for appointment of the Committee. See Transcript of Status Conference held August 2, 2013 (ECF #316) at Tr.120:24-121:2 (Court); (Tr.116:8-24) (Debtor); Tr.84:14-23 (Detroit Retirement Systems); 87:14-88:2 (Retired Detroit Police Members Ass'n); 91:18-92:1 (public safety unions); 98:1-13 (UAW).

³ Bankruptcy Code section 904 does not implicate this Court's obligation to determine a municipal debtor's administrative expense claims pursuant to § 503(b). Nothing in chapter 9 or section 904 preempts the bankruptcy

2. **Second**, although the City notes the amount of the brokerage commission to be paid, the City does not provide any evidence, let alone a legitimate basis, that rebuts the reasonableness of the scope, price and terms of the Insurance Policy or the commission. To the contrary, the evidence shows that these amounts are well within market norms. Declaration of Brian L. Smith ("Smith Decl."), attached hereto as Exhibit 2, para. 4. The Insurance Policy costs \$352,250, not \$602,250 as asserted by the City. An additional \$250,000 is to be paid in to escrow to cover the potential deductible, an amount that will be completely refunded to the City if no claims are made. *See* Smith Decl. para. 4. With respect to the 20% broker's commission, the City fails to inform the Court that the commission is paid by the insurer, not the City, and the 20% fee is standard in the insurance industry. Smith Decl. paras. 5, 6, 8. Regardless, the amount sought is relatively small compared to the fees and other expenses sought to date in this case. Therefore, the terms and amount of the Policy and commission are proper.⁴

3. **Third**, while this may be an unprecedented chapter 9 case, the relief sought is not. Such policies have been discussed with approval and otherwise employed for many years.⁵ One

court's authority to determine what is an allowed administrative expense under the Bankruptcy Code. *See In re County of Orange*, 191 B.R. 1005, 1021 (Bankr. C.D. Cal. 1996) ("Chapter 9 does not permit individual states to override the priority scheme that is inherent in the [Bankruptcy] Code."). The determination of allowed administrative expenses is not a "federal intrusion upon States' rights," Opposition at 5 (quotation omitted). The City's interpretation of § 904 as bestowing upon a municipal debtor the sole right to determine what constitutes an administrative expense under the Bankruptcy Code under the auspices of States' rights is untenable. Therefore, the City's attempt to deprive this Court jurisdiction over this matter and the Committee Court resolution of its Motion under section 904 is without merit.

⁴ Prior to Segal Select the Committee had worked with two other insurance brokers to price policies. One broker could not procure an appropriate policy and another was unable to procure a policy on terms anywhere near as beneficial or cost effective as those obtained by Segal Select for the proposed Insurance Policy. Additional details will be provided if necessary.

⁵ *See* Bankruptcy Court Decisions Weekly News & Comments, *Professional Liability Insurance For Creditors' Committees Now Available*, 31 No. 2 Bankr. Ct. Dec. News 5 (August 12, 1997) ("If it encourages people to sit on committees, and to do the best they can for their constituency without fear of reprisals, as long as they are acting in good faith, then they feel like that benefits the process as a whole.") .Many plans contain provisions authorizing official committees to obtain E&O insurance. *See In re Warner Springs Ranchowners Assn.*, Case No. 12-03031-LA11, (Bankr. S.D. Cal.) Amended Chapter 11 Plan filed 10/3/2013, § 6.1.5 (permitting oversight committee to procure E&O insurance); *In re Cornerstone Ministries Investments, Inc.*, Case No. 08-20355-jrs (Bankr. N.D. Ga.),

court squarely addressed an official committee's request to allow an E&O insurance policy as an administrative expense claim and approved the expense claim over objection. *McDow v. Official Committee of Equity Security Holders of Criimi Mae Inc.*, 247 B.R. 146 (D. Md. 1999). Despite the City's efforts to distinguish *McDow*, it stands for the proposition that an official committee may procure an E&O policy as an allowed administrative expense under § 503(b)(3)(F), over objection. It makes no difference that the trustee, rather than the debtor, was the objecting party in *McDow*. Moreover, contrary to the Debtor's characterization, the equity committee members in *McDow* did not "threaten to resign" -- one member "stated that he would 'strongly consider' resigning" while the other "[s]imilarly . . . indicated that he would consider resigning." *Id.* at 149.

4. With the City's plan of adjustment now on file and a confirmation schedule set, negotiations and compromises among creditor constituencies, and resultant opportunities for litigation against Committee Members for their actions, will only increase, warranting protection "from nuisance suits and the substantial legal fees that would be required to defend against such actions." *Id.* The risk to Committee Members is particularly heightened in this case because the City is proposing extensive cuts to Retiree benefits -- and it is the Committee who is charged with vetting such cuts. Therefore while no Committee Member has yet resigned, the threat of litigation and financial hardship on them remains real and the prospect of resignations exists.⁶

Chapter 11 Plan filed 4/1/2009 § VI.E.4 (providing for Plan Committee insurance, including tail coverage); *In re Gabriel Technologies Corp., et al.*, Case No. 13-30340-DM (Bankr. N.D. Cal.) Chapter 11 Plan filed 4/24/2013 § 7.24 ("To the extent reasonably available, the Reorganized Debtor may purchase errors and omissions insurance coverage for the Reorganized Debtor, the Plan Committee, the Litigation Trust and their members, officers, directors and professionals, including the Litigation Trustee."); *In re Friedman Bag Company, Inc.*, 2004 WL 5327034 (Bankr. C.D. Cal.) Chapter 11 Plan filed 12/22/2004 § VIII.E.2 (providing for errors and omissions insurance for the estate manager and the creditors' committee).

⁶ Because retirees in other cases did not seek E&O coverage, Opposition at 15-16, is no reason to compel Committee Members to accept the risk that frivolous lawsuits could result in substantial financial hardship to the Committee Members, all of whom are volunteers serving without compensation.

5. *Fourth*, the City cannot legitimately challenge the importance of the Committee to the bankruptcy process or the importance of the Insurance Policy to the Committee Members. The City requested formation of the Committee to act as a counterparty with respect to the City's efforts to significantly reduce retiree pension and OPEB benefits. Each Committee Member has taken its role seriously, and each has volunteered hundreds of hours to this case.

6. Although the Court is aware of the public nature of the case, it may not be aware of the significant attention and scrutiny Committee Members receive for their roles in this case. This Court should be aware of the very real possibility that litigation may be brought against Committee Members for merely serving on the Committee. To resolve this very legitimate issue, the Court should grant the Motion.

7. *Fifth*, the City's contention that insurance is inappropriate because certain Committee Members worked for the City without coverage is misleading and irrelevant. The Committee Members' role here is significantly different from any work they did as a City employee. Moreover, while employed, Committee Members were protected by the City through indemnification requirements that are found under City ordinance and contracts.⁷ In fact, prior to seeking insurance coverage, the Committee expressly requested that the City provide indemnification for Committee members. The City responded that they could not provide such indemnity here.

8. Also irrelevant is the fact that Committee Members are afforded qualified immunity implied under § 1103(c) because this implicit immunity does not cover defense costs.

⁷ See City Municipal Code Section 13-11-1, et seq. (Defense and Indemnification of Employees Against Damage Suits, Claims, Etc. (attached hereto as Exhibit 3); 1979-80 Agreement Between Detroit Police Lieutenants' and Sergeants' Association and the City of Detroit, Page 28, section 13 ("Legal Counsel: The City will provide legal counsel and pay any costs and judgements [sic] that arise out of lawsuit filed against members of the Detroit Police Lieutenants' and Sergeants' Association alleging any act committed while said officer was in the good faith performance of his duties.") (attached hereto as Exhibit 4).

The City also states that "it is commonplace for municipal debtors to include certain exculpation provisions and injunctions in any plan of adjustment that would further protect the interests of Committee members." Opposition at 8. However, no such protections for the Committee appear in the releases and exculpations in the Debtor's filed plan. Plan for the Adjustment of Debts of the City of Detroit ("Plan") (ECF #2708) §§ III.D.6, 7. In fact, under the Debtor's current plan, the Committee may continue to exist following the effective date to object to certain disputed claims. Plan § III.D.1. While this omission may simply be a negotiating tactic on the part of the Debtor, the omission of Committee protections demonstrates the necessity of the Insurance Policy.⁸

9. At bottom, the Policy Premium is an actual, necessary and reasonable expense of the Committee.

WHEREFORE, the Committee respectfully requests that this Court enter an order, substantially in the form attached to the Motion, (i) allowing the Policy Premium as a reasonable administrative expense and authorizing payment thereof and (ii) granting such other and further relief as this Court deems just and proper.

⁸ Moreover, as the Debtor recognizes, the Committee seeks coverage "*whether or not* a plan is confirmed in this case." Opposition at 8 (emphasis in original). That is exactly the point -- if a plan is not confirmed there can be no plan protections for the Committee.

Dated: February 28, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

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INDEX OF EXHIBITS

Exhibit 1	Fee Review Order
Exhibit 2	Brian L. Smith Declaration
Exhibit 3	City Municipal Code Section 13-11-1, et seq.
Exhibit 4	1979-80 Agreement Between Detroit Police Lieutenants' and Sergeants' Association and the City of Detroit

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:)	Chapter 9
)	
CITY OF DETROIT, MICHIGAN,)	Case No. 13-53846
)	
Debtor.)	Hon. Steven W. Rhodes

Fee Review Order

Upon consideration of the proposed fee review order filed by Robert M. Fishman, the Court appointed fee examiner (the “Fee Examiner”), pursuant to paragraph 4 of the Court’s Order Appointing Fee Examiner dated August 19, 2013 (Docket No. 383) (the “Fee Examiner Order”) (a copy of which is attached hereto and made part hereof as Exhibit A), the Court having considered the statements of the Fee Examiner and other interested parties made in writing or in open Court,

THE COURT HEREBY FINDS AND DETERMINES that –

A. The Court has jurisdiction over the subject matter of this Fee Review Order pursuant to 28 U.S.C. §§ 157 and 1334.

B. The Court has authority to enter this Fee Review Order pursuant to 28 U.S.C. § 157(b)(2) and 11 U.S.C. §§ 105(a).

C. In accordance with paragraph 4 of the Fee Examiner Order, the Fee Examiner and counsel for the debtor (the “City”) met in person and communicated by phone and email to consult about the terms of the proposed fee review order prior to its submission to the Court. Separately, the legal professionals for the Official Committee of Retired Employees (the “Committee”) have spoken with the Fee Examiner and with the City to discuss the proposed terms of the fee review order.

D. This Fee Review Order is consistent with the parameters set forth in paragraphs 4 and 6 of the Fee Examiner Order.

E. Due and proper notice of, and an opportunity to object to the entry of, this Fee Review Order has been provided to all interested persons and entities, including, without limitation, (1) counsel to the City, and (2) the parties receiving notice of filings in this Case through the Court’s CM/ECF system (“CM/ECF”), and no other or further notice and opportunity to object need be provided.

F. The Fee Examiner and his counsel and advisors (together, the “Fee Examiner Parties”) shall perform their work hereunder and under the Fee Examiner Order

as officers of the Court. The Fee Examiner Parties are not parties to this chapter 9 case (this “Case”) or any contested matter or adversary proceeding in this Case, and shall not be deemed or treated as such.

G. The relief provided in this Fee Review Order is in the best interests of the City and its creditors, and just cause exists for its entry.

H. The City has expressly consented to the relief provided in Paragraphs 11, 24, and 27 of this Fee Review Order.

THE COURT HEREBY ORDERS that the following procedures and requirements shall be applicable to and govern the submission, disclosure and review of all Professional Fee Expenses (as that term is defined in the Fee Examiner Order):

1. On or before September 30, 2013, the City shall submit to the Fee Examiner a list of all professionals who have been retained to render services in connection with this Case and who will seek payment of compensation and reimbursement of expenses from the City for postpetition services (collectively, the “City Professionals”) and a list of all known OC Professionals (as defined below), which lists may be amended or supplemented from time to time, provided that which professional is placed on which list must be reasonably acceptable to the Fee Examiner. For the avoidance of doubt, the list of professionals shall include the claims and noticing agent retained in this Case. Separately, on or before September 30, 2013, the Committee will submit to the Fee Examiner a list of all professionals who have been retained by the Committee as of that time to render services in connection with the case and who will be compensated for fees and expenses by the City (collectively, the “Committee Professionals”). The City Professionals and Committee Professionals are referred to collectively as the “Professionals.”

2. On or before October 4, 2013, each Professional identified by the City and the Committee shall submit to the Fee Examiner (a) an executed copy of its engagement letter, (b) a verified statement respecting its regular hourly rates and its Discounted Rates (as defined below), and (c) a list of the billing and expense categories that it will use in its Monthly Invoices (as defined below), which list must be acceptable to the Fee Examiner in his reasonable discretion. The Fee Examiner and the Professionals may modify the applicable billing and expense categories thereafter by agreement.

3. The Fee Examiner’s review hereunder shall be conducted solely with respect to the fees and expenses of the Professionals for the period from and after the commencement of this Case on July 18, 2013. Therefore, each Professional’s July 2013 Monthly Invoice submitted to the Fee Examiner shall be for the postpetition period of July 18, 2013 to July 31, 2013 (the “July Postpetition Invoices”).

4. Each Professional must provide the Fee Examiner and its respective client with a complete copy of its respective monthly invoice, including detailed descriptions of the services rendered and costs advanced and a summary description, by category, of the

work performed (the “Monthly Invoices”), within 49 days after the end of each calendar month (the “Invoice Deadline”); provided, however, the July Postpetition Invoices and the August 2013 Monthly Invoices should be provided on or before October 21, 2013 and may be consolidated. In addition, within 14 days of the submission of its Monthly Invoice to the Fee Examiner and its client, each Professional for the Committee shall provide a copy of such invoice to the City, which may be in the form of a Redacted Invoice (as defined below). The Committee also may submit invoices for reimbursement of out-of-pocket expenses of its members at the same time it submits its fee statements to the Fee Examiner and the City. Each month, the Fee Examiner shall transmit to the City a list of all Professionals who have timely provided a Monthly Invoice to the Fee Examiner.

5. The Fee Examiner will create a preliminary report respecting each timely submitted Monthly Invoice (the “Preliminary Report”) and shall transmit that Preliminary Report to the specific Professional within 35 days of the Invoice Deadline, with a copy to lead counsel for the City (for City Professionals) or lead counsel for the Committee (for Committee Professionals). The Fee Examiner, in his discretion, may consult with the Professionals in connection with the preparation of the Preliminary Reports. The Fee Examiner will provide any comments on the expenses of Committee members to the Committee's lead counsel.

6. During the 14-day period after the Fee Examiner transmits the Preliminary Report (the “Resolution Period”), the Fee Examiner and the specific Professional shall meet and confer respecting any issues raised in the Preliminary Report in an effort to resolve such issues by agreement (the “Resolution Discussion”).

7. Within 14 days after the expiration of the Resolution Period, the Fee Examiner shall prepare a final monthly report respecting all of the Monthly Invoices (the “Final Monthly Report”). In the Final Monthly Report, the Fee Examiner shall delineate all write-offs and other adjustments made to each Monthly Invoice, both before the submission of the Monthly Invoice and as a result of the Resolution Discussion.

8. The Fee Examiner shall prepare a quarterly written report (the “Quarterly Reports”), which shall include the following:

- a. Copies of each of the Final Monthly Reports for the applicable months and a copy of each Monthly Invoice (subject to redacting as provided below).
- b. A summary of the Professional Fee Expenses for each Professional for the applicable time period, as well as for all prior time periods.
- c. A statement by the Fee Examiner as to whether all of the Professional Fee Expenses covered by the Quarterly Report have been fully disclosed and are reasonable.

9. The Quarterly Reports shall be filed with the Court and posted on the Emergency Manager's page of the City's website and on the restructuring website maintained by City's claims and noticing agent. The first Quarterly Report, for the postpetition portion of July 2013 and the months of August and September 2013, shall be filed on or before January 15, 2014, and subsequent Quarterly Reports shall be filed approximately every 91 days thereafter.

10. The Fee Examiner's review, and his conclusion under paragraph 8.c. above, shall be solely based on section 943(b)(3) of the Bankruptcy Code and not based on any other standard (such as under sections 330 and 331 of the Bankruptcy Code, which do not apply in chapter 9). Any finding by the Fee Examiner that any Professional Fee Expenses have not been fully disclosed or are not reasonable may be challenged by a motion of the affected Professional seeking a determination of the Court, or by the City in connection with the confirmation of its plan of adjustment.

11. Upon submission of a Monthly Invoice to the Fee Examiner, the City agrees to pay promptly eighty-five percent (85%) of the requested fees and one hundred percent (100%) of the requested expenses to the applicable Professionals and Retiree Committee Member. For the purpose of this Order, it is presumed that payment within 42 days is prompt. Upon the filing by the Fee Examiner of a Quarterly Report, the City may pay any remaining unpaid amounts respecting the Monthly Invoices covered by such Quarterly Report.

12. All Professionals may charge rates discounted to the extent that such Professional and their respective client have agreed (the "Discounted Rates"). The use of Discounted Rates, as well as any voluntary reduction and write-offs, will be taken into consideration by the Fee Examiner in considering the reasonableness of fees identified in Monthly Invoices. This provision is not intended to prevent such professionals from receiving annual rate increases starting on January 1, 2014.

13. Each Monthly Invoice shall be broken down into specific categories of services, and contain a detailed statement of the services rendered by each timekeeper, by each category and by each day. Time from different categories of services shall not be bundled in the same time entry. To the extent that multiple tasks are billed by the same person in the same category on the same date, each such separate task shall reflect a separate and identifiable time component. For Professionals not billing on an hourly basis, each Monthly Invoice shall include a summary description of the work performed and such other information as may be agreed upon by the Professional and the Fee Examiner.

14. Time shall be recorded in tenths of an hour increments for all Professionals billing on an hourly basis, unless the Fee Examiner agrees in advance to a different arrangement with a particular Professional.

15. Travel time may be billed by a timekeeper at up to one half of the otherwise applicable rate. Work performed by the timekeeper during travel may be billed at the applicable rate without further discount.

16. Professionals may bill for reimbursement of actual and necessary expenses incurred on behalf of their client (the “Expenses”). The following Expenses generally will be found by the Fee Examiner to be unreasonable: (a) local transportation and meals (“local” meaning at the home location of the particular timekeeper); (b) working meals other than while traveling on business; (c) alcoholic beverages; (d) in-house faxing and in-house messenger/delivery services; (e) charges for in-house printing/photocopy expenses in excess of \$0.10 per page; (f) charges for Westlaw, Lexis, Pacer and similar research tools and programs; (g) charges for in-room entertainment, such as movies; (h) first class or business class air fare (*i.e.*, air fare other than for coach class travel); and (i) hotel expenses other than standard room rates.

17. Each Monthly Invoice shall identify specific categories of Expenses, and contain a detailed breakdown of the Expenses for which reimbursement is sought by these categories.

18. Professionals’ reasonable fees and expenses may include reasonable amounts incurred to fulfill the requirements of this Fee Review Order.

19. The Fee Examiner reserves the right to make reasonable modifications to the requirements of this Fee Review Order respecting the content and/or format of the Monthly Invoices (either on an ongoing basis or for a particular circumstance) by agreement with a Professional or by further order of this Court on notice to the applicable Professional(s).

20. Each Professional must submit to the Fee Examiner all of its Monthly Invoices in an open and searchable electronic data format mutually acceptable to the Fee Examiner and the Professional.

21. Each Professional, in consultation with its respective client, and as dictated by its professional judgment respecting privilege and strategic confidentiality concerns, may prepare, if necessary, a redacted version of the Monthly Invoice (the “Redacted Invoice”), expressly marked “Redacted,” for inclusion by the Fee Examiner with the Quarterly Reports, and shall submit the same to the Fee Examiner no later than 14 days after the deadline for submission of the applicable unredacted Monthly Invoice. In that instance, the unredacted Monthly Invoice must be marked as “Confidential” by the Professional (the “Confidential Invoice”). The Fee Examiner may challenge the necessity of the redaction of any particular time entry and raise that issue with the Professional during the Resolution Period; however, the ultimate decision on the extent of redaction contained in any Redacted Invoice shall be solely within the discretion of the Professional.

22. To protect privileged and/or confidential material contained in Monthly Invoices to the maximum extent possible under applicable law, the following shall apply:

- a. Each Confidential Invoice and any other information provided by a Professional to the Fee Examiner Parties in connection with the review of fees and expenses hereunder and designated as confidential (“Confidential Information”) shall be held by the Fee Examiner Parties in confidence as officers of the Court and not as parties to this Case or any other case or proceeding. Such Confidential Information shall be used by the Fee Examiner to carry out his duties under this Fee Review Order and not for any other purpose. In addition, the Confidential Information shall not be disclosed by the Fee Examiner Parties to any third parties (except with the written consent of the applicable Professional) and shall not be available to third parties by discovery of the Fee Examiner Parties. For the avoidance of doubt, any Redacted Invoice shall not be considered confidential and may be publicly filed as contemplated herein.
- b. Because the Fee Examiner Parties receive and hold the Confidential Information on a confidential basis as officers of the Court, the attorney-client privilege and any other privileges attaching to this material are fully preserved to the extent otherwise valid and shall not be deemed waived or limited in any manner or for any purpose by virtue of a Professional’s compliance with this Fee Review Order. In addition, all applicable privileges belong solely to the Professionals’ clients, and the Fee Examiner Parties may not raise or waive any of the clients’ applicable privileges (except with the written consent of the applicable Professional or client).

23. On or before the date that the Fee Examiner completes each Final Monthly Report, each Professional must submit to the Fee Examiner a written verification from its client that its respective client has reviewed the Monthly Invoice, has no objection to the fees and expenses contained therein and believes that the fees and expenses are reasonable under the applicable circumstances.

24. The City has agreed to pay the reasonable fees and expenses of the Committee's Professionals, which at this time are lead counsel (Dentons), local counsel (Brooks Wilkins Sharkey & Turco), a financial advisor (Lazard Freres & Co. LLC) and an actuary (Segal Consulting), and the reasonable expenses of the members of the Committee. The City further agrees that it will pay the fees and expenses of these Committee Professionals, and the expenses of the Committee members, to the extent that they are found to be reasonable by the Fee Examiner, subject to the City's right to seek a judicial determination of reasonableness in this Court. Upon the submission of a timely Monthly Invoice to the City by a Committee Professional, the City agrees to promptly pay 85% of the requested fees and 100% of the requested expenses pursuant to paragraph 11 above, consistent with its treatment of the City's Professionals. Within

14 days after receiving a Monthly Invoice from a Committee Professional, or an invoice for Committee member expenses, the City may provide the Fee Examiner and the respective Committee Professional a written statement identifying any portion of such invoice that it believes is or may be unreasonable. The Fee Examiner will review the unredacted Monthly Invoice (and any invoice for Committee members expenses) and will consider the City's comments in preparing its Preliminary Report and Final Monthly Report. The City agrees to pay to the Committee Professional (or to the Committee members for their expenses, where applicable) any amounts identified as reasonable in the Fee Examiner's Quarterly Report that have not already been paid, without limitation to the City's rights to seek a subsequent judicial determination of reasonableness. Nothing in this paragraph is intended to deprive the Committee from seeking the retention and payment to additional professionals or the City or Fee Examiner to oppose such retention fees on the basis of reasonableness.

25. Ordinary course professionals, hired by the City not in conjunction with the Case, but rather in the same contexts and capacities as the same were typically hired by the City prior to the commencement of the Case (collectively, "OC Professionals"), shall not be Professionals within the meaning of this Fee Review Order and their invoices shall not be subject to review hereunder.

26. The Fee Examiner may consider and be informed by the Appendix B Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases promulgated by the Executive Office for the United States Trustees in his review of the Professional Fee Expenses; provided, however, that the review of fees and expenses shall solely be pursuant to the standard in section 943(b)(3) of the Bankruptcy Code.

27. The fees and expenses of the Fee Examiner Parties (collectively, the "Examiner's Fees") shall be submitted and paid pursuant to the following procedures:

- a. The Fee Examiner shall file a monthly invoice (the "FE Monthly Invoice") with the Court and serve a Notice of Filing of the same on parties entitled to receive notice through CM/ECF. The FE Monthly Invoice shall set forth a detailed statement of the fees and expenses requested by the Fee Examiner Parties, on or before 49 days after the conclusion of each calendar month.
- b. The Fee Examiner shall serve a copy of the FE Monthly Invoice on the City and counsel to the Committee.
- c. The City shall post the FE Monthly Invoice on the Emergency Manager's page of the City's website and on the restructuring website maintained by the City's noticing agent.
- d. The City has the right to object to any portion of the FE Monthly Invoice (the "Objection"). If the City has an Objection, it will send a

EXHIBIT 2

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re)	In Proceedings Under Chapter 9
)	
CITY OF DETROIT, MICHIGAN,)	Case No. 13-53846
)	
Debtor,)	Hon. Steven W. Rhodes
)	
)	

**DECLARATION OF BRIAN L. SMITH IN SUPPORT
OF THE OFFICIAL COMMITTEE OF RETIREE'S REPLY IN SUPPORT OF
MOTION FOR ALLOWANCE OF AN ADMINISTRATIVE EXPENSE CLAIM
PURSUANT TO SECTION 503(B)(3)(F) OF THE BANKRUPTCY CODE¹**

I, Brian L. Smith, declare under penalty of perjury that:

1. I am the Chief Operating Officer ("COO") of Segal Select Insurance Services Inc. ("Segal Select" or the "Company"), which maintains offices at 333 W. 34th Street, New York, New York 10001-2402. I have more than forty years industry experience. Further, I am authorized to execute this declaration on behalf of Segal Select. Unless otherwise stated in this declaration, I have personal knowledge of the facts set forth herein.²

2. This declaration is being submitted in connection with the reply (the "Reply") filed by the Official Committee of Retirees (the "Committee") of the City of Detroit (the "City" or "Debtor") in support of the motion (the "Motion") filed by the Committee seeking entry of an order allowing the Policy Premium as an administrative expense pursuant to section 503(b)(3)(F) of the Bankruptcy Code in order to permit the Committee to procure the Insurance Policy.

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

² Certain disclosures herein relate to matters within the personal knowledge of other professionals at Segal Select and are based on information provided by them.

3. I previously submitted a declaration in support of the Motion executed on February 6, 2014 (the "February 6 Declaration") and filed with this Court on February 7, 2014 [Dkt. No. 2660, Exhibit A]. I incorporate that February 6 Declaration herein. The February 6 Declaration remains true and correct to the best of my knowledge.

4. The total cost component of the Insurance Policy consists of the cost of coverage and a refundable retention requirement for indemnifiable claims. The cost of coverage is \$352,250, calculated as follows: \$70,000 for the first year of coverage; \$70,000 for the additional second year of coverage; \$210,000 for the six year tail coverage (300% of the annual policy premium); a \$500 underwriting fee charged by the insurer; and a surplus lines tax of \$1,750. The refundable retention requirement is \$250,000. The retention requirement included in the Insurance Policy is to be funded by an escrow account during only the six-year "tail" period, and is fully refundable to the City if no claims are made against the Insurance Policy. The scope, price, and terms of the Insurance Policy are well within market norms for this type of Insurance Policy.

5. The commission accompanying the Insurance Policy is payable by the insurer, and is not paid by the City or the Committee. The commission percentage term of the Insurance Policy provides for a total commission of 20%. That 20% is calculated based on the total cost of coverage for the Insurance Policy of \$350,000 (if the full two years of coverage and six-year tail are purchased). There is no commission calculated based on the \$500 underwriting fee charged by the insurer, the surplus lines tax of \$1,750, and the \$250,000 refundable retention.

6. 15% of the commission is payable to Segal Select and 5% of the commission is payable to a wholesale broker. The wholesale broker was necessary in procuring the Insurance Policy in order to procure excess and surplus lines insurance. Segal Select does not maintain

licenses for excess and surplus lines insurance. 5% is the minimum norm for a wholesale broker commission of this type.


7. The commission is a one-time payment that covers the insurance brokerage services provided by Segal Select, including those associated with the design and placement of this coverage, as well as any future services that may be required during the eight year term of the policy.

8. A commission range of 10% to 15% is currently the industry standard for most types of miscellaneous professional liability policies. As premiums increase, the 10% commission is more common. In this instance, given the quoted premium and especially given its eight-year policy period, the insurer offered 15%, and we consider it appropriate.

I declare under the penalty of perjury that the forgoing is true and correct, to the best of my knowledge.

SEGAL SELECT INSURANCE SERVICES INC.

Dated: February 28, 2014



Brian L. Smith
Chief Operating Officer

81923089\V-5

EXHIBIT 3

Detroit, Michigan, Code of Ordinances >> Part III - CITY CODE >> **Chapter 13 - CIVIL SERVICE AND PERSONNEL REGULATIONS** >> **ARTICLE XI. DEFENSE AND INDEMNIFICATION OF EMPLOYEES AGAINST DAMAGE SUITS, CLAIMS, ETC.** >>

ARTICLE XI. DEFENSE AND INDEMNIFICATION OF EMPLOYEES AGAINST DAMAGE SUITS, CLAIMS, ETC.

Sec. 13-11-1. Definitions.

Sec. 13-11-2. Council may order reimbursement for certain causes.

Sec. 13-11-3. Conditions for defense and reimbursement by city.

Sec. 13-11-4. Report to council by corporation counsel.

Sec. 13-11-5. Determination by city council.

Sec. 13-11-6. Payments by city to be reduced by employees' insurance.

Sec. 13-11-7. City to be subrogated to rights of employees; execution of instruments and papers by employees.

Sec. 13-11-8. Duty of employees to maintain automobile insurance.

Sec. 13-11-9. Application to physicians and dentists.

Sec. 13-11-1. Definitions.

For the purpose of this article, the following definitions shall apply:

Employees shall include, in addition to appointees as defined in the Charter, and all employees on the city payroll, including all physicians and dentists employed on a salaried or contractual basis by the department of health, retired employees or appointive officers, and all physicians and dentists whether volunteers, staff, intern, resident or special duty, whether or not on city payrolls, assigned to patient care duties in Detroit General Hospital, whose credentials have been approved by the director of hospitals.

Official duties shall mean acts done pursuant to authority conferred by law or within the scope of employment or in relation to matters committed by law to the officer or employee's control or supervision or committed to the department or office under whose authority the officer or employee is acting, whether or not there is negligence in the doing of such acts. Where there is willful misconduct or lack of good faith in the doing of any such acts, the same shall not constitute the performance of the official duties of any appointive officer or employee of the city within the operation or effect of this article.

(Code 1964., § 16-13-1; Ord. No. 516-H, § 1, 9-29-82)

Cross reference— *Definitions and rules of construction generally, § 1-1-2.*

Sec. 13-11-2. Council may order reimbursement for certain causes.

At the discretion of and only upon approval by the city council, the city may pay, on behalf of any city officer or employee, all or part of any sum which such officer or employee might become legally obligated to pay as damages because of:

- (1) Bodily injury, sickness or disease, including death, at any time resulting therefrom, sustained by any person; or
- (2) Injury to or destruction of property, including the loss of use thereof; or

- (3) Illegal confinement, detention or other alleged injury caused by or arising out of the performance in good faith of the official duties of any such officer or employee.

(Code 1964, § 16-13-2)

Sec. 13-11-3. Conditions for defense and reimbursement by city.

No payment shall be made pursuant to [section 13-11-2](#) except under the following conditions:

- (1) Whenever an officer or employee of the city has cause to believe that he may be sued by reason of, or as the result of, the performance in good faith of his official duties, such officer or employee shall promptly file with the corporation counsel a written notice of the act performed or the occurrence which gives rise to such belief, containing a statement of the facts and circumstances thereof, including names and addresses of persons who might bring suit, if known to such officer or employee, and the names and addresses of any witnesses, if likewise so known; and
- (2) Upon the receipt of any claim, demand, notice, summons or complaint, the officer or employee shall promptly forward the same to the corporation counsel. In addition thereto, such officer or employee shall promptly file a written request that he be represented by the corporation counsel's office in the matter. Such request shall first be submitted to the head of the department in which such officer or employee is working. It shall then be the duty of the department head to transmit the request for representation to the corporation counsel, along with the department head's recommendation as to whether or not the officer or employee should be represented; and
- (3) The officer or employee shall cooperate with the corporation counsel, and upon the request of the corporation counsel shall attend hearings and trials and assist in effecting settlements, securing and giving evidence and obtaining the attendance of witnesses. However, such officer or employee shall not, except, at his own cost, voluntarily make any payment, assume any obligation or incur any expense in connection therewith; and
- (4) The officer or employee shall consent to and concur in any compromise or settlement of the claim or suit against him; and
- (5) The city council must find and determine that the claim, demand or suit against the officer or employee arises out of or involves the performance in good faith of the official duties of the officer or employee involved.

(Code 1964, § 16-13-3; Ord. No. 550-H, § 1, 5-13-83; Ord. No. 555-H, § 1, 7-20-83)

Sec. 13-11-4. Report to council by corporation counsel.

Whenever the corporation counsel receives from any city officer or employee, any claim, demand, notice, summons or complaint with such officer or employee's request for representation by the corporation counsel with the recommendation of the head of the department as provided in [section 13-11-3\(3\)](#), the corporation counsel shall promptly transmit to the city council a report on the matter, together with his recommendation as to whether or not the corporation counsel should represent the officer or employee as requested, and whether or not the city council should find and determine that the claim, demand or suit against the officer or employee arises out of or involves the performance in good faith of the official duties of such officer or employee.

(Code 1964, § 16-13-4)

Sec. 13-11-5. Determination by city council.

- (a) Upon receipt from the corporation counsel of the report and recommendation provided for in [section 13-11-4](#), the city council shall consider and determine whether the corporation counsel shall represent the officer or employee in the matter and find and determine whether or not the claim, demand or suit arises out of or involves the performance in good faith of the official duties of such officer or employee. However, pending such determination by the city council, the corporation counsel shall represent any officer or employee making request therefor which had been approved by the head of the department as provided in [section 13-11-3\(2\)](#).
- (b) The finding and determination by the city council as to whether or not any such claim, demand or suit arises out of or involves the performance in good faith of the official duties of such officer or employee shall be binding and final.

(Code 1964, § 16-13-5)

Sec. 13-11-6. Payments by city to be reduced by employees' insurance.

If a city officer or employee has valid and collectible insurance covering or protecting against liability as covered by this article, payment under this article shall be limited to amounts in excess of the limits of such insurance.

(Code 1964, § 16-13-6)

Sec. 13-11-7. City to be subrogated to rights of employees; execution of instruments and papers by employees.

No payment shall be made by the city pursuant to this article unless the city is subrogated to all rights of recovery therefor against any person and unless the officer or employee on whose behalf payment is made executes and delivers to the city instruments and papers and does whatever else is necessary to secure such rights to the city.

(Code 1964, § 16-13-7)

Sec. 13-11-8. Duty of employees to maintain automobile insurance.

This article shall not relieve any officer or employee from securing and keeping in force the insurance required to be provided by [section 13-1-4](#) governing the use of privately owned automobiles while used in the performance of their official duties.

(Code 1964, § 16-13-8)

Sec. 13-11-9. Application to physicians and dentists.

- (a) Notwithstanding any provisions of this article to the contrary, except [section 13-11-1](#), the city shall pay, on behalf of any physician or dentist, whether salaried, contractual, volunteer, staff, special duty, resident, or intern, who is an employee as defined in [section 13-11-1](#), all of any sum which such employee might become legally obligated to pay as damages resulting or arising out of his official duties, because of:
 - (1) Bodily injury, sickness or disease, including death, at any time resulting therefrom, sustained by any person; or
 - (2) Injury to or destruction of property, including the loss of use thereof; and

- (3) Illegal confinement, detention or other alleged injury caused by or arising out of the performance in good faith of the official duties or any such employee; except that the city shall be responsible to a physician or dentist who is a regular full-time member of the faculty of Wayne State University and serving on the Medical Staff at Detroit General Hospital, only for that sum which such employee shall be legally obligated to pay as damages which is in excess of his insurance coverage which shall be not less than one hundred thousand dollars (\$100,000.00) for each claim and three hundred thousand dollars (\$300,000.00) annual aggregate.
- (b) This section shall not be applicable if the physician, dentist, resident or intern fails to comply with all of the provisions of [section 13-11-3](#), requiring written notice of any anticipated claim and the filing of all pleadings with the law department, together with a written request that he be represented in the matter by the law department.
- (c) Nothing herein contained shall be deemed to extend the definition of employee, or the city's responsibility toward any employee, beyond the clear terms of this article.

(Code 1964, § 16-13-9)

EXHIBIT 4

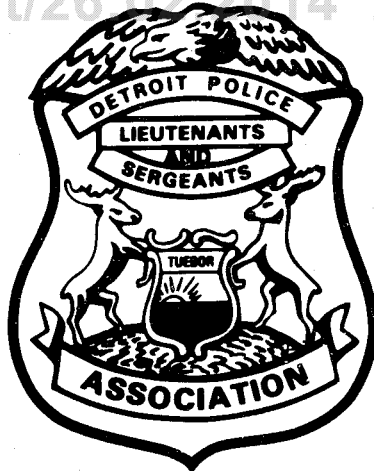
AGREEMENT

Between The

**DETROIT POLICE LIEUTENANTS' AND
SERGEANTS' ASSOCIATION**

And

CITY OF DETROIT



MASTER AGREEMENT BETWEEN THE CITY OF
DETROIT AND THE DETROIT POLICE LIEUTENANTS'
AND SERGEANTS' ASSOCIATION

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1. PREAMBLE

This contract entered into this 5th day of September, 1979, between the City of Detroit, a Michigan Municipal Corporation (hereinafter referred to as the "City, Department or Employer"), and the DETROIT POLICE LIEUTENANTS' AND SERGEANTS' ASSOCIATION, INC., an organization existing under the laws of the State of Michigan (hereinafter referred to as the "Association") has as its purpose the promotion of harmonious relations between the City and the Association; the establishment of an equitable and peaceful procedure for the resolution of differences; orderly resolution of grievances; and the establishment of rates of pay, hours of work, and other terms and conditions of employment both economic and non-economic.

The parties recognize that the interest of the community and the job security of the employees depend upon the Employer's success in establishing proper services to the community.

2. RECOGNITION OF ASSOCIATION

Pursuant to and in accordance with all applicable provisions of Act 336 of the Public Acts of 1947, as amended, the Employer hereby recognizes the Association as the exclusive representative for the purpose of collective bargaining with respect to wages, hours, and other terms and conditions of employment both economic and non-economic for all employees in the following classifications:

Class Code No.	Title
33-10-21	Police Sergeant
33-12-21	Senior Communications Officer — Police Sergeant

Class Code No.	Title
33-12-22	Senior Radio Maintenance Officer — Police Sergeant
33-12-23	Police Sergeant — Chemist
33-10-31	Police Lieutenant
33-12-31	Assistant Supervisor of Operators — Police Lieutenant
33-12-33	Supervisor of Radio Systems and Planning — Police Lieutenant
33-12-34	Supervisor of Operators — Police Lieutenant
33-12-35	Supervisor of Radio Maintenance — Police Lieutenant
33-12-36	Senior Police Data Processing Programmer — Police Lieutenant
33-12-37	Supervisor of Firearms Identification and Explosives — Police Lieutenant

No person shall occupy any of the above classifications as reflected by the accompanying class code numbers unless he or she is a member of the bargaining unit.

3. ASSOCIATION SECURITY

A. Employees are free to join or not to join the Association. Employees who are members of the recognized bargaining unit but who are not members of the Association may join the Association by initiating their Association application form and dues deduction authorization form.

B. The City agrees to deduct from the wages of an employee, who is a member of the Association, all Association membership dues uniformly required, as provided in a written authorization in accordance with the standard form used by the City provided that the said form

shall be executed by the employee. The written authorization for Association dues deduction shall remain in full force and effect during the period of this Agreement unless revoked by written notice. The revocation notice must be given to both the Finance Department and to the Association.

C. Any person employed with the City and covered by this Agreement, who is not a member of the Association and who does not make application for membership within ninety (90) days from the effective date of this Agreement or from the date he first becomes a member of the bargaining unit, whichever is later, shall as a condition of employment, pay to the Association a service fee as a contribution towards the administration of this Agreement, in an amount equal to regular membership dues of the Association. Employees who fail to comply with this requirement shall be discharged within thirty (30) days after receipt of written notice by the Police Department from the Association unless otherwise notified by the Association in writing within said thirty (30) days and provided that the Association shall release the Department from fulfilling the obligation to discharge if during such 30-day period the employee pays the membership dues or service fee retroactive to the due date and confirms his intention to pay the required membership dues or service fee in accordance with this Agreement.

D. The City agrees to deduct from the wages of any employee covered by this Agreement, who is not a member of the Association, all Association service fees uniformly required as provided in a written authorization in accordance with the standard form used by the City, provided that the said form shall be executed by the employee. The written authorization for Association service fee deduction shall remain in full force and effect during the period of this Agreement unless revoked by written notice.

The revocation notice must be given to both the Finance Department and to the Association.

E. All Association membership dues and service fees will be authorized, levied, and certified in accordance with the by-laws of the Association. Each employee and the Association hereby authorizes the City to rely upon and to honor certifications by the Treasurer of the Association regarding the amounts to be deducted and the legality of the adopting action specifying such amounts of Association dues and service fees, which dues and service fees shall be sent via first class mail, without undue delay, to the Treasurer of the Association. The Treasurer of the Association shall not request the City to change the amounts so deducted more often than four times each City fiscal year.

F. The Association shall have no right or interest whatsoever in any money authorized withheld until such money is actually paid over to them. The City or any of its officers and employees shall not be liable for any delay in carrying out such deductions, and upon forwarding a check in payment of such deductions by mail to the Association, the City and its officers and employees shall be released from all liability to the employee-assignors, and to the Association under such assignments. (Chapter 16, Article 6, Section 4 of the Municipal Code of the City of Detroit)

G. The Association shall refund to employees, dues and service fees erroneously deducted by the City and paid to the Association. The City may offset any amount erroneously or improperly deducted and paid to the Association from any subsequent remittance to the Association.

H. The Association agrees to save and hold harmless the City from damages or other financial loss which the City may be required to pay or suffer as a consequence of enforcing the above provisions.

4. BASIS OF REPRESENTATION

A. In each precinct, section or unit or any combination, members shall be represented by a delegate who shall be a regularly assigned bargaining unit employee. One alternate delegate for that representative unit shall be selected and shall serve in the absence of the delegate.

B. The representative units and number of representatives allocated to each unit are listed in Schedule A attached to this Agreement. If any existing precinct, section or unit is eliminated or any new precinct, section or unit is increased or decreased substantially, the parties to this Agreement shall renegotiate the number of representatives allocated to such unit or may make other changes by mutual agreement.

C. Members of the bargaining unit selected to serve as authorized delegates of the Association shall be certified in writing to the Chief of Police within thirty (30) days of the effective date of this Agreement. Any changes shall be so certified within ten (10) days.

D. Delegates elected to the union Board of Directors will be allowed if necessary, to change their shifts on days of Board meetings so that their scheduled work time does not conflict with such meetings, provided they give their commanding officer 72 hours notice of said change. Such request shall not be unreasonably denied.

E. Delegates shall not be transferred out of their work location during their term of office except at their own request, or upon good cause shown after a hearing before the Chief of Police or his designated representative. The Association President or his designated representative may attend the hearing.

F. The Department will grant a necessary and reasonable amount of time off, during working hours, and with regular pay for lost time, to Association officers, delegates and grievance committeemen who must necessarily be present for direct participation in the grievance adjustments and special conferences with the Department. Such persons must receive permission from their immediate supervisors to leave their work stations and must report back promptly when their part in the grievance adjustment or conference has been completed. This privilege shall not interfere with vital police service. The Association officers, delegates and grievance committee members will not be released for simultaneous investigation of grievances, unless mutually agreed. Delegates shall be allowed to discuss and communicate official Association business to members prior to on-duty roll call or following off-duty roll call.

G. In accordance with the appropriate step of the grievance procedure provided herein, the employer agrees that the delegate of the representative unit where the grievance originates may, during his working hours, without loss of time or pay, investigate and present grievances in accordance with the grievance procedure. Permission for his release must be secured from his supervisor. This privilege shall not be abused, or interfere with vital police service or the proper supervision of subordinates.

H. The Association may establish a two-member grievance committee for the purpose of working under the authority of the Association President in processing grievance appeals. Grievance committee members shall receive one (1) working day off per week in order to investigate and process grievances. This privilege shall not be abused, or interfere with vital police service.

I. Within 10 days after the effective date of this agreement a special conference between the Chief of Police and the Association Officers shall be held to discuss the

determination of work location and specific job assignments for elected Association officers. Such determination shall be made by the Chief of Police after consultation with the elected officer. Union officers may request any available assignment upon their leaving union office. The requested assignments will be given them provided they do not adversely affect the Department.

J. Association officers will be allowed a total of 15 days per week to conduct Association business. The president of the Association shall notify the Chief within 10 days of the effective date of this agreement of the allocation of this time among the various officers. The President of the Association may not change this allocation more often than once every 6 months. When reductions in force occur the above officers will have top seniority.

K. For purposes of layoff, demotion and recall, delegates shall enjoy top seniority within their respective sections, units, platoons, or other work units during their terms of office providing there is work in their classification in their section, unit, platoon or other work unit.

L. The officers of the Association (President, Vice-President, Secretary-Treasurer and Sergeant-at-Arms) may be permitted to discuss Association business with members during duty hours, provided such discussions do not interfere with such member's or officer's duties.

M. The Association President shall not be prohibited from speaking publicly through any form of communication.

N. If the President of the Association is authorized or required to appear or perform any duties under this contract, he may appoint a designee to represent him.

O. A copy of photographs of Department functions shall be made available to the Association upon request on each specific occasion.

P. A copy of each special order, general order, personnel order, teletype order, or training bulletin, or their equivalents, shall be provided to the Association President.

5. MANAGEMENT RIGHTS AND RESPONSIBILITIES

A. The Association recognizes the prerogatives of the Department to operate and manage its affairs in all respects in accordance with its responsibilities and powers of authority and the terms and provisions of this Agreement.

B. The Department has the right to schedule overtime work as required in a manner most advantageous to the Department and consistent with requirements of municipal employment and the public safety and consistent with the provisions of this contract.

C. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described.

D. The Department reserves the right to discipline and discharge for just cause. The Department reserves the right to lay off personnel for lack of work or funds or for the occurrence of conditions beyond the control of the Department or when such continuation of work would be wasteful and unproductive. The Department shall have the right to determine schedules and hours of work and to establish the methods and processes by which such work is performed.

E. The Police Department shall notify in advance, in writing, the Association President, or in his absence the next officer in line, when it anticipates exercising its right to make changes in working conditions. Conferences to discuss said anticipated changes shall be conducted at the request of either party. Such conferences shall not be construed as "formal" negotiations. Provided however, in no event shall

the City make decisions which alter the relationship between the parties in regard to wages, hours, and the terms and conditions of employment. Any changes in that area require renegotiation of the contract.

F. No department official or agent of the City shall:

1. Interfere with, restrain, or coerce employees in the exercise of their right to join or refrain from joining a labor organization, except where permitted by law to avoid a conflict of interest; or
2. Initiate, create, dominate, contribute to or interfere with the formation, administration, internal affairs, elections, meetings, dues policies or officers, of the Association; or
3. Discriminate in regard to employment or conditions of employment in order to encourage or discourage membership in a labor organization; or
4. Discriminate against an employee because he has given testimony or taken part in any grievance procedures or other hearings, negotiations, or conferences as a part of the labor organization recognized under the terms of this Agreement; or
5. Refuse to meet, negotiate, or confer on proper matters with representatives of the Association as set forth in this Agreement.

G. It is agreed that the City retains and reserves all rights, powers and authorities given to it under any national, state or local law unless otherwise negotiated in this Agreement.

H. The Association recognizes the responsibilities of its members as a part of management and pledges full support for continuity of employment and supervision during normal or emergency working conditions.

I. The Investigative staff of the Board of Police Commissioners shall have the right to interrogate and investigate members under the procedures in this Agreement to which any interrogating officer is subject and such right shall in no way abridge or change the rights of a member under this Agreement or under any Local, State, or Federal law or the Constitutions of the United States, or State of Michigan.

In no event shall any recommendations or actions resulting from such interrogation or investigation lead to any discipline outside or inconsistent with any discipline procedures or discipline matters maintained in this Agreement and currently utilized in this Department.

Further, no member after he has been once disciplined at a Commander's Hearing, Chief's Hearing or Trial Board shall be redisciplined for any reason whatever for any matters arising out of the same set of facts and circumstances surrounding the first discipline.

6. ASSOCIATION RESPONSIBILITIES

A. Recognizing the crucial role of law enforcement in the preservation of the public health, safety, and welfare of a free society, the Association agrees that it will take all reasonable steps to cause the employees covered by this Agreement, individually and collectively, to perform all police duties, rendering loyal and efficient service to the very best of their abilities.

B. The Association, therefore, agrees that there shall be no interruption of these services for any cause, whatsoever, by the employees it represents; nor shall there be any concerted failure by them to report for duty; nor shall they absent themselves from their work or abstain, in whole or in part, from the full, faithful, and proper performance of all the duties of their employment.

C. The Association further agrees that it shall not encourage any strikes, sit-downs, stay-ins, slow-downs, stoppages of work, malingering, or any acts that interfere in any manner or to any degree with the continuity of the police services.

7. SPECIAL CONFERENCE

A. A special conference shall be a meeting or session wherein both parties meet to discuss important matters.

B. Special conferences on important matters shall be arranged between the Association President and the Chief of Police or his designated representative upon request of either party. Each party shall have at least two individuals present at said conference. Arrangements shall be made in writing five (5) calendar days in advance, whenever possible. An agenda of the matters to be taken up shall be presented in writing at the time the conference is requested. Matters taken up at the Special Conference shall be confined to those matters listed on the agenda.

8. GRIEVANCE PROCEDURE

A. Every employee of this unit shall have the right to present grievances in accordance with the procedure provided herein.

B. The informal resolution of differences or grievances is urged and encouraged to be resolved at the lowest possible level of supervision.

C. Immediate supervisors, commanding officers and reviewing officers shall consider promptly all grievances presented to them and, within the scope of their authority, take such timely action as is required.

D. Grievances shall be processed according to the following procedure:

Step 1 — Oral — Commanding Officer of the Section or Unit:

Any employee who claims a provision of this Agreement has not been applied or interpreted properly may discuss his complaint with his commanding officer, with or without the presence of his delegate. The parties shall discuss the complaint in a friendly manner and shall make every effort to reach a satisfactory settlement at this point. The employee shall have the right to discuss the complaint with his precinct or bureau delegate before any discussion takes place with the commanding officer. The commanding officer shall make arrangements for the employee to be relieved from his supervisory responsibilities for a reasonable period of time in order to discuss the complaint with his precinct or bureau delegate provided that vital police services are not disrupted.

Step 2 — Written — Commanding Officer of the Section or Unit:

If the matter is not satisfactorily settled, a grievance may be submitted in written form by the precinct or bureau delegate to the commanding officer. The written grievance shall set forth the name(s) and signature(s) of the employee or employees involved, so far as diligent efforts will allow, and the provision of this Agreement, if any, that the grievant claims have been violated. The commanding officer's answer shall set forth the facts he took into account in answering the grievance. His written answer shall be presented to the precinct or bureau delegate within ten (10) calendar days after receipt. Acceptance or rejection of the commanding officer's answer will be written on the grievance form by the precinct or bureau delegate.

Step 3 — Appeal to Commanding Officer of the Precinct or Division:

If the grievance is not satisfactorily adjusted or acted upon within ten (10) calendar days or the time limit is not mutually extended at Step 2, the grievance committee or delegate shall appeal such grievance to the commanding officer of the precinct or Division. The commanding officer shall discuss the grievance with the grievance committee and delegate and render a written answer within ten (10) calendar days of his receipt of the grievance.

Step 4 — Appeal to the Chief of Police:

If the grievance is not satisfactorily settled or adjusted in Step 3, it shall be referred to the President of the Association who may appeal it to the Chief of Police. A meeting to discuss the grievance shall be held between the President or his designee, the grievance committee, and the Chief of Police or his designee within ten (10) calendar days after receipt of the grievance by the Chief of Police. A written decision shall be rendered within ten (10) calendar days of the meeting.

MEDICAL GRIEVANCE PROCEDURE:

All grievances involving medical issues shall be filed with the President of the Association. The employee's Commander shall be presented an informational copy of the grievance. After conducting an investigation, the President or his designee may submit the grievance to the Police Department Medical Officer, who shall be the designated representative of the Department. The Medical Officer shall make a complete investigation of the grievance, shall confer with a doctor, and shall answer the grievance within thirty (30) calendar days, attaching copies of all medical records pertaining to the injury or illness involved in the grievance.

E. Notwithstanding any other provisions herein, individual members may present their own grievances to the employer and have them adjusted without the intervention of the precinct or bureau delegate or Association officers, provided, however, that the employer has given the delegate or association officers notice and an opportunity to be present at such adjustment. In no event shall any such adjustment be contrary to or inconsistent with the terms of any agreement between the employer and the association.

F. Grievances affecting a large number of employees may be treated as policy grievances and entered at the fourth step of the grievance procedure by the association.

G. Grievances shall be filed within thirty (30) days of the event, occurrence or knowledge of the facts giving rise to the grievance. Grievances not appealed in writing to the next step within ten (10) work days of receipt of the last decision shall be considered settled on the basis of the last decision. All time limits or steps of the grievance procedure may be shortened, extended or eliminated by mutual written agreement.

H. In instances wherein the subject matter of the grievance lies within the jurisdiction of specific city agencies, e.g., payroll, etc., the grievance steps may be reduced in order to bring the grievance to the agency's immediate attention for a recommendation as to the action to be taken at Step 3.

9. ARBITRATION

A. Any unresolved grievance relating only to the interpretation, application or enforcement of a specific Article and Section of this Agreement or any Supplementary Agreement, hereto having been processed fully through the

last step of the grievance procedure may be submitted to arbitration by either party in strict accordance with the following:

1. Arbitration shall be initiated by the President of the Association by written notice to the Chief of Police of an intention to arbitrate. Upon receipt of notice to arbitrate, the City and the Association shall each appoint an arbitrator to represent them and each shall notify the other of the name of the person so designated. The two designated arbitrators shall meet and appoint a third disinterested person to act as chairman of the Board of Arbitrators. In the event the two designated arbitrators cannot agree upon the third person within ten (10) calendar days of the demand for arbitration, the Association or the City, within seven (7) calendar days, shall request the American Arbitration Association to appoint an impartial arbitrator to act as chairman in accordance with its then applicable rules and regulations, otherwise the appeal shall fail.
2. It shall be within the authority of the Board of Arbitrators to make a decision binding upon the parties regarding the interpretation, application or enforcement of the Agreement.
3. The Board of Arbitrators shall not consider any evidence submitted by either party which was not produced in the grievance procedure unless such evidence was not then known to the party submitting the same.
4. The costs of the arbitration shall be shared equally by the parties, except each party shall make arrangements to pay its own Board member and witnesses.

5. The parties may request in writing of each other cooperation to have available at the arbitration proceedings any witnesses requested by the other party.

6. If the unresolved grievance pertains to a medical issue, the arbitration procedure specified in this article shall be in all respects the procedure for arbitration as defined herein, except that the parties shall mutually request of the American Arbitration Association a medical panel if available.

B. When an employee is suspended pending disposition of charges against him in a court of law or a Trial Board proceeding, there shall be no offset of interim earnings provided he is exonerated and restored to duty.

C. If an employee's disciplinary penalty is simply modified or lessened to the extent that he has a claim for back wages during a period of suspension as the result of the modification or the lessening of the penalty, claims for back wages shall be limited to the amount of wages that the employee otherwise would have earned less any compensation for personal services he may have received from any source during the period in question, but excluding previously department authorized income earned outside his regularly scheduled work period, and excluding documented overtime pay.

D. There shall be no appeal from the decision of a majority of the Board of Arbitrators if made in accordance with its jurisdiction and authority under this Agreement. It shall be final and binding on the Association, on all bargaining unit members, and on the City. The Association will actively discourage attempts by any bargaining unit employee to appeal a decision of the Board of Arbitrators to any Court or Labor Board, and will not aid or abet in any such attempt.

E. In the event a case is appealed to the Board of Arbitrators and the board finds that it has no power to rule on such case, the matter shall be referred back to the parties without decision or recommendation on the merits of the case.

F. The decision of a majority of the Board of Arbitrators in any case shall not require a retroactive wage adjustment in any other case. Either party may, prior to the submission of a dispute to arbitration, state, and the opposite party is bound to agree, that the award not be binding precedent in like analogous situations pending at that time.

G. The Board of Arbitrators shall limit its decision strictly to the interpretation, application or enforcement of the specific Articles and Sections of this Agreement, and it shall be without power or authority to make any decisions:

- 1. Contrary to, or inconsistent with or modifying or varying in any way, the terms of this Agreement or of applicable law or rules or regulations having the force and effect of law.**
- 2. Involving the exercise of discretion by the City under the provisions of this Agreement, its Charter, or applicable law.**
- 3. Limiting or interfering in any way with the powers, duties or responsibilities of the City under its Charter, applicable law, and rules and regulations having the force and effect of law.**
- 4. Changing, altering, or modifying any practice, policy, or rule presently or in the future established by the City as long as such practice, policy or rule does not conflict with this Agreement.**
- 5. Implying any restriction or condition binding upon the City from this Agreement, it being understood that,**

except as such restrictions or conditions upon the City are specifically set forth herein, or are fairly inferable from the express language of any Article or Section hereof, the matter in question falls within the exercise of rights set forth in the Article of this Agreement entitled "Management Rights and Responsibilities."

6. Concerning the establishment of wage scales, rates on new or changed jobs, or change in any wage rate.
7. Providing agreement for the parties in those cases, where by their contract, they may have agreed that further negotiations should occur to cover the matters in dispute.
8. Granting any right or relief for any period of time whatsoever prior to the effective date of this Agreement or subsequent to the date upon which this Agreement shall terminate.

10. DISCIPLINE PROCEDURE

Subject to any disciplinary provisions contained in this Agreement and subject to the following disciplinary procedure, the employer and the Association agree to maintain all disciplinary matters as presently existing within the Department.

A. Original Hearings

1. *Superior's Written Reprimand* — The first form of discipline shall be at the level of a member's superior officer who shall be empowered to reprimand a member in writing for minor misconduct.
2. *Commander's Hearing* — This hearing is the second form of discipline. Upon a full investigation of allega-

tions against an employee, a Commander shall be empowered by the Chief of Police to conduct a hearing and to render a disciplinary penalty.

3. *Chief's Hearing* — This hearing is the third form of discipline. Upon a full investigation of allegations against an employee, the Chief may conduct a hearing and render a disciplinary penalty.

4. *Trial Board* — The fourth form of discipline is the Trial Board. When serious charges are made against an employee, the matter may be referred to a Trial Board. The procedure for Trial Boards shall be maintained as it presently exists.

A. All Trial Boards convened to consider charges against any member of the Association shall be made up of one command officer of the rank of Commander or higher, and two command officers of the rank of Inspector, who shall be chosen by lot.

B. The Disciplinary Unit or its successor within the Department shall maintain a current list of all command officers of the rank of Inspector and above who are employed in a duty status within the Department, with a number assigned to each such command officer.

C. When it shall be necessary to convene a Trial Board, the Disciplinary Unit, in the presence of a representative selected by the Association, shall cause numbers assigned to all such command officers to be placed in an opaque receptacle and the numbers corresponding to the names of one officer of the rank of Commander or higher and two officers of the rank of Inspector drawn therefrom at random until the composition of the trial board is complete.

D. No command officer shall be selected for more than two (2) Trial Boards, for members of this bargaining unit, in a calendar month, and no command officer shall be selected for a Trial Board which is convened to consider charges conferred or approved by that command officer.

E. This provision shall not be construed as a waiver of the right of the Association to challenge before the Trial Board so convened, or in court, the seating on a Trial Board of any command officer who may have bias or prejudice or the appearance thereof in the matter involved or against the member charged in the Trial Board.

5. *Board of Police Commissioners* — Subject to the provisions of this Agreement, the Board of Commissioners shall be the final quasi-judicial determinant of guilt or innocence. Instead of hearing an appeal de novo from a Trial Board itself, the Board of Police Commissioners may appoint a fact finder as provided in Section 7-1109 of the Charter of the City of Detroit. The fact finder shall conduct a hearing and report findings of fact to the Board. The Board's disposition of any disciplinary matter shall be final in the line of administrative remedies.

B. Appeals

- 1. Any employee not satisfied by a superior's written reprimand may proceed immediately by way of appeal to a Trial Board and to the Board of Commissioners or at his option, to arbitration as outlined below.**
- 2. Any employee not satisfied with the decision rendered at a Commander's or Chief's hearing may proceed immediately by way of appeal to a Trial Board.**

3. Any employee not satisfied with the decision rendered at a Trial Board, whether the Trial Board disposition was the result of an appeal described in Number 2 above, or whether the Trial Board disposition was the result of an original hearing, has the option of proceeding to arbitration as outlined below or to the Board of Commissioners for a de novo hearing as outlined in Number 5 above. In no event shall the employee proceed both to arbitration and to the Board of Commissioners with regard to the same matter.
4. In no event shall any penalty be increased from that rendered in the original hearing.
5. Nothing in this Agreement shall abridge a member's rights after his final administrative remedy to proceed to the appropriate court under the remedy allowed by law.
6. Every appeal, except to arbitration, shall be a total review of guilt or innocence as well as severity of penalty and shall not be limited as to admission of evidence except as herein provided.

C. Arbitration

Any employee exercising his right to arbitration under this section shall be subject to the arbitration procedures of Section 9 insofar as they are specifically applicable to discipline arbitration subject to the following provisions:

1. Any disciplinary matter brought to arbitration shall be limited to the issue of the severity of the penalty except with regard to written reprimands where the issue of guilt or innocence may be raised by the employee and decided by the Board of Arbitrators.

2. Except in the cases of written reprimands, the only evidence to be admitted by the Board of Arbitrators will be that evidence having probative value with regard to severity of penalty whether or not such evidence had been produced at the Trial Board hearing.
3. The jurisdiction and authority of the Board of Arbitrators shall be limited to the question of severity of penalty and such arbitrators shall have the authority to affirm the Trial Board penalty, to reverse the Trial Board penalty, to set it aside or to modify it in any way. In no event shall the Board of Arbitrators increase the penalty rendered by a Trial Board.
4. In the event arbitration is sought as an alternative, it is to be considered a final administrative remedy but no appeal to a court of law is permitted except in accordance with the provisions of Section 9.

11. MEMBER'S RIGHTS

Each member shall be guaranteed the following rights but this section shall not be construed as a section of limitation:

1. Any member who is accused of violating any criminal law, City, State or Federal shall be entitled to his full rights under the State and Federal Constitutions without being disciplined for exercising such rights unless specifically excepted in this agreement.
2. The Department shall give a member at least five (5) working days notice with a copy to the Association of any disciplinary matter over and above Commander's Hearings scheduled to be heard. Such notice shall indicate the time and place of the hearing together with a list of all witnesses to be called.

3. After a member is ordered to make any written statement in response to any alleged misconduct or possible misconduct on his part, he shall have at least thirty six (36) hours from the time of the order in which to comply.

If any member is ordered to make an oral statement, he shall comply subject to the receipt of Miranda or Garrity warnings or both and shall be given a reasonable time to act in accordance with such rights.

4. No penalty resulting from any disciplinary hearing will be then implemented until the member has exhausted his administrative remedies in accordance with this Agreement.
5. An Association officer, counsel or both shall have the right to be present at all disciplinary hearings at the request of the member and shall further have the right to be present during all administrative and investigatory proceedings when the investigated officer must be present.
6. A member shall have the right to have counsel present at any disciplinary proceeding where testimony is given, to have counsel cross examine all witnesses against the member.
7. Upon the conclusion of the presentation of evidence, the members of the Trial Board shall make a finding of fact and such finding shall be reduced to writing and a copy given to the member and to his counsel. No appellate time requirements shall begin to run until such time as counsel has been physically served with such written findings. Findings must be served within five (5) days of the conclusion of the hearing.
8. Throughout all disciplinary hearings, each member shall be presumed to be innocent and that presump-

tion remains unless the Department overcomes it by the preponderance of the evidence.

9. No member shall be disciplined, discriminated against, or transferred because he exercises any of his constitutional rights before any grand jury, investigative body, court or law enforcement agency — federal, state and local as well as any investigative committee of any legislative body — federal, state and local.
10. The matters in this section are proposed under the disciplinary procedure as presently existing within the Department and as projected under the present Charter for the City of Detroit. If such procedures are changed in such a way as to render any of the provisions of this section inapplicable or such changes as to require additional provisions in this section or such changes as were not contemplated by the parties hereto, the subject matter and provisions of this section shall be subject to renegotiation between the City and the Association.
11. No member shall be prohibited from engaging in political activity, either partisan or non-partisan, except when actually on duty, or while in uniform or while acting in official capacity as a police officer.
12. The Association President shall not be prohibited from speaking publicly through any form of communication.
13. Whenever a member is under investigation or subjected to interrogation by his Commanding Officer and/or the Department or by any of its units or bureaus, for any reason which could lead to disciplinary action, demotion, dismissal, transfer or criminal

actions or charges, such investigation or interrogation shall be conducted under the following conditions:

- A. The interrogation shall be conducted at a reasonable hour, preferably at a time when the member is on duty, unless the seriousness of the investigation is of such a degree that an immediate interrogation is required.
- B. No interrogation shall begin until the member has been notified that he has a right to have counsel or an officer of the Association present.
- C. The interrogation shall take place at the office of the interrogator or at the place of assignment of the employee being interrogated or at the place where the incident allegedly occurred as designated by the interrogator.
- D. The employee under investigation shall be informed prior to such interrogation of the name of the person in charge of the investigation, the interrogators, and all persons present during the interrogation. If any of the interrogators are sworn police officers, at least one shall be present during the interrogation who is of a rank higher than that of the officer being interrogated.
- E. Neither the home address nor the photograph of any member suspected of any wrongdoing shall be given to the press or the news media without the written consent of the member.
- F. The complete interrogation of the member, including a notation of all recess periods, shall be recorded and there shall be no unrecorded questions or statements. At the request of the member, a copy of the interrogation shall be furnished to him.

14. The Department's practices in effect at the time of signing this Agreement relative to the taking of promotional examinations while suspended or discharged shall remain in effect.
15. Any member who is suspended or discharged as the result of any indictment, shall be immediately restored to duty upon a dismissal of charges against him.
16. When an employee is suspended pending disposition of charges against him in a court of law or a Trial Board proceeding, there shall be no offset of interim earnings provided he is exonerated and restored to duty.
17. If an employee's disciplinary penalty is simply modified or lessened to the extent that he has a claim for partial back wages during a period of suspension as the result of the modification or the lessening of the penalty, claims for back wages shall be limited to the amount of wages that the employee otherwise would have earned less any compensation for personal services he may have received from any source during the period in question but excluding previously Department authorized income earned outside his regularly scheduled work period and excluding documented overtime pay.
18. The Investigative staff of the Board of Police Commissioners shall have the right to interrogate and investigate members under the procedures in this agreement to which any interrogating officer is subject and such right shall in no way abridge or change the rights to a member under this Agreement or under any Local, State, or Federal law or the Constitution of the United States, or State of Michigan.

18. (Cont'd.) In no event shall any recommendations or actions resulting from such interrogation or investigation lead to any discipline outside or inconsistent with any discipline procedures or discipline matter maintained in this Agreement and currently utilized in this Department.

Further, no member after he has been once disciplined at a Commander's Hearing, Chief's Hearing or Trial Board shall be redisciplined for any reason whatever for any matters arising out of the same set of facts and circumstances surrounding the first discipline.

12. DEPARTMENT FILES

A. All personnel records which include home addresses, phone numbers and pictures of members shall be kept confidential and never released to any person other than officials of the Department or upon the written authorization of the member involved.

B. A member shall have the right to inspect his official personnel record wherever kept, twice a year or more often for good cause shown.

C. Inspection shall be during regular business hours of the respective repository and be conducted under supervision of the Department. Said member shall have the right to make duplicate copies for his own use at his own expense. No records, reports, investigations, evaluations or similar data belonging in the Personnel File or Medical File shall be hidden from a member's inspection.

D. A member shall have the right to include in his personnel record and in any other file kept by the Department, a written refutation of any material he considers to be detrimental and to request its removal.

E. If a promotion or transfer is denied to a member and he should discover that the Department has hidden detrimental data, reports or investigative summaries from his inspection, it shall be presumed that such records constituted the reasons for such denials.

F. Members may inspect their personnel file upon retirement and nothing shall be inserted in such files after date of retirement.

G. The Department need not comply with the above provisions for inspection in those areas where there is a current investigation of the officer. The officer must be told, however, that he is being investigated and apprised of the subject matter of the investigation.

13. LEGAL COUNSEL

The City will provide legal counsel and pay any costs and judgements that arise out of lawsuits filed against members of the Detroit Police Lieutenants' and Sergeants' Association alleging any act committed while said officer was in the good faith performance of his duties. A contrary determination by the City is not final and binding as provided by the code but is subject to review by an arbitration panel under the grievance arbitration provisions of this Agreement.

The City shall promptly undertake the defense of an action on behalf of an employee pending determination of the "good faith" question.

This provision shall otherwise be in accordance with Section 16-13-1 of the Municipal Code of the City of Detroit.

14. OUTSIDE EMPLOYMENT

A. An employee may engage in outside employment provided it is not inconsistent or incompatible with or does not

interfere with the proper discharge of the employees duties and responsibilities as a police officer.

B. Approval for outside employment must be obtained from the Chief of Police, and shall be for a period of one (1) year. The employee may request it be renewed after 1 year.

C. Approval will not be granted for outside employment which would involve more than thirty (30) hours per week of work, or for work in private or personal security or in businesses that are regulated by the Detroit Police Department, (*id est*, bars, adult movies or adult bookstores *etcetera.*)

D. Approval to engage in outside employment shall not be unreasonably withheld.

15. POLITICAL OFFICES

A. A member of the bargaining unit covered by this Agreement may become a candidate for political office, partisan or non-partisan, as long as he restricts his campaign activities to off-duty time.

B. A member running for political office is not required to resign or take a leave of absence from the Detroit Police Department, provided that this activity does not interfere with his normally assigned duties.

C. While off-duty and not in uniform any member may fully participate in any political activity either partisan or non-partisan.

D. If a member is elected to a political office which requires his full-time work, the member shall take a leave of absence without pay for the term of office the member was elected to, or he shall resign.

16. HEALTH & SAFETY

A. Safety glasses and ear protectors shall be provided at all police firing ranges and employees shall not be required to fire without same.

B. The City will provide and maintain clean, sanitary buildings and will repair unsafe work facilities in an expeditious manner.

C. This section shall not be construed to impair or limit the applicability of any State or Federal law or regulation affecting health and safety in Department buildings and work facilities.

17. MISCELLANEOUS ITEMS

A. The Department will furnish for the use of the Association, space for a bulletin board at each work location where Association members are assigned.

B. Lockers and desks shall not be opened for inspection except in the presence of the officer or a representative designated by him for that purpose. In the event the officer or his designee refuse to be present the Department shall thus have the right to inspect the locker or the desk after notification to the commanding officer of the refusal.

C. Nothing in this agreement shall abridge the rights and preferences of veterans, and members and retirees of the armed forces reserves, as provided by Federal, State and Local laws and rules and regulations.

D. An employee shall not be required to use his privately owned vehicle for any police purpose.

E. Employees are urged to keep their commanding officers informed of where they can be reached whenever they are out of town off duty for periods of 48 hours or less. For

absences of longer periods, employees must so inform their commanding officers.

18. SENIORITY

A. Seniority shall be determined first by the employee's rank, date of rank, and finally by the employee's length of service in the Department. Time spent in the armed forces on military leaves of absence and other authorized leaves, such as time lost because of duty-connected disabilities, shall be included.

B. An up-to-date seniority list by rank and date of rank showing the names, length of service dates, and departmental assignments shall be furnished the Association every quarter commencing the first of each January, April, July and October.

C. An employee shall forfeit his seniority rights only for the following reasons:

1. He is reduced in rank for cause (ingrade seniority only).
2. He resigns.
3. He is dismissed and not reinstated.
4. He retires on regular service retirement.

19. REDUCTION IN FORCE (LAYOFFS)

A. When there is an impending reduction in force within the bargaining unit, the City shall immediately inform and consult with the union as soon as there is any possibility of said reduction in force.

B. In the event of a reduction in force in the Police Department, it shall be made among all employees in the same

classification as listed in Article 2, according to length of service.

1. The employees with the least amount of service shall be the first laid off and the last to be recalled. If there is to be a demotion due to a reduction in force, time in classification will prevail. Where time in classification is equal, seniority as defined in Article 18 shall prevail.
2. A demotion to the next lower rank shall be required before a layoff, provided the employee had prior time in the classification to which demoted.
3. Any officer demoted due to a reduction in force shall be promoted back in the reverse order of demotion without any competitive re-examination for the classification from which he was demoted.

C. Any grievance submitted concerning a layoff shall be submitted at the fourth step of the grievance procedure and the parties expressly agree that they shall expedite the final resolution thereof.

D. Effective January 1, 1978, employees covered by this Agreement shall receive unemployment benefits in accordance with the unemployment insurance plan administered by the Michigan Employment Security Commission under the Michigan Employment Security Act.

20. LEAVES OF ABSENCE

A. General Leaves of Absence

A leave of absence without pay may be granted to employees with at least five (5) years of continuous service with the City as a sworn member of the Detroit Police Department for a period not to exceed one (1) year. The employee

shall submit the request for the leave of absence, in writing, to the Chief of Police through channels. The request shall include the reason(s) for the leave and the length of time requested. All recipients of educational leaves must present continuing proof of enrollment for the specified period of absence. The Union shall be notified when a leave of absence has been granted.

B. Medical Leaves of Absence

1. To be eligible for a medical leave of absence, an employee must have a minimum of five (5) years of continuous service with the City as a sworn member of the Detroit Police Department from the date of appointment to the effective date of the leave of absence. No employee shall be required to exhaust banked sick time or other accrued benefits as a condition of taking a medical leave of absence.
2. A medical leave of absence without pay shall be granted to an employee who is suffering from a non-service connected sickness or disability for which the employee's physician prescribes extended treatment or rest.
3. A written request for a medical leave of absence shall be submitted to the Chief of Police. The request shall contain the diagnosis, treatment prescribed and length of absence required. It must be accompanied by a signed endorsement from a physician describing a complete medical diagnosis.
4. In no case may a medical leave of absence extend beyond six months except with the permission of the Chief of Police. Before an employee on medical leave is returned to duty the Department Physician shall make a written recommendation to the Chief of Police. Upon return to active duty a member shall be

restored to his rank and shall retain all seniority rights including longevity privileges.

C. Maternity Leave of Absence

- 1. To be eligible for a maternity leave of absence, an employee must have a minimum of five (5) years of continuous service with the City as a sworn member of the Detroit Police Department from the date of appointment to the effective date of the leave of absence. No employee shall be required to exhaust banked sick time or other accrued benefits as a condition of taking a maternity leave of absence.**
- 2. Maternity leave without pay shall commence when it is deemed by competent medical authority that an employee is no longer able to perform all the duties involved in taking proper police action; when an employee thinks she can no longer safely work; or when her medical condition or any other valid reason leads the Department to believe a mandatory leave of absence is necessary.**
- 3. Upon confirmation of pregnancy, the commanding officer of the employee's section or unit must be notified without unnecessary delay. The employee shall furnish to her commanding officer and the Medical Unit written medical evidence from her doctor verifying her condition, stating an expected delivery date, and evaluating her physical ability to perform regular police duties.**
- 4. Prior to commencement of the leave, the employee shall prepare an inter-office memorandum, D.P.D. 568, addressed to the Chief of Police requesting a leave of absence for maternity reasons. This memorandum shall be prepared in quadruplicate and shall state the request for leave with date of com-**

mencement and the expected date of return to duty. It shall be presented to the employee's commanding officer along with the appropriate medical letter from her doctor.

5. Within sixty (60) days after delivery, an employee shall report to the Medical Unit for a determination of her ability to return to full duty. At this time the employee shall present a medical letter from her doctor indicating the appropriate date of her return to work. Notwithstanding the above, in no case may an employee's maternity leave of absence extend (6) months beyond the date of delivery except with permission of the Chief of Police. Before an employee on maternity leave is returned to duty the Department Physician shall make a written recommendation to the Chief of Police. Upon return to active duty a member shall be restored to her rank and shall retain all seniority rights including longevity privileges.

D. Termination of Leaves of Absence

At least thirty (30) days prior to the expiration date of a leave of absence the employee shall submit to the Chief of Police written notice of intent to return to duty. For failure to submit the above notice or failure to report at the expiration of the leave the employee will be considered to be absent without leave.

E. Conduct on Leave

Employees on leaves of absence shall maintain the same standards of conduct that are required of sworn Police Officers. Acts of misconduct of a serious or grave nature that are committed by an employee while on a leave of absence may subject the employee to disciplinary action in accordance with this agreement up to and including discharge from the department.

21. ABSENT WITH LEAVE AND ABSENT WITHOUT LEAVE

A. *Absent With Leave*: Absent with leave is considered a full duty status with all related benefits. The member is on authorized absence to attend certain types of conventions, special training, seminars, or is on contractually granted absences authorized for certain union officials.

B. *Absent Without Leave*: Personnel who fail to report for duty without prior authorization shall be considered absent without leave. Any such absence for five consecutive days shall be deemed a resignation.

22. JOB ASSIGNMENTS

Job assignments within each work location are solely within the purview of management.

23. TRANSFERS

It is agreed that transfers between work locations should be made in such a way as to maximize the efficiency and effectiveness of the department and the individual career development of each officer. In making each transfer decision, the following factors shall be used: the nature of the transfer and the skills it calls for, the availability of pre-qualified persons, the stated assignment preferences, and seniority of members of the bargaining unit.

1. The filing of transfer requests between work locations will follow present practice. (G.O. 71-6)
2. Any employee who is transferred without having requested a transfer shall be informed of the reason upon request.
3. With the exception of releasing information pertaining to a current criminal investigation, if an employee is

denied a promotion or a transfer request (DPD form #402), the reasons for such denial will be made known to him upon his request prior to the final transfer announcement on the Departmental Personnel Order.

24. LEAVE DAYS/WORK WEEK

A. A prescheduled temporary absence from duty for 24 hours duration shall be defined as a leave day unless otherwise designated by the Department.

B. Insofar as possible, the work week of each employee shall consist of 5 days of eight (8) hours work per day. Leave days granted to employees who work Monday through Friday shall be computed on the number of Saturdays and Sundays in the month. A uniform number of leave days for each month shall be granted employees who work on a basis of seven days a week; nine leave days shall be granted for each month, except February, April, September and November, for which eight leave days will be granted.

C. After having been posted, leave days shall be changed only by mutual consent of the employee and the Department except when leave days are cancelled because of an emergency.

D. When an emergency makes it necessary for an employee to work all or part of a leave day, he shall be compensated in cash or compensatory time at the prevailing overtime rate.

E. Rules and regulations concerning leave days shall otherwise be in accord with DPD G.O. 73-37, as amended prior to the execution of this Agreement.

25. OVERTIME

A. Prior to any fiscal year all members will be required to sign a list indicating their preference to be paid in cash or compensatory time for overtime worked. Once a member elects or does not elect to take time instead of cash payment, he is restricted to that choice for the entire fiscal year. All overtime will be credited at the rate of time and one-half. For the first seventy-five (75) hours of overtime work in a fiscal year, for which there is one-hundred twelve and one-half (112 1/2) hours of credit, the employee shall have an option of receiving compensatory time instead of payment in cash. All overtime beyond the first one-hundred twelve and one-half (112 1/2) converted time hours must be paid in cash. However, in any fiscal year, not more than one-hundred twelve and one-half (112 1/2) converted time hours may be earned as compensatory time as a result of overtime worked.

B. Daily overtime shall be computed on an eight (8) hour daily basis, excluding time spent at the normal lineup or roll call. For purposes of applying these overtime rules, normal lineup or roll call shall be deemed to consist of fifteen (15) minutes at the beginning of a day's assignment and fifteen (15) minutes at the end of the assignment. While the first fifteen minutes after the hour is considered working time used for off-duty roll call, overtime credit shall be granted from the hour when a member is required to work beyond the normal quarter hour. Weekly overtime will be computed on a monthly basis. The number of days in the month less the number of normal leave days in the month for the employee shall constitute the working month. The number of days in the working month shall be multiplied by eight (8) and any hours worked during the month beyond this resultant figure, excluding daily overtime, shall be considered as overtime. Time off due to furlough, liquidation of compensatory time, sick leave and other paid absences shall

be considered as time worked when applying overtime rules. When an emergency makes it necessary for a member to work all or part of a furlough or leave day, excluding court appearances, such time shall be considered as overtime. Any furlough or leave days for which overtime credit is given shall be cancelled.

C. Overtime shall be computed as follows:

- Step 1:** The employees annual salary shall be divided by 2080.
- Step 2:** The resultant quotient from Step 1 shall be multiplied by 1.5.
- Step 3:** The employee's annual longevity amount, if any, shall be divided by 2080.
- Step 4:** The resulting quotient from Step 3 shall be multiplied by 1.5.
- Step 5:** The resulting products from Step 2 and Step 4 shall be added together.
- Step 6:** The number of overtime hours worked, rounded to the nearest tenth of an hour, shall be multiplied by the sum resulting from Step 5 and the resulting product shall be the compensation due for the overtime worked.

In those cases where an employee works overtime and is entitled to receive shift premium, the shift premium for overtime hours worked, rounded to the nearest tenth of an hour, shall be multiplied by 1.5.

The following table shall be used to convert minutes worked to tenths of an hour for computing overtime and overtime shift premium.

Minutes	Tenths of Hours
1-6	.1
7-12	.2
13-18	.3
19-24	.4
25-30	.5
31-36	.6
37-42	.7
43-48	.8
49-54	.9
55-60	1.0

D. Overtime assignments shall be offered on a rotating basis commencing with the lieutenant or sergeant with the greatest departmental seniority, in rank by unit, by shift. Members who refuse overtime assignments shall be charged on the list as having refused and considered the same as having worked. In the event a sufficient number do not accept the overtime assignment work, the remaining assignments shall be made by using reverse seniority. Lists showing all overtime assignments shall be posted in each precinct and bureau. Lists shall be kept up-to-date and shall cover the period of July 1 through June 30.

E. Holiday assignments shall be offered on a rotating basis commencing with a lieutenant or sergeant with the greatest departmental seniority, in rank by unit, by shift. Members who refuse holiday assignments shall be charged on the list as having refused and considered the same as having worked. In the event a sufficient number do not accept the required holiday work, the remaining assignments shall be made by using reverse seniority unless deemed inappropriate for efficient operations. Lists showing all holiday assignments shall be posted in each precinct and bureau. Lists shall be kept up-to-date and shall cover the

period of July 1 through June 30. Each July a new list shall be posted beginning with the Employee who is next on the previous list.

26. COURT TIME

A. A minimum of three (3) hours credit at time and one-half shall be credited for each off-duty court appearance, except as specified herein. When an officer who is on duty is directed to appear in court and that court appearance extends beyond his normal off duty time it shall be recorded as overtime and not as off duty court time. Off-duty court appearances for a period of less than forty-five (45) minutes which abut a prescheduled shift may be treated as either overtime or court time at the option of the Department. Employee's regularly scheduled working hours shall not be changed to circumvent this provision for payment for off-duty court appearances.

B. In each fiscal year, the first forty (40) hours of straight time earned as off duty court time (60 hours at time and one-half) shall be compensatory time. All off duty court time earned in excess of the sixty (60) converted hours shall be paid in cash.

C. Normally, employees shall not be required to attend court on their leave days or during their furlough period. In the event that court attendance may be required while he is on leave or furlough, an employee may be carried on duty or off duty, at his option, while on Platoon No. 2.

D. Employees not assigned or working downtown shall be reimbursed for their parking fees if the following procedure is followed. When the police lot is filled, the employee shall show the lot attendant his court appearance slip and receive a parking Fee Reimbursement Authorization form. The employee shall be reimbursed monthly by the Accounting Office via Department mail.

27. METHOD OF COMPENSATION

- A. Regular wages shall be paid on a bi-weekly basis.
- B. Longevity pay shall be paid on the 1st pay in December.
- C. Overtime and Premium pays shall normally be paid in the pay period following the pay period in which they are earned.

28. OUT-OF-CLASS PAY

The City will pay "out-of-class pay" after a member is officially assigned to perform the duties of a higher rank for a period of thirty (30) consecutive days in a budgeted position available in the current Police Distribution of Personnel Budget Allowance. Such out-of-class pay shall be retroactive to the first day of such assignment. For the purpose of this article, the meaning of "officially assigned" shall mean that assignment which is made by the Chief of Police.

Before an out-of-class assignment is made, the Commander or Deputy Chief shall submit a request on D.P.D. #31, Inter-Office Memorandum to the Chief of Police, explaining the reasons for the assignment, the effective date, the duration, and the date on which the officer will qualify for the out-of-class pay (if approved, such pay shall be retroactive to the first day). If the request is denied, the officer involved will be advised of this status, and a new assignment will be granted upon the member's request.

29. SHIFT DIFFERENTIAL

Shift premium shall be paid to all members whose regular tour of duty begins within the hours prescribed as follows, and in the amounts as set forth herein: if the tour of duty begins between 11:00 a.m. and 6:59 p.m., the rate of shift

premium pay is 25c per hour. If the tour of duty begins between 7:00 p.m. and 3:59 a.m., the rate of shift premium is 30c per hour.

The shift premium is paid to a member in addition to his base rate of pay, for the regular tour of duty starting within the hours designated above, and any overtime hours worked in conjunction with an afternoon or midnight shift.

30. LONGEVITY PAY

A. Employees covered by this agreement shall receive, on the first pay date after December 1st, a longevity payment as follows:

1. Employees may qualify for the first step of longevity pay, provided they have served as City employees for an accumulated period of eleven (11) years.
2. Employees may qualify for the second step of longevity pay, inclusive of the first step provided they have served as City employees for an accumulated period of sixteen (16) years.
3. Employees may qualify for the third step of longevity pay, inclusive of the first and second steps, provided they have served as City employees for an accumulated period of twenty-one (21) years.
4. The first step of longevity increment shall be one-hundred fifty dollars (\$150). The second step of longevity increment inclusive of the first step shall be three-hundred dollars (\$300). The third step of longevity increment, inclusive of the first and second step, shall be three-hundred dollars (\$300) plus one percent (1%) of the employee's base salary.

B. Employees who have qualified for longevity pay and have accumulated at least 216 days of paid time exclusive of

overtime or premium time during the year immediately preceding any December 1st date or other day of payment will qualify for a full longevity payment provided they are on the payroll on the December 1st date or any other date of qualification. Except for employees first qualifying for increments, the payment will be made in a lump sum annually on the first pay date after December 1st.

C. No employee will be denied a full longevity payment on December 1st because of the temporary unpaid absence of thirty (30) continuous days or less extending through the December 1st date in question.

D. Employees who first qualify for longevity pay increments in any month after any December 1st date shall be paid such increment on a pro-rata basis upon attaining such qualification in the amount of a full increment less one-twelfth (1/12) thereof for each calendar month or fraction thereof from the previous December 1st date to date of such qualifications.

E. Prorated longevity payments may be made between December 1st dates to qualified employees and officers who separate or take leave from City service, excluding those who are discharged, those who resign and those who resign with a vested pension. Such prorated longevity increment shall be paid for time served on a full calendar month basis since the date of their last longevity payment, provided that each month shall contain at least eighteen (18) days of service.

F. All of the above provisions, except paragraph A-4, shall be in accordance with Chapter 16, Article 11 of the Municipal Code of the City of Detroit, which is incorporated herein by reference.

31 ROLL-CALL PREPARATION TIME

The City agrees to discontinue requiring Sergeants and Lieutenants to report for work 15 minutes prior to roll call unless they are being paid for roll call preparation time.

Rollcall preparation time shall be paid as 15 minutes of overtime for those so assigned.

The number so assigned will be determined as needed by the commanding officer but shall not exceed three for each formal stand-up, on-duty roll call. Normally the number so assigned in the precincts shall be three (3).

The assignment of roll call preparation time shall be rotated among supervisors insofar as is practicable.

32. DISABLED TIME

A. Disabled time is time not worked when a member has sustained an injury or illness in the performance of duty.

B. During periods of disability, members remain fully accredited in that they continue to draw their regular salaries, accumulate sick leave and furlough time and all other benefits, and are subject to the rules and regulations of the department insofar as their condition permits.

C. The member shall not be returned to duty if he or she is unable to properly perform his assigned duties.

33. PRECINCT PATROL SUPERVISORS

A. Patrol Sergeants on any assigned shift may select an on-duty police officer driver of their choice.

B. Sergeants will not be dispatched as a primary response unit unless accompanied by a sworn officer.

34. PURCHASE OF SERVICE REVOLVER

A. All employees shall be allowed to purchase their Department-issued service revolver upon retirement for twenty-five dollars (\$25.00).

B. The Department may refuse to allow the employees to purchase their revolvers for good cause shown.

35. SICK LEAVE

A. *Sick Banks*: There are two sick banks, current sick bank and seniority sick bank.

a. Current sick bank is designated as that sick time accumulated at the rate of one day for every calendar month in which a member has been credited for not less than eighteen (18) paid time days, excluding overtime. The accumulation of the current sick bank is limited to 125 days.

b. Every member who has a current service status for a full fiscal year shall be credited with five (5) days in his seniority bank on July 1 of each year. The accumulation is limited to 125 days also in this bank.

B. *Sick Time Credit*: The term "sick time" shall be defined as absence due to illness or injury of the member, to exposure to a contagious disease, and to the attendance upon immediate members of the family of the member of the Department living within his household, including husband, wife, children, father, mother, sister, brother, and relatives living in the same household regardless of degree of relationship. The granting of sick time for attendance upon these relatives is not limited to any given number of days per fiscal year; however, no more than three (3) days will be granted in one instance. This sick time is granted to permit the member to make arrangements for care of the ill person so that he may return to duty.

C. Deductions from the Sick Bank: Sick banks, both current and seniority, are designed to provide for non-duty connected illness or disability. No deduction from either current or the seniority sick banks shall be made for any sick time resulting from a service connected illness or disability which is certified by a department physician.

Sick time shall be charged first to the current sick bank and secondly, to the seniority sick bank in periods of not less than half-days.

When a member starts his shift but is unable to finish the shift because of sickness, sick time will be deducted in the following manner. If less than four (4) hours has been worked the member will be charged half a sick day and credited with half a workday. If four or more hours have been worked the member will be credited with a full workday.

During a period of illness, only that time which would be actual working time will be deducted from the sick bank. Illness or injury during furlough time may be changed to sick time in lieu of the member's furlough, provided such illness or injury during the furlough shall be reported forthwith to the member's commanding officer and to the Medical Unit. Such illness or injury will be verified by the Medical Unit. The unused portion of the member's furlough will be rescheduled and used immediately following recovery from the illness or injury which made the change necessary.

D. No Confinement: An employee unable to perform police duties because of injury or while recuperating from an illness may absent himself from his home while sick.

E. Reporting Illness or Disability: When any member becomes sick, the officer in charge must be notified without delay and informed where the member is confined. If a member is hospitalized, the officer in charge shall be

notified and will cause the Medical Unit to be notified, during the next regular office hours, of the nature of the illness and the hospital to which the member was admitted. Members unable to report for duty because of sickness shall have their duty station notified not less than one (1) hour before roll call. Under normal circumstances, Department physicians will not make visits to an individual member's home. When attending a sick officer, a Department physician shall issue him a notice stating the nature of the illness and whether or not the officer shall remain off duty. The notice must be turned in to the commanding officer when the member returns to duty.

F. *Limited Duty:* Officers placed on limited duty by a department physician shall report immediately with their limited-duty authorization slip to the Personnel Administration Division which will determine an appropriate limited duty assignment and notify the member's commanding officer.

Officers on limited duty shall report for physical examinations when directed by a Department physician or the Personnel Administration Division. When officers are taken off limited duty, they shall report immediately with their authorization slip to the Personnel Administration Division which will notify the member's commanding officer. Limited duty assignments are made by the Chief of Police under the authority granted by Title IV, Chapter 21, Section 14, paragraph (g) of the City Charter and are subject to the limitations thereof.

An officer on limited duty normally shall not wear a uniform except under emergency conditions when ordered by his commanding officer. In such cases, however, the officer shall not leave the building or travel to and from work in uniform.

G. *Determination of Sick or Disability Status:* It is the responsibility of a Department physician to determine whether the illness or injury of a member is duty incurred. When a member sustains an original injury in the performance of duty during his regular duty hours, and is unable to complete his tour of duty, he shall be carried disabled. At all other times, he shall be carried sick until a final determination is made by a Department physician. Under no circumstances shall the status of a member being carried sick or disabled be changed in the time book or other Department records without the written authorization of a Department physician. The Department physician shall authorize such change by preparing an inter-office memorandum. Members are automatically assigned to Platoon 2 while disabled.

H. *Report for Duty When Ordered:* Any member reported fit for duty by a Department physician who does not report at the roll call indicated by the physician shall be considered absent without leave.

I. *Documentation of Illness:* No officer shall be required to substantiate his illness with medical verification until the Department has complied with paragraph 24 of General Order 77-37, using forms 350, 350A, 350B, 350C, 350D, all as revised 12/27/76.

J. *Return to Duty:* To assure proper health safeguards for Department personnel, members who are ordered off duty by a Department physician due to illness or injury, whether service connected or not, shall not be returned to active or limited duty assignments without being certified for such assignment by a member of the Department's medical staff.

K. *Illness or Injury Services:* In non and/or post emergency cases, police personnel who have incurred a ser-

vice connected illness or injury must obtain approval from a Department physician before securing any type of medical attention or treatment for the illness or injury, including x-rays and dental care. The Department will not be liable for costs so incurred unless prior approval is obtained.

L. Depletion of Sick Banks: If a member is unable to perform police duties when all his sick banks are exhausted, he shall be dropped from the payroll unless he is eligible for non-duty connected retirement benefits. A member exhausting his sick banks who has completed five (5) or more years of service and who is otherwise eligible for non-duty connected disability retirement, may be retired at his own request or at the request of the Chief of Police subject to the approval of the retirement board.

A member may apply for reinstatement within two (2) years of being removed from the payroll if he recovers sufficiently from his illness or injury to return to duty. He may be reinstated in the same status as when he left upon proper certification by the department physician and appointed by the Chief of Police.

M. Bonus Vacation Days: Bonus vacation days are granted for unused current sick time. Officers who have accumulated a minimum of fifty (50) sick days including both current and seniority days and have a minimum of ten (10) years of service on July 1st of each year will be credited with one-half of the unused current sick time from the previous fiscal year up to six (6) days. An officer may request to take his bonus vacation days in any sequence by submitting a request in writing to his commanding officer. This request will be reviewed for the availability of personnel by his commanding officer. The Department must insure that bonus vacation days are expended proportionately throughout the year and are not carried until the last month of the fiscal year; therefore, on May 1st, the commanding officer

shall assign the remaining bonus vacation days at his discretion. Bonus vacation days which are not used prior to the end of the fiscal year will be lost. Seniority will be a prime consideration when several officers request the same period of time off.

36. FUNERAL LEAVE

A. If a death occurs among the employee's immediate family such member will be granted three (3) days funeral leave, not to be deducted from his sick bank provided that such leave may be extended to five (5) days within the discretion of the unit commanding officer based on individual circumstances.

B. The immediate family is defined as wife, husband, son, daughter, brother, sister, father, mother, step-father, step-mother, or other relatives that are members of the employee's household.

C. If a death occurs among the relatives of the employee, such employee will be granted one (1) day funeral leave not to be deducted from his sick bank.

D. Relatives are defined as grandson, granddaughter, grandmother, grandfather, brother-in-law, sister-in-law, uncle, aunt, mother-in-law, or father-in-law.

37. HOLIDAYS AND EXCUSED TIME

A. *Schedule of Holidays*: Each member shall be entitled to a holiday on one election day in each year or an eighth holiday if an election is not scheduled. (Notification will be made by special order.)

Employees shall also be entitled to the following holidays:

Independence Day	July 4th
Labor Day	First Monday in September

Veterans' Day
Thanksgiving Day

November 11th
Fourth Thursday in
November
December 25th
January 1st
Last Monday in May

Christmas Day
New Year's Day
Memorial Day

A ninth holiday shall be granted to employees who have been employed ninety (90) days or more and who are entitled to regular holidays under existing ordinances. This holiday shall be taken at any time during the fiscal year which is mutually acceptable to the employee and the Department. To insure that the ninth holidays are expended proportionately throughout the year and not carried until the last month of the fiscal year, on May 1st the commanding officer shall assign the remaining ninth holidays at his discretion. Ninth holidays which are not used prior to the end of the fiscal year will be lost.

B. *Holiday Premium:* The holiday premium rate shall be time and one-half for all employees who work on a premium holiday in addition to the regular day's pay.

C. All other holiday benefits shall remain unchanged.

D. *Excused Time Days:* Employees shall be granted four (4) hours of "Excused Time" on Good Friday or the last four (4) hours on the last scheduled day prior to Good Friday, and eight (8) hours of "Excused Time" on the last scheduled paid day before Christmas Day and before New Year's Day provided they are on the payroll through the holiday in question. Employees required to work any portion of the "Excused Time" on these days will receive equal time off for hours worked or straight time cash at the option of the Chief of Police. No holiday premium will be paid for work on these days.

38. VACATION SELECTION AND CANCELLATION PROCEDURE

A. Employees shall make their furlough selection in accordance with the established schedule of furlough periods:

1. Furlough selections shall be based on seniority consistent with the efficient operation of the precinct or bureau.
2. The criteria for selection of furloughs shall first be rank, then time in rank, and in cases where these factors are equal, by department seniority.
3. Administrative Lieutenants and Sergeants, including C.I.S., Patrol Supervisors, and Special Operation Supervisors, shall draw separately.

B. Leave days added to a furlough shall not be cancelled unless the accompanying furlough is cancelled.

C. A member who is promoted or transferred conserves the furlough choice he has made.

D. Vacation benefits and vacation selection procedure shall continue unchanged.

39. EMERGENCY OR EXCUSED DAYS

A. Personal, emergency, or excused days shall be granted to an employee for an absence justified by urgent reasons such as attendance to demanding personal business which cannot be normally taken care of outside of working hours.

B. Not more than five (5) such personal, emergency, or excused days shall be granted in any one fiscal year to an employee under any circumstances. All personal, emergency, or excused days that are granted shall be de-

ducted from the employee's accumulated sick bank and will, consequently, affect the accumulation of bonus vacation days.

40. MEAL PERIOD

A. Each employee is entitled to one-half (1/2) hour unpaid meal period per tour of duty.

B. Employees assigned to inside duty shall be permitted, during their meal period, to leave their work locations.

41. UNIFORMS

The members of the bargaining unit shall continue to be provided with uniforms and accessories in accordance with present practice.

42. EDUCATIONAL REIMBURSEMENTS

The City will reimburse members for the cost of school tuition, subject to the limitations set forth in the Civil Service Tuition Refund Plan, as adopted by the Detroit Civil Service Commission on June 14, 1966, and revised on January 7, 1975, and the Tuition Refund Plan as approved by Detroit Common Council, June 17, 1969.

Members eligible for a tuition refund shall submit their applications pursuant to General Order 76-46.

43. PRINTED AGREEMENT

The City agrees to furnish the Association 2000 copies of this agreement printed in book form, the format and galley proofs to be approved by the Association prior to printing. The Association shall bear no expense for such printing.

**44. HOSPITALIZATION, MEDICAL INSURANCE
AND OPTICAL CARE**

A. The City shall provide hospitalization and medical insurance based on the Blue Cross/Blue Shield ward service under the Michigan Variable Fee coverage (MVF-2) and the Prescription Drug Group Benefit Certificate with two dollar (\$2.00) co-pay (Certificate #87), known as the two dollar (\$2.00), deductible Drug Rider for employees and their legal dependents, duty disability retirees and their legal dependents, and duty death beneficiaries and their legal dependents, as provided by Chapter 16, Article 9 of the Municipal Code of the City of Detroit.

Employees shall have the option of choosing alternative hospitalization medical coverage made available by the City. For those employees selecting the optional Metropolitan Health Plan of Blue Cross/Blue Shield the coverage shall be the MHP "AA" program. For those employees selecting the optional Bankers Life and Casualty Company plan the coverage shall be Group Policy Number 340-1. In both options the City's contribution shall be limited to the premium cost for Blue Cross/Blue Shield health insurance, ward service rates.

B. The City will provide Optical Care Insurance through the Employee Benefit Board and such benefit will include case hardened lenses. The City will continue to provide optical care through the present carrier, through the Employee Benefit Board.

C. For employees who retire on or after July 1, 1977, the City will pay the premium for regular retirees and their spouses effective September 1, 1977.

D. If, during the term of this Agreement, a Federal Health Security Act is enacted, the City of Detroit will pay during the term of the Agreement any premium, taxes or

contributions employees may be required to pay under a Federal Health Security Act that are specifically earmarked or designated for the purpose of the Federal Program.

E. The City agrees to institute a Health Maintenance Organization Insurance plan prior to June 30, 1980. The employees shall have the further option of choosing this alternative. The City's contribution to this plan shall be limited to the premium cost for Blue Cross/Blue Shield health insurance, ward service rates.

45. DEATH BENEFITS AND LIFE INSURANCE

A. Death Benefits:

Death benefits for all regular City employees are authorized by the City Charter, Title IX, Chapter VIII. The City Code, Chapter 16, Article 9, Section 16-9-2 currently provides a death benefit of \$4,900.00.

1. Membership

Mandatory for regular employees

2. Contributions

By the City — \$20.70 per year per employee

By the employee — 25c per week or \$13.00 per year

B. Payment for employees killed or permanently disabled in the line of duty:

1. A lump sum Duty Death Benefit of \$10,000 shall be paid to the beneficiaries or estate of employees who are killed or who die as a result of injuries sustained in the actual performance of their duties in accordance with the City Council resolution of August 23, 1977 page 1683, March 2, 1954, page 509 and March 26, 1974, page 627.

2. A lump sum payment of \$10,000 shall be made to any employee who is totally and permanently disabled from illness or injury arising solely out of the actual performance of his duties. "Totally and permanently disabled" shall be defined exclusively as follows:
 - a. Total and permanent loss of sight of both eyes.
 - b. Loss of both legs or both feet at/or above the ankle.
 - c. Loss of both arms or both hands at/or above the wrist.
 - d. Loss of any two of the members facilities enumerated in (a), (b), or (c).
 - e. Permanent and complete paralysis of both legs or both arms or one leg and one arm.
 - f. Incurable insanity or imbecility. Claims for this payment shall be made in accordance with the City Council resolution of March 26, 1974, page 627.

Employees who receive a permanent disability under this article shall be ineligible for the \$10,000 Duty Death Benefit described in Section #1, above.

Denial of the \$10,000 Duty Death Benefit may be appealed directly to arbitration in accordance with Article 9 of this Agreement..

C. Group Life Insurance

A group life insurance program for the employee and his family is available for all members of the Employees Benefit Plan on an optional basis, under the provisions of the City Code, Chapter 16, Article 12.

1. Membership:

Optional for members of the Employees Benefit Plan.

2. Contributions:

Rate varies, based on the group experience. The City's contribution and the employee's contribution shall be determined by the Employee Benefit Board.

3. Benefits — Employees:

<u>Yearly Pay</u>	<u>Amount of Insurance</u>
Under \$5,000	\$ 3,750
\$5,000 to \$7,500	\$ 6,250
\$7,500 to \$10,000	\$ 9,375
Over \$10,000	\$12,500

Additional Life Insurance may be purchased through this plan at the employee's expense.

4. Benefits — Dependents

<u>Cost to Employee</u>	<u>Amount of Insurance</u>
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a. For employees hired prior to December 21, 1973:

25c per week	\$1,500 each dependent
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OR

70c per week	\$5,000 each dependent
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b. For employees hired on or after December 21, 1973:

70c per week	\$5,000 each dependent
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46. RECALL PAY

Employees are entitled to recall pay at a time and one-half (1-1/2) rate if recalled to duty after reporting off duty and before their next tour of duty. A minimum of two hours will be granted to a recalled member. Travel time, not to exceed

one-half hour each way, shall be granted for travel to and from the duty station when the total time worked exceeds one hour.

The recall rate shall not be paid when a member works continuously beyond his normal tour without first being relieved. The recall rate shall terminate as of the hour that his next regular tour was scheduled to begin and he will not receive any travel time back to his residence.

Recall pay shall not be granted when:

- a. A mobilization has been ordered;
- b. Leave, furlough, bonus vacation days or compensatory time days have been cancelled;
- c. A member has been directed to appear in court;
- d. A member is given notice of a change in shift starting time prior to his going off duty.

47. PERFORMANCE EVALUATION RATINGS

A. *Rating Periods*

Performance evaluation ratings will be completed twice a year for all members. The rating period shall be from May 1st through October 31st, and November 1st through April 30th.

The May through October ratings shall be completed during the month of November and forwarded by December 10th, to be reviewed per the distribution outline. Final distributions will be completed by December 20th.

The November through April ratings shall be completed during the month of May and forwarded by June 10th, to be reviewed per the distribution outline. Final distributions will be completed by June 20th.

B. Each Sergeant and Lieutenant shall be rated by his or her immediate supervisors.

C. Upon completion of the rating, each member will be personally informed of their respective evaluations by the immediate supervisor who prepared the evaluation. The member being rated will sign the original and second copy in the space indicated. The third copy is then given to the member for his use. The original shall be placed in the member's personnel file.

D. Any member who wishes to appeal his performance evaluation must make a written request to his commanding officer within thirty days of receiving his copy of the evaluation and must identify each trait he is appealing and cite a brief basis for appealing that rating. The Personnel Bureau will convene the Performance Evaluation Board to hear the matter as expeditiously as circumstances permit. Upon request the member may have union representation at the hearing.

48. OPTION ANNUITY WITHDRAWAL

A member shall have the right to elect to receive on the effective date of his service retirement a partial or total refund of his accumulated contributions. If a member makes such an election, an annuity payable under any retirement allowance or reduced retirement allowance shall be reduced proportionally. If the total accumulated contributions are withdrawn, no annuity shall be payable.

The limitation of fifteen twenty-seconds of the maximum earnable compensation of a patrolman and fireman continues in effect. For purposes of determining the fifteen twenty-seconds limitation, a computation based on the annuity which is an actuarial equivalent of the accumulated

contributions standing to a member's credit in the annuity savings fund prior to any partial or total refund will be used.

This provision affords the members of this collective bargaining unit a similar option available to members of the general retirement system pursuant to 1973 amendment K. The parties agree that no other benefits or amounts payable pursuant to the policemen and firemen system are affected by this contractual provision.

On or after July 1, 1974, members or former members who are entitled to begin to receive the "40 & 8" benefit will be entitled to the annuity refund withdrawal option.

On or after July 1, 1974, non-duty disability retirees who retired pursuant to Title IX, Chapter VII, Article IV, Section 1, a, b or c prior to having twenty-five years of service credit, shall be entitled to the annuity refund withdrawal option on the date he would have had twenty-five years of service credit had he continued as an active member. Said option shall only apply to the balance of accumulated contributions, if any, remaining in such retirant's credit in accordance with the existing annuity refund provisions.

Survivor benefit beneficiaries as defined in Title IX, Chapter VII, Article VI, Part E, Section 2, parts (a) (b) and (c) of the 1918 City Charter in effect as of June 30, 1974, and continued in effect by Section 11-102 of the July 1, 1974 City Charter shall be entitled to the annuity withdrawal refund option subject to the same rules that would have been applicable to the deceased member or members had he not died. Said option shall only apply to the balance of accumulated contributions, if any, remaining in applicable former member's credit.

In any case of doubt, the Board of Trustees shall decide whether a member or beneficiary is entitled to an annuity refund withdrawal option.

49. RETIREMENT PLANNING

The City shall prepare and publish a booklet which describes the benefits of the retirement system including explanations of the various options available to the members upon retirement.

This booklet shall be published within 6 months of the effective date of this Agreement or such other time as may be mutually agreed upon.

50. PENSIONS — ADOPTION BY REFERENCE

A. Chapter VII of Title IX of the previous Charter of the City of Detroit, as adopted by Article 11 Section 11-102 of the present Charter of the City of Detroit as previously amended to July 1, 1977, is incorporated herein by reference and made a part hereof to the same extent as if it were specifically set forth herein, except for changes in specific provisions or portions of provisions which are set forth in other sections of this agreement.

B. Further, the parties hereby agree that said pension plan or any of its provisions may not be changed except in those areas which are administrative in their function and do not change the substantive benefits of the employees.

51. ADOPTION BY REFERENCE OF RELEVANT CHARTER PROVISIONS, ORDINANCES AND RESOLUTIONS

The parties further agree that subject to this agreement, all provisions of the City Charter, the Ordinances and Resolutions of the City Council as previously amended from

time to time, relating to the working conditions and compensation of employees covered by this Agreement upon the execution of this Agreement are incorporated herein by reference and made a part thereof to the same extent as if they were specifically set forth.

52. MAINTENANCE OF CONDITIONS

A. Wages, hours and conditions of employment legally in effect at the execution of this agreement shall, except as improved herein, be maintained during the term of this agreement. No employee shall suffer a reduction in such benefits as a consequence of the execution of this agreement.

B. Relations to Regulations, etc. This Agreement shall supersede any rules, regulations, ordinances, or resolutions inconsistent herewith.

53. SAVINGS CLAUSE

A. If any article or section of this Agreement or any supplement thereto, should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this Agreement and supplements shall not be affected thereby, and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such article or section.

B. The execution of this collective bargaining agreement shall be without prejudice to any pending grievances, arbitration or other litigation except where the subject matter in dispute may be resolved herein.

C. It is understood that the matters of wages, cost of living allowance, rank differential, retirement and death sick

leave payment, residency and promotional system are not included in this Agreement but will be when they are resolved.

54. EXTENT OF AGREEMENT

The parties acknowledge that, during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matters not removed by law from the area of collective bargaining and that the understandings and Agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

Therefore, the City and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right and agrees that the other shall not be obliged to bargain collectively with respect to any subject or matter referred to or covered in this Agreement or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subject matter may not have been within the knowledge or contemplation of either or both parties at the time that they negotiated or signed this Agreement, unless otherwise provided for herein.

55. EFFECTIVE DATES/DURATION

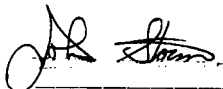
It is agreed between the parties that this contract shall continue in full force and effect until 11:59 p.m. June 30, 1980. If either party desires to modify this contract it shall give written notice within 6 months of the expiration date of this Agreement and negotiations for a new contract shall commence thirty (30) days after that date.

In the event that the City and the Union fail to arrive at an agreement on wages, fringe benefits, other monetary matters, and non-economic items by June 30, 1980, this

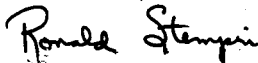
Agreement will remain in effect on a day-to-day basis. Either party may terminate the Agreement by giving the other party a ten (10) day written notice on or after June 20, 1980.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 20th day of August, 1979.

CONFIDENTIAL INFORMATION
sam.alberts@dentons.com
DETROIT POLICE LIEUTENANTS'
AND SERGEANTS' ASSOCIATION:



John Storm, President



Ronald Stempin,
Vice-President

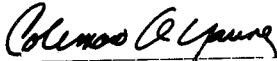


Robert Phipps,
Secretary-Treasurer

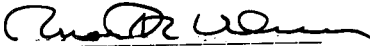


Michael Somero,
Sergeant-at-Arms

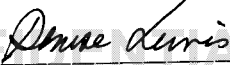
CITY OF DETROIT:



Coleman A. Young, Mayor



Mark R. Ulicny, Director
Labor Relations Division



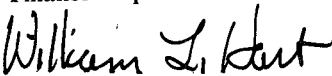
Denise J. Lewis, Director
Personnel Department



George G. Matish,
Corporation Counsel
Law Department



Paul Thompson, Director
Finance Department



William L. Hart
Chief of Police

APPROVED AND CONFIRMED BY
THE CITY COUNCIL AUG. 29, 1979

/s/ MICHAEL W. KERWIN
Deputy City Clerk
September 10, 1979

CONFIDENTIAL INFORMATION
sam.alberts@dentons.com
Detroit/26:02:2014 23:51