



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 4344
August 4, 2008
Consent Calendar**

**COLLECTIVE BARGAINING AGREEMENT WITH
THE MERCER ISLAND POLICE ASSOCIATION**

Proposed Council Action:

Approve the collective bargaining agreement.

DEPARTMENT OF

Community and Organization Relations (Kryss Segle)

COUNCIL LIAISON

n/a

EXHIBITS

1. Proposed 2008-2010 Collective Bargaining Agreement with the Mercer Island Police Association.

APPROVED BY CITY MANAGER

Rich Bourard 7-31-08

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

For the past several months a City negotiating team comprised of Police Chief Ed Holmes, CORe Director Kryss Segle, Police Commander Dave Jokinen, Interim City Attorney Katie Knight and Human Resources Specialist Laura Tawney have been meeting with members of the Mercer Island Police Association and their attorneys to discuss a successor labor agreement. The current Police labor agreement expired on December 31, 2007.

The City Council has adopted a Long Term Compensation Budget Policy that provides in pertinent part as follows:

“We expect to remain competitive at approximately the mid-point of the market.”

The City bargaining management team used this Council direction to negotiate a contract that brings wages to the mid-point of the market based upon comparable cities' compensation for Police Guild employees.

RCW 42.30.140 identifies specific situations where City Council meetings are exempt from the Open Public Meetings Act. Collective bargaining sessions with unions and discussions among the City Council regarding the terms and conditions of any such collective bargaining agreements, are listed within this exemption. The purpose of this exemption is to allow the City to consider negotiation strategies or positions to be taken during such session in a forum that will not undermine the employer-employee relationship among the respective parties and to provide the City with the same flexibility provided to the union to freely discuss labor negotiation strategies.

The City Council was briefed during an executive session on the terms and conditions of the proposed three-year collective bargaining agreement (CBA) which provides a market adjustment to bring the salary levels of the Police Guild employees to the midpoint of the comparable cities' market – consistent with Council's direction. The CBA also provides a market salary adjustment in years two and three based upon the semi-annual Seattle/Tacoma Consumer Price Index.

Following the briefing on the above terms and conditions, the City Council directed staff to present the CBA set forth in Exhibit 1 for approval.

RECOMMENDATION

Community and Organization Relations Director

MOVE TO: Authorize the City Manager to sign the collective bargaining agreement with the Mercer Island Police Association for the period of January 1, 2008 through December 31, 2010.

AGREEMENT

By and Between

CITY OF MERCER ISLAND, WASHINGTON

and

MERCER ISLAND POLICE ASSOCIATION

(January, 2008 through December, 2010)

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AGREEMENT

By and Between

CITY OF MERCER ISLAND, WASHINGTON and MERCER ISLAND POLICE ASSOCIATION

This Agreement is by and between the City of Mercer Island, Washington, hereinafter, referred to as the "Employer" or "City" and the Mercer Island Police Association, hereinafter referred to as the "Association".

ARTICLE 1 - RECOGNITION AND UNION MEMBERSHIP

- 1.1 The Employer recognizes the Association as the sole and exclusive bargaining agent for the purpose of establishing wages, hours and other conditions of employment for all of its full-time and regular part time commissioned law enforcement personnel.
- 1.2 All employees, as a condition of continued employment, shall pay each month a service charge set by the Association but no more than regular Association dues and initiation fees to the Association as a contribution towards the administration of this Agreement.
- 1.3 The right of non-association of members of the Mercer Island Police Association based on bona fide religious tenets or teachings of a church or a religious body of which such public employee is a member shall be protected at all times and such public employee shall have their eligibility established and shall pay such sum in such manner as is provided in RCW 41.56. et. seq. as amended.
- 1.4 Upon written authorization by an employee and approval by a representative of the Association, the Employer agrees to deduct from the wages of each employee the sum certified as initiation dues, assessments and monthly Association dues, and forward the sum to the Association's Secretary or Treasurer. The Association agrees that it shall indemnify the Employer and save the Employer harmless from any and all claims, awards, judgments, attorney's fees or other litigation costs which may be made by an employee or employees against the Employer by virtue of the application of this section.
- 1.5 Designated representatives of the Association shall suffer no loss of pay while performing functions related to the administration of this Agreement, provided reasonable advance notification is given to the

appropriate supervisor. Additionally, the employer shall allow up to an aggregate of nine (9) work days per year to allow delegates from the Mercer Island Police Guild to attend meetings of the Washington State Council of Police; provided that time spent in such endeavors shall not be considered compensable time within the meaning of the FLSA and; provided further that such delegates pay all of their own expenses in attending the above meetings. The Employer retains the right to restrict such activities when an emergency exists or where such activities would create a danger to public safety.

ARTICLE 2 - DEFINITIONS

- 2.1 Probationary Employee. An employee who has not completed the first eighteen (18) month period of initial, continuous employment with the Mercer Island Police Department or a lateral transfer who is not required to complete the basic law enforcement academy and who has not completed the first twelve (12) month period of initial, continuous employment with the Mercer Island Police Department shall be classified as a probationary employee. Probationary employees shall earn benefits and shall be eligible to use them as provided in this Agreement and may be discharged without cause so long as the only information related to such discharge that the City places in that employee's personnel file is a letter specifying that the employee failed to pass probation.
- 2.2 Regular Employee. An employee who has successfully completed the first eighteen (18) month period of initial, continuous employment with the Mercer Island Police Department (probationary period) shall be classified as a regular employee. Also, a lateral transfer who is not required to complete the basic law enforcement academy and who has successfully completed the first twelve (12) month period of initial, continuous employment with the Mercer Island Police Department (probationary period) shall be classified as a regular employee. Regular employees receive benefits as set forth in this Agreement.
- 2.3 Anniversary Date. One year after an employee's date of hire and that date every year thereafter. In cases where an employee must leave the Department involuntarily, such as due to a disability retirement or layoff, and is subsequently rehired or reinstated, his anniversary date will be calculated from the employee's original date of hire for the purpose of computing longevity pay or vacation benefits.

ARTICLE 3 - HOURS OF WORK AND OVERTIME

- 3.1 Normal Work Day. The normal work day for patrol section employees shall consist of eight and one-half consecutive hours. The normal work day for non-patrol section employees shall consist of eight

consecutive hours. Other normal work days may be approved by mutual agreement. Overlapping time during shift changes is considered part of a normal work day.

3.2 Normal Work Schedule. The normal work schedule for patrol section employees shall be six consecutive days worked followed by three consecutive days off. The normal work schedule for non-patrol section employees shall be five consecutive days worked followed by two consecutive days off. Other normal work schedules may be approved by mutual agreement of the Employer and the Association. In order to facilitate shift changes which occur on or about January 1, April 1, July 1, and October 1 of each calendar year, the normal work schedule may be waived provided that nothing herein shall limit an employee's right to claim overtime as would be required under the FLSA. Employees may be scheduled by the City to work any of the shifts established by the City.

3.3 Section 7(k) Work Period. The Section 7(k) work period under the Fair Labor Standards Act, 29 U.S.C., 207 (k), for both patrol section and non-patrol section employees shall consist of twenty-eight consecutive days.

3.4 Overtime. All hours worked under the following conditions shall be considered overtime and paid at one and one-half times the employee's regular rate of pay:

3.4.1 All hours worked, including court time, before or after the employee's normal work day;

3.4.2 All hours worked in excess of one hundred seventy-one hours in the Section 7(k) work period; and

3.4.3 All hours worked on a scheduled off duty day. Overtime must be authorized by the Employer. Time paid for but not worked shall not count as hours worked for purposes of computing overtime under Subsection 3.4.2. Hours paid at the overtime rate are not hours worked or paid hours for the purposes of computing longevity increments or retirement benefits.

3.5 Call Back. Any employee called in to work or required to appear in court after having completed the employee's normal work day or normal work schedule shall be paid a minimum of three hours at one and one-half times his regular rate of pay provided that such time is not a shift extension before or after a scheduled shift. Employees who are not notified by 5:00 P.M. on the day prior to a scheduled court appearance that their testimony is not necessary, shall receive the minimum call back pay provided herein, whether or not they ultimately appear. Notice may be

achieved by voice mail, provided that such system electronically time/date stamps messages.

- 3.6 Shift Trades. Employees may trade shifts within their normal work schedule and between their normal work periods. Employees who trade shifts must notify their Division Head or the Division Head's designee of the trade and receive his approval. A record will be maintained of all shift trades by employees. Any shift which is voluntarily traded by an employee must be paid back within twelve months. If a voluntary shift trade causes an employee to work overtime as defined in Section 3.4, such employee will be compensated only for any overtime the employee would have worked in the absence of the voluntary shift trade.
- 3.7 Standby. Employees placed on standby by the Employer shall be paid one-half their applicable hourly rate of pay as set forth in Appendix A for each hour such employee is required to be on standby. Standby hours do not count as hours worked for purposes of computing overtime. If the employee is called back to work while on standby, standby pay shall cease as soon as the employee is called back to work.
- 3.8 Hazard Pay. Double Time for SOT and Dive Team Missions. When members of the Special Operations Team or Dive team respond to an actual mission (call-out), such responding members shall receive a rate of pay that is double their regular rate of pay. The standard three-hour minimum at the double time rate of pay shall apply to all members who respond to such missions (including the on-duty members of the team). This double-time rate shall not apply to regularly planned training sessions, including but not limited to Dive swim beach clean up operations and SOT firing range drills.
- 3.9 Voluntary Overtime. The Employer shall attempt to meet its overtime requirements on a voluntary basis.
- 3.10 Compensatory Time. Nothing in this Article shall be construed as to prohibit the employee the option of taking compensatory time off in lieu of paid overtime, provided that the accumulation and use of such time is approved by the Police Chief or designee, and the compensatory time is compensated at time and one-half rate. Compensatory time may be used in one-half hour increments.

Maximum compensatory time accrual shall be 240 hours. Employees who were employed prior to January 1, 2005, with 240 or more hours of accrued and unused compensatory time may continue to carry such accrual; provided, however, that an employee with 240 or more hours of accrued and unused compensatory time: (i) may be paid, upon request, all accrued and unused compensatory time in excess of 240 hours which is

not scheduled to be used, (ii) shall have his/her accrual reduced by the number of hours of accrued compensatory time that the employee uses or cashes out, and (iii) is prohibited from accruing new compensatory time unless and until such employee's balance falls below 240 hours and then to a maximum amount of 240 hours. balance during the term; (ii) are prohibited from accruing new compensatory time; and (iii) may be paid, upon request, all accrued and unused compensatory time in excess of 240 hours which is not scheduled to be used.

Employees with less than 240 accrued and unused compensatory time may accrue new compensatory time consistent with the foregoing provisions up to a maximum accrual of 240 hours. On or before July 1 of each year, employees may be paid, upon request, for up to eighty (80) hours of any accrued and unused compensatory time which is not scheduled to be used. A request for payment shall be paid within thirty (30) days. Employees will be paid for such hours by separate check.

Upon leaving employment, employees shall be entitled to payment for all accrued and unused compensatory time.

- 3.11 Rest Period. In the event a bargaining unit employee working graveyard shift is required by the City to perform work or attend training during his/her regularly scheduled time off that lasts six hours or more, resulting in the employee having less than an eight hour rest period before the commencement of his/her next regularly scheduled graveyard work shift, the employee will be provided at least an eight hour rest period before beginning his/her next regularly scheduled work shift. The employee will be paid, at the regular straight time rate, for all hours he/she was scheduled on his/her next regularly scheduled work shift but did not work because of the rest period and the employee will report to work for the remainder of the shift following the rest period. The employee will not have his/her shift extended as a result of the operation of this paragraph.

ARTICLE 4 - PROMOTIONS

The following are the requirements to be eligible for promotions within the bargaining unit:

- 4.1 Corporal. To be eligible for promotion to Corporal, a candidate shall have a minimum of three (3) years full time experience as a commissioned police officer with the City of Mercer Island. A candidate with less than three (3) years may petition the Civil Service Commission for a waiver of this requirement.
- 4.2 Sergeant. To be eligible for promotion to Sergeant, a candidate shall hold the rank of Corporal, or have a minimum of three (3) years full

time experience as a commissioned police officer with the City of Mercer Island. A candidate with less than three (3) years may petition the Civil Service Commission for a waiver of this requirement.

ARTICLE 5 – WAGES

- 5.1 Employees covered by this Agreement shall be compensated in accordance with the wage schedule attached hereto as Appendix "A" effective January 1, 2008. This wage schedule reflects a retroactive across the board wage increase of 5.05%.
- 5.2 Effective January 1, 2009, the wage rates will be increased by an amount that reflects 100% of the percentage increase in the Seattle/Tacoma CPI - W (semi-annual index released in the summer of 2008), with a minimum increase of 2.0%, plus an additional .75%.
- 5.3 Effective January 1, 2010, the wage rates will be increased by an amount that reflects 100% of the percentage increase in the Seattle/Tacoma CPI - W (semi-annual index released in the summer of 2009), with a minimum increase of 2.0% plus an additional .25 %.
- 5.4 Employees with no prior police officer experience will normally start at Step A of the wage schedule. Employees with prior police officer experience will be hired at an appropriate pay step to be determined by the Police Chief.
- 5.5 Detective Sergeant, Lead Detective, Detective, and School Resource Officer. Any employee who is assigned duties as a Detective Sergeant, Lead Detective, Detective, or School Resource Officer shall receive a three and one-half percent (3.5%) increase in their wages while acting in such capacity. Any employee assigned duties as the Lead Detective shall receive an additional percent (4.0%) to their wages while acting in such capacity, for a total increase of seven and one-half percent (7.5%).
- 5.6 Emergency Preparedness Officer, D.A.R.E. Officer, Field Training Officer, Personnel & Training Sergeant and Marine Patrol Sergeant. Any employee who is assigned duties as the Emergency Preparedness Officer, D.A.R.E. Officer, the employee designated as the primary Marine Patrol Sergeant, and the Personnel & Training Sergeant shall receive a three percent (3%) increase in their wages while acting in such capacity. A Field Training Officer ("FTO") assigned to coach a probationary employee shall be paid a premium of 3% for each month that the FTO holds that assignment, with a three month minimum. Whenever practical, there shall be a limit of three (3) FTOs per trainee for this purpose. Any FTO filling in for less than 2 weeks for the assigned FTO will receive a day

by day premium pay of three percent (3%).

- 5.7 S.O.T and Dive Team Leaders. An employee serving as the leader of the Special Operations Team will earn a lump sum of \$500 annually. An employee serving as the Dive Team leader will receive a lump sum of \$500 annually. If an employee serves in the lead position for less than one year, that employee will receive a pro-rated lump sum.
- 5.8 Temporary Assignment to Higher Position. A police officer who is temporarily assigned to fill a corporal's position shall be paid at the higher position rate of pay corresponding to the officer's current level of longevity. A Corporal shall who is temporarily assigned to fill a sergeant's position shall not receive the higher rate of pay unless he/she fills the sergeant's position for a consecutive period of time in excess of 21 working days. Upon the 22nd day, the Corporal serving in the temporary assignment as a sergeant shall begin to receive the higher rate of pay corresponding to the Corporal's current level of longevity. A sergeant who is temporarily assigned to fill a lieutenant's position shall be paid at the higher position rate of pay corresponding to the sergeant's current level of longevity. This shall apply to those hours actually worked in this position. Should the officer, corporal or sergeant work overtime in the higher position, he/she shall receive the higher overtime rate for all hours actually worked during the temporary assignment.
- 5.9 Pay Periods and Pay Days. Employees shall be paid one twenty-sixth of their annual salary every fourteen days for all non-overtime hours worked during the work period.
- 5.10 Lead Detective / Corporal Differential. The differential percentage between police officer Step G (scale) and corporal / lead detective (scale) shall reflect a 7.5% differential.
- 5.11 Sergeant and Lieutenant Differential. The differential percentage between police officer Step G (scale) and sergeant (scale) shall reflect a 15% differential. The differential between sergeant (scale) and lieutenant (scale) shall reflect a 15% differential.
- 5.12 Deferred Compensation. The City shall make participation in the City's deferred compensation program available to employees, provided however, the City shall have no obligation to match any part of an employee's contribution to the Plan.
- 5.13 Education Incentive. The City shall pay any employee:
- (a) who holds or obtains an A.A. Degree from an accredited college or university or who can document ninety credit hours toward

a Bachelor's Degree in actual college course work, an education allowance of \$100.00 per month; or

(b) who holds or obtains a B.S. or B.A. Degree from an accredited college or university an education allowance of \$175.00 per month.

A member of the bargaining unit who has completed thirty (30) years of service with the Mercer Island Police Department will no longer receive education pay but will have an additional one hundred and seventy five dollars (\$175.00) per month added to his/her base salary.

ARTICLE 6 - LONGEVITY PAY

6.1 Employees shall receive longevity pay in accordance with the following schedule:

<u>Upon Completion of</u>	<u>% of Applicable Hourly Rate (rounded to nearest whole cent)</u>	
Five years' continuous service	Three percent	(3%)
Ten years' continuous service	Four and one half percent	(4.5%)
Fifteen years' continuous service	Six percent	(6%)
Eighteen years' continuous service	Eight percent	(8%)
Twenty-one years' continuous service	Ten percent	(10%)
Twenty-four years' continuous service	Twelve percent	(12%)

6.2 Longevity pay shall be due and payable beginning on the next regular pay day following the eligible employee's anniversary date and thereafter each consecutive pay period.

6.3 Longevity pay shall be included in the employee's regular rate of pay.

ARTICLE 7 - UNIFORM AND CLEANING ALLOWANCE

7.1 Uniforms and safety equipment shall be furnished by the City.

7.2 The employer will provide dry cleaning services for each officer at the rate of four (4) clothing items per week. During this contract, the maximum rate the City shall be required to pay per month shall be \$60.00. This amount shall be multiplied by the number of eligible employees in the bargaining unit on an annual basis to establish the actual cap. This means, for example, if 30 employees were eligible for dry cleaning services in the actual annual cap for the City's contribution would be \$21,600. The employer shall provide additional dry cleaning services if

clothing is unusually soiled in the course of duty.

- 7.3 Detectives and youth officers shall receive a clothing allowance of 1.02% of top step patrolman wages.

ARTICLE 8 - BENEFIT PLANS

8.1 Medical, Dental and Vision Insurance.

Insurance premiums to provide employees and their dependents medical and dental benefits for the plans currently available shall be paid by the Employer. Coverage shall not be reduced during the life of this Agreement. The employer's contribution shall be based on AWC, Regence Blue Shield Plan A (LEOFF I employees) & Plan B (LEOFF II employees), Washington Dental Service (WDS), and Vision Services Plan (VSP) low option rates.

The employer shall pay 100% premium cost for medical, dental, and vision insurance for all employees (Plan A for LEOFF I, Plan B for LEOFF II), and ninety percent (90%) of Plan B and WDS Plan E premium costs for dependent coverage, for the period of the contract.

The employer will reimburse employees for deductible costs which exceed Plan A deductibles of \$50.00 for employee and \$150 for family.

- 8.2 Retirement Plan. Employees covered by this Agreement shall participate in the Washington State Law Enforcement Officer's and Firefighter's Retirement System to the extent permitted by current state law. Contributions on behalf of covered employees shall be governed by the terms of the current state statute and as hereinafter amended.

- 8.3 Service Benefit Plan. All qualified bargaining unit employees may elect, at any time, to claim benefits under the Service Benefit Plan attached as Exhibit "A". Qualified employees are those employees who are eligible to claim benefits by age and length of service in their respective retirement system.

- 8.4 Worker's Compensation. Worker's compensation shall be provided by the City as provided by law.

- 8.5 Unemployment Compensation. Unemployment compensation shall be provided by the City as provided by law.

- 8.6 Long-Term Disability Insurance. Benefits shall be provided through AWC's Standard Insurance Plan. Insurance premiums to provide qualified employees long-term disability benefits equal to sixty percent (60%) of an

employee's salary after a ninety (90) day waiting period shall be paid by the Employer

8.7 Life Insurance. The City shall provide each bargaining unit employee with a \$50,000.00 term life insurance policy at no cost to the employee.

8.8 Retiree Medical Insurance. Any employee retiring from the service of the City, including any disability retirement shall be permitted to participate in the AWC's health and welfare plan so long as such coverage is available, provided that the employee pays the premiums for such coverage (including any additional premium required for dependent coverage).

ARTICLE 9 - HOLIDAYS

9.1 The following days are recognized by the City as holidays:

- | | | |
|-----|------------------------|-----------------------------|
| 1. | New Year's Day | January 1 |
| 2. | President's Day | Third Monday in February |
| 3. | Memorial Day | Last Monday in May |
| 4. | Independence Day | July 4 |
| 5. | Labor Day | First Monday in September |
| 6. | Veteran's Day | November 11 |
| 7. | Thanksgiving Day | Fourth Thursday in November |
| 8. | Day after Thanksgiving | Fourth Friday in November |
| 9. | Christmas Day | December 25 |
| 10. | Floating Holiday | Designated by Employee |
| 11. | Floating Holiday | Designated by Employee |
| 12. | Floating Holiday | Designated by Employee |

Employees are eligible to take the floating holidays off after January 1 of each calendar year. When the floating holidays are taken as days off, they must be scheduled with the employee's supervisor far enough in advance so no overtime is required to cover the shift.

9.2 Employee's Work on Holidays. Any employee required to work on a non-floating holiday shall be paid one and one-half (1 ½) times the employee's hourly rate of pay, including longevity pay, for all hours worked on the holiday; provided, however, that an employee required to work on Thanksgiving, Christmas or New Year's day shall be paid two (2) times the employee's hourly rate of pay, including longevity pay, for all hours worked on such holidays. Employees required to work on a recognized non-floating holiday shall also receive a subsequent scheduled normal work day off with pay.

- 9.3 Holidays Falling on Scheduled Days Off. If a holiday falls on an employee's scheduled day off and the employee is not required to work the holiday, the employee shall receive another subsequent, scheduled day off with pay.
- 9.4 Use. Each accrued holiday is equal to eight hours. Employees may use accrued holiday benefits in one-half hour increments. When an employee uses a whole day of holiday benefits, the employee uses eight hours of accrued benefits regardless of his assignment.
- 9.5 Maximum Accumulation. Employees shall not accumulate in excess of ten holidays as a result of the operation of Section 8.1, 8.2 or 8.3, unless scheduling difficulties or staffing requirements cause the City to request that an employee not schedule or use an accumulated holiday. Employees who accumulate more than ten holidays will schedule a holiday as soon as possible in order to reduce the number to ten or fewer, or the holidays will be scheduled by the City.
- 9.6 Payoff Upon End of Employment. Upon leaving employment, the City shall pay all employees for any accumulated and unused holidays at their regular rate of pay in effect at the time the employment ends.

ARTICLE 10 - VACATION

- 10.1 Accrual. Vacation benefits are accrued by all employees as follows:

<u>MONTHS OF CONTINUOUS SERVICE</u>	<u>HOURS ACCRUED PER MONTH</u>
1st month through 59th month	8 hours per month
60th month through 119th month	10 hours per month
120th month through 179th month	12 hours per month
180th month through 239th month	14 hours per month
240th month or more	16 hours per month

Vacations are accrued on a monthly basis and may be used in the month they will be accrued or during the subsequent months, provided the employee has successfully completed six months' continuous service.

- 10.2 Use. When an employee uses accrued vacation benefits, he shall continue to receive his salary for the hours scheduled as vacation. Vacation benefits may be used in one-half hour increments. When an employee uses a whole day of vacation benefits, the employee uses eight hours of accrued benefits regardless of the employee's assignment.
- 10.3 Maximum Accrual. Vacation benefits may be accrued up to 280

hours. No additional accruals shall be credited to an employee who accrued the maximum benefits, unless there are circumstances beyond the employee's control which preclude the employee from utilizing vacation benefits already accrued. Such circumstances include, but are not limited to, disability leave, sick leave, or cancellation of scheduled vacation by the City.

10.4 Scheduling. The Police Chief or his designee will circulate a vacation sign-up sheet before February 1 of each year to allow employees to request their preferred vacation times. The City retains the right to schedule vacations in such a way as to minimize interference with functions and work loads in particular sections. Specifically, no more than three supervisors from Police Operations Division will be authorized vacation at the same time. Of these three supervisors, no more than two will be patrol sergeants. In Patrol Section, no more than three employees will be authorized vacation at the same time. All vacations will be scheduled to avoid overlap as much as possible. If two or more employees request the same vacation dates, the decision may be made on the basis of individual employee seniority. Employees who choose to split their vacation may exercise their seniority on preferred dates only once.

10.5 Cash Out of Holiday/Vacation Benefits. Employees may be paid upon request for up to forty (40) hours of any accrued vacation which is not scheduled to be used before December 31 of a given year. Employees will be paid for such hours by separate check before December 10 of each year.

10.6 Cash Out Upon Termination. Upon leaving employment, employees shall be entitled to payment for all accrued and unused vacation, up to 280 hours. This maximum accrual may be raised if the vacation accrual goes beyond 280 hours because of disability, sick leave, or cancellation of scheduled vacation by the City. Payment shall be at the current respective regular hourly rate.

ARTICLE 11 - SICK LEAVE

11.1 Accrual. Sick leave benefits are accrued by employees based on their eligibility to participate in either the LEOFF I or LEOFF II Systems as follows:

11.1.1 LEOFF I employees shall earn three hours paid sick leave per month during the term of this Agreement. LEOFF I employees may continue to use any benefits earned and accrued prior to this Agreement, either under previous Agreements or under the Mercer Island Municipal Code, during the term of this

Agreement. The maximum number of sick leave benefits that can be accrued and may be used by LEOFF I employees is 720 hours.

11.1.2 LEOFF II employees shall earn 16 hours paid sick leave per month of employment. The maximum number of sick leave benefits that may be accrued and used by LEOFF II employees is 1040 hours; provided, however, in no case may each period of consecutive absence under Section 10.2 or Sections 10.4 through Section 10.7 exceed six months.

11.2 Use. Accrued sick leave benefits may be used by an employee to avoid loss of pay if the employee is unable to work due to personal illness or injury, enforced quarantine in accordance with community health regulations, or the serious injury or illness of an immediate family member (spouse or children), necessitating the employee's presence. Sick leave benefits may be used in one-half hour increments. When an employee uses a whole day of sick leave benefits, the employee uses eight hours of accrued benefits regardless of assignment.

11.3 Notification. When an employee is unable to report for work, the employee must notify his supervisor as soon as reasonably prudent. Failure to do so may result in denial of sick leave benefits for such absence. The City may require, for cause, a physician's statement.

11.4 LEOFF II Disability Leave. LEOFF II employees are covered by the state worker's compensation law, Title 51 of the revised Code of Washington. Such employees will make timely application for worker's compensation benefits following any on-the-job injury or illness. While a LEOFF II employee is off work due to such an injury or illness, his regular pay, including longevity, shall be continued for up to six months following the date of such illness or injury.

11.5 The continuation of the LEOFF II employee's regular pay for this six month period shall be funded as follows:

11.5.1 For the first five days, any difference between the employee's regular pay and the value of worker's compensation time loss benefits later received shall be funded out of the employee's accrued sick leave.

11.5.2 For the sixth day through the end of the six month period, any difference between the employee's regular pay and the value of worker's compensation time loss benefits, currently or later received, shall be funded one-half out of the employee's accrued sick leave and one-half by the City.

11.5.3 Should the employee have no accrued sick leave available or exhaust all his accrued sick leave during the time periods referenced in Subsections 10.5.1 or 10.5.2, the City shall fund the portion of the differentials that would have been funded out of the employee's accrued sick leave.

11.5.4 During any portion of the six month period when the employee will be eligible to receive or is currently receiving worker's compensation time loss benefits, the City shall continue to pay the employee his regular salary. Provided, however, that when the employee receives worker's compensation time loss benefits representing compensation for lost income during such six month period, the employee will reimburse the City for the value of such worker's compensation benefits received. Provided, further, however, if the employee chooses not to sign an agreement to reimburse the City for the value of the worker's compensation time loss benefits received, the City will continue the employee's salary in an amount equal to the difference between the regular salary and the benefits received.

11.6 If an employee uses accrued sick leave to fund the differentials described in Subsections 10.5.1 and 10.5.2, and later receives worker's compensation time loss benefits for such absences, the employee's sick leave benefits will be restored in an amount equal to the value of the worker's compensation benefits received for such absences.

11.7 LEOFF II employees who are new employees will be credited with twelve (12) days of sick leave. This bank will be reduced at the rate of one (1) day per month for the first twelve months of employment. Any sick leave drawn prospectively as provided in this section shall be charged against earned sick leave until the employee has accrued the amount needed to restore the amount used. In the event the employee terminates without having restored the sick leave drawn prospectively, the City shall deduct the actual costs of any prospective payments made from any final wages due the employee or take other steps to recover such payments.

11.8 Continuation of Benefits. Employees shall continue to receive all benefits while on sick leave or disability leave; provided, however, employees shall be required to continue to pay any portion of the costs of benefits not otherwise paid for by the City.

11.9 Wellness Incentive. During the term of this Agreement, the wellness incentive plan for bargaining unit employees shall be as follows:

All employees shall earn \$25 per month for every month with zero sick leave hours used. Additionally:

- Employees with 0 through 9 years of service earn:
 - \$300 plus 3 days of vacation if zero (0) sick leave hours are used in the previous calendar year.
 - \$150 plus 2 days of vacation if 24 sick leave hours or less hours are use in the previous calendar year.
 - 1 day of vacation if 25 to 48 sick leave hours are used in the previous calendar year.

- Employees with 10 through 19 years of service earn:
 - \$600 plus 3 days of vacation if zero (0) sick leave hours are used in the previous calendar year.
 - \$300 plus 2 days of vacation if 24 sick leave hours or less hours are use in the previous calendar year.
 - \$100 plus 1 day of vacation if 25 to 48 sick leave hours are used in the previous calendar year.

- Employees with 20 years of service or more earn:
 - \$900 plus 3 days of vacation if zero (0) sick leave hours are used in the previous calendar year.
 - \$600 plus 2 days of vacation if 24 sick leave hours or less hours are use in the previous calendar year.
 - \$300 plus 1 day of vacation if 25 to 48 sick leave hours are used in the previous calendar year.

Benefits for partial years of service shall be prorated as per time in service. The City shall place all money earned as part of this wellness incentive program into the employee's Retirement Health Savings (RHS) account.

ARTICLE 12 - JURY DUTY AND WITNESS LEAVE

- 12.1 An employee serving on a jury will be excused from work and will be paid the amount the employee would have earned had the employee worked his normal work schedule. The employee will reimburse the City for any fees received for jury duty.
- 12.2 Any employee who, as a result of his department duties, is required to appear before a court shall be paid for such court appearances at the appropriate rate of pay. The employee will reimburse the City for any subpoena or witness fee received.
- 12.3 Any employee who is required to appear before a court, legislative committee or quasi-judicial body as a witness in response to a subpoena or other directive for other than department duties, shall be allowed to use any accrued holiday or vacation benefits or compensatory time to offset

any loss of pay for such periods.

ARTICLE 13 - EMERGENCY LEAVE

- 13.1 When death, critical illness or injury occurs in the immediate family of an employee, and his attendance is necessary, he shall be allowed up to three (3) working days off duty with pay so long as the Police Chief finds that the public peace, health, safety and welfare will not be seriously impaired as a result of the leave granted. For purposes of this section, emergency leave in connection with normal child birth is authorized only on the day of delivery.
- 13.2 "Immediate family" shall mean the spouse or children of the employee, the employee's mother and father, or the mother and father of the employee's spouse. However, under unusual circumstances, the Police Chief may more broadly construe this term to apply to other persons living within the employee's household, others related to the employee by blood or marriage or to established foster relationships having attributes of familial ties.

ARTICLE 14 - PERSONNEL FILES/LAYOFF NOTICE/DISCIPLINE

- 14.1 Employees having completed their probationary period, but having less than thirty (30) months in the Department, shall be entitled to fifteen (15) days' notice prior to being laid off due to a reduction in force.
- 14.2 Employees having thirty (30) months or more service in the department shall be entitled to thirty (30) days' notice prior to being laid off due to a reduction in force.
- 14.3 Just Cause. The Employer shall not discipline or discharge any employee unless just cause for such discipline exists.
- 14.4 Personnel Files. Written warnings shall be expunged from personnel files after a maximum period of two years if there is no reoccurrence of similar misconduct for which the employee was disciplined during that period. Any record of more serious discipline shall be expunged from the personnel files after a maximum period of five years if there is no recurrence of similar misconduct for which the employee was disciplined during that period. Nothing in this section shall be construed as requiring the City to destroy any employment records necessary to the City's case if it is engaged in litigation with the employee regarding that employee's employment at the time those records would otherwise be destroyed. The parties recognize that the City may retain internal investigation files although such files may not be used in discipline and discharge cases if they could not otherwise be retained in personnel files

pursuant to this section.

ARTICLE 15 - GRIEVANCE PROCEDURE

15.1 Disputes regarding the interpretation of this Agreement shall be handled in the following manner:

Step I: The employee or the Association shall formally submit grievances in writing to the Police Chief (or designee) through the appropriate Shift Supervisor. Such submissions shall state the factual basis for the grievance, the provision or provisions of the Agreement allegedly violated, and the remedy requested. Grievances which are not filed within sixty (60) calendar days from the date the employee knew or reasonably should have known of the alleged violation shall be deemed waived for all purposes.

The Police Chief (or designee) shall convene a Step I meeting within five (5) calendar days of receipt of grievance. Attendance at such meeting may include appropriate supervisors, Association representative, and/or the individual grievant. The Police Chief (or designee) shall render a decision in writing to the Association within seven (7) calendar days after the conclusion of the Step I meeting.

Step II: The decision of the Police Chief (or designee) may be appealed in writing by the employee or the Association to the City Manager within five (5) calendar days of its receipt. The City Manager shall review the facts, convene any meeting involving the parties which he deems appropriate, and shall issue in writing the final position of the Employer within fifteen (15) days of receipt of the Step II appeal.

Step III: Within thirty (30) days of receipt of the Step II answer of the employer, the Association must give written notice of to the City Manager or Acting City Manager of its intent to arbitrate any remaining dispute or the grievance will be considered time barred. The arbitrator shall be mutually selected by the parties or, if they cannot agree, from a list requested from the American Arbitration Association. Only grievances which involved an alleged violation by the Employer of a specific article or provision of the Agreement and which are presented to the Employer in writing during the term of this Agreement and which are processed in the manner and within the time limits herein provided shall be subject to

arbitration.

The decision of the arbitrator shall be final and binding upon the parties. Provided, however, no arbitrator shall have the authority to render a decision or award which modifies, adds to, subtracts from, changes or amends any term or condition of this Agreement; further provided, rendition of a decision or award shall be in writing within thirty (30) calendar days of the close of the hearing (or submission date of written brief) and shall include a statement of the reasoning and grounds upon which such decision or award is based.

The cost of services of the arbitrator shall be shared equally by the parties. All other costs (such as attorney fees, witness time, transcripts, etc.) shall be born separately by the party incurring the expense. Time limits described herein may be extended by mutual agreement of the parties.

ARTICLE 16 - INSURANCE PROTECTION

16.1

The Employer shall indemnify and defend any police officer employee against any claim or suit, where such claim or suit arose because such employee exercises his/her authority as a Mercer Island Police Officer. The Employer shall pay on behalf of any employee in the bargaining unit any sums which the employee shall be legally obligated to pay as a result of that employee's reasonable and lawful activities and exercise of authority within the scope of his/her duties and responsibilities as a Mercer Island Police Officer.

This protection shall also apply for any claims or suits arising from said employee's authorized off-duty employment; provided such claim or suit results from the employee's reasonable and lawful activities and exercise of authority within the scope of his/her duties and responsibilities as a Mercer Island Police Officer. This shall not preclude the City from recovering losses, to the extent coverage is otherwise provided by the off-duty employer, or his insurer. Indemnity and defense shall not be provided by the City for any dishonest, fraudulent, criminal or malicious act.

ARTICLE 17 - SAVINGS CLAUSE

17.1

Should any provision of this Agreement or the application of such provisions be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall not be affected thereby, and the parties shall immediately enter into collective bargaining negotiations for

the purpose of arriving at a mutually satisfactory replacement provision.

- 17.2 The parties agree that except where matters are covered by express provisions of this agreement, the employees are subject to the Rules of the Mercer Island Civil Service Commission and any alleged violation of contractual provisions also covered by Civil Service Rules may be adjudicated either through the Civil service appeals process or through the grievance process, provided that, the filing of a Civil Service Appeal, either before or after the filing of a grievance, shall constitute an election of remedies and a waiver of the subject employee's right to further pursue his grievance or the Association's right to require the Employer to arbitrate the grievance. Provided further, that nothing in this Section shall be construed as a waiver of any right that the Association may have to require the City to engage in collective bargaining.

ARTICLE 18 – MANAGEMENT RIGHTS

- 18.1 Subject to the terms and limitations of this Agreement, the management of the Police Department is vested in the Employer.

ARTICLE 19 - SCOPE OF AGREEMENT

- 19.1 The parties agree that this Agreement is their complete Agreement and that all Agreements between the parties are merged into this Agreement, but they may be modified by mutual agreement.
- 19.2 The term "employee" as used in this Agreement includes both male and female employees covered by this Agreement. In addition, wherever in this Agreement the masculine gender is used, it is intended it will apply to the female gender as well.

ARTICLE 20 – DRUG AND ALCOHOL TESTING POLICY

- 20.1 The parties agree to follow the Drug and Alcohol Testing Policy attached to this agreement as Exhibit “B”.

ARTICLE 21 - BILL OF RIGHTS

- 21.1 When any employee of the Department is under investigation for an act that could lead to punitive action, including dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer, for purpose of punishment, and because of such investigation he is being interrogated, such interrogation shall be conducted under the following terms and conditions:

- 21.1.1 All interrogations shall be at a reasonable hour;

- 21.1.2 The employee under investigation shall be informed of the nature of the investigation and the person in charge of the investigation and will be allowed to bring an attorney or Association Representative to represent him in the matter;
- 21.1.3 The length of time of the interrogation shall be reasonable, and the employee being interrogated shall have the right to attend to his own personal physical necessities;
- 21.1.4 There shall be no threats, abusive language or promises made during the interrogation; however, the employee may be informed that if he is given immunity from criminal action that his refusal to truthfully answer questions concerning his official duties may be subject to dismissal or other punitive actions;
- 21.1.5 If the investigation may lead to criminal charges, the employee must be informed of his constitutional rights;
- 21.1.6 No employee shall be required to take a polygraph test and no adverse comment may be included in his personnel file or disciplinary hearing for his failure to take such polygraph test (RCW 49.44.120); and
- 21.1.7 No locker or other space assigned to an employee under investigation shall be searched, without his consent, except as a result of a search warrant.

ARTICLE 22 - PHYSICAL FITNESS

- 22.1 The Association and the City agree that the physical fitness of Association members is important to their health and safety. Physical fitness is the personal responsibility of each Association member. The City and the Association will both support and encourage officers to be physically active and to be involved in a personal program of regular exercise.
- 22.2 Smoking is not permitted within the police building or in any of the Department vehicles. Exceptions can be granted only by the Police Chief.

ARTICLE 23 – PUBLIC RECORDS DISCLOSURE

- 23.1 The City shall not publicly disclose public records pertaining to individual Association members, except as required by statute or policy. If a request for such records has been made in accordance with applicable state and City legal requirements, and the City determines that the records must be disclosed according to law, the City shall notify the Association

and individual Association member ten (10) days prior to the release of public records. The 10-day notice may be waived by mutual agreement of the parties.

ARTICLE 24 - TERM OF AGREEMENT

24.1 This Agreement shall be come effective January 1, 2008, and it shall remain in full force and effect until December 31, 2010.

DATED AND SIGNED THIS _____ day of _____, 2008

City of Mercer Island

Mercer Island Police Association

Richard M. Conrad, City Manager

Peter Erickson, Association President

Attest:

Allison Spietz, City Clerk

Approved as to Form:

Approved as to Form:

Katie Knight, Interim City Attorney

Derrick Isackson, Association Attorney

APPENDIX "A"

MERCER ISLAND POLICE
January 1, 2007 Pay Scale
5.05% Increase Over December 31, 2007

STEP %	2008 Hourly	O.T.	BI-WEEKLY	MONTHLY	ANNUAL	FTO
<u>POLICE OFFICER</u>						
A	25.12	35.87	1,913	4,144	49,733	0.72
B (Month 7)	26.43	37.74	2,013	4,361	52,333	0.75
C (Month 19)	28.00	39.98	2,132	4,619	55,432	0.80
D (Month 31)	29.46	42.06	2,243	4,860	58,323	0.84
E (Month 43)	30.94	44.18	2,356	5,105	61,256	0.88
F (Month 55)	33.58	47.96	2,558	5,541	66,498	0.96
3% (5 Years)	34.59	49.40	2,634	5,708	68,494	0.99
4.5% (10 Years)	35.10	50.12	2,673	5,791	69,493	1.00
6% (15 Years)	35.60	50.84	2,711	5,874	70,491	1.02
8% (18 Years)	36.27	51.80	2,762	5,985	71,822	1.04
10% (21 Years)	36.95	52.76	2,814	6,096	73,154	1.06
12% (24 Years)	37.62	53.72	2,865	6,207	74,485	1.07
<u>CORPORAL & LEAD DETECTIVE = 7.5% OVER POLICE OFFICER</u>						
A (Month 31)	31.67	45.21	2,411	5,225	62,697	
B (Month 43)	33.26	47.49	2,533	5,488	65,850	
C (Month 55)	36.10	51.55	2,749	5,957	71,485	
3% (5 Years)	37.19	53.10	2,832	6,136	73,631	
4.5% (10 Years)	37.73	53.87	2,873	6,225	74,705	
6% (15 Years)	38.27	54.65	2,915	6,315	75,778	
8% (18 Years)	38.99	55.68	2,970	6,434	77,209	
10% (21 Years)	39.72	56.71	3,025	6,553	78,640	
12% (24 Years)	40.44	57.74	3,080	6,673	80,071	
<u>SGT BASE = TOP PATROLMAN + 15%</u>						
SGT	38.63	55.16	2,942	6,373	76,482	
3% (5 Years)	39.78	56.81	3,030	6,564	78,770	
4.5% (10 Years)	40.37	57.65	3,074	6,661	79,934	
6% (15 Years)	40.95	58.47	3,118	6,757	81,078	
8% (18 Years)	41.72	59.57	3,177	6,883	82,597	
10% (21 Years)	42.49	60.68	3,236	7,011	84,136	
12% (24 Years)	43.26	61.77	3,294	7,138	85,654	
<u>LT BASE = SGT BASE + 15%</u>						
LT	44.43	63.44	3,383	7,330	87,963	
3% (5 Years)	45.76	65.34	3,485	7,550	90,605	
4.5% (10 Years)	46.42	66.29	3,535	7,660	91,915	
6% (15 Years)	47.09	67.25	3,586	7,771	93,246	
8% (18 Years)	47.98	68.51	3,654	7,916	94,994	
10% (21 Years)	48.87	69.78	3,722	8,063	96,762	
12% (24 Years)	49.76	71.06	3,790	8,211	98,530	

EXHIBIT "A"

SERVICE BENEFIT PLAN

This Service Benefit Plan is attached to and a part of the Collective Bargaining Agreement (Agreement) between the City of Mercer Island (Employer) and the Mercer Island Police Association (Association). Association members (Employees) shall be entitled to the benefits of this Service Benefit Plan as set forth in the following paragraphs.

1. Qualification. Employees shall be qualified to participate in this Service Benefit Plan upon (a) completion of a minimum of ten (10) years of service with the city, and (b) eligibility to retire as required in Article 7.2 of the Agreement. Employees shall not be qualified to participate in this Service Benefit Plan if terminated for disciplinary reasons and such discipline is sustained upon final appeal.
2. Service Benefit. Upon qualified separation from employment with the Employer, Employees shall be paid the sum of the following in recognition of years of service to the City of Mercer Island:
 - A. \$9,000.00 plus;
 - B. The applicable amount from the following table:

<u>Years of Service</u>	<u>Amount for 2008</u>
Up to 15 years	\$ 0.00
15-20 years	\$2,583.00
20-25 years	\$3,874.00
25-30 years	\$5,812.00
30 years and above	\$7,103.00

The amounts set forth in Part B only shall be adjusted upwards annually in an amount equal to 100% of the cost of living. The cost of living index in Article 4.1.1 of the Agreement shall be used with 1999 as the base year.

3. Payment. Payment of amounts due under this Service Benefit Plan shall be made to an eligible Employee in the Employee's in the Employee's final check from the City.

EXHIBIT “B”

DRUG AND ALCOHOL TESTING POLICY

I. POLICY

A. Reporting to work under the influence of alcohol and /or illegal drugs, or the use, sale or possession by an employee of illegal drugs is strictly prohibited and may result in disciplinary action, including immediate termination. Each employee must inform the Employer if they are using prescription or over-the-counter drugs they know or reasonably should know may impair their ability to perform job functions and/or operate machinery such as automobiles. Under appropriate circumstances the Employer may require the employee to provide written medical authorization from a physician to perform various essential job functions while using such drugs.

B. A voluntary request by an employee for assistance with his/her own alcohol or drug abuse problem will remain confidential and such abuse, request and treatment/rehabilitation for alcohol or drug abuse shall not be used as the basis for any disciplinary action provided that the request for assistance is initiated prior to commencement of any internal investigation or other related disciplinary action.

C. Treatment/rehabilitation for alcohol or drug abuse undertaken by an employee following commencement of any internal investigation or other disciplinary action shall be considered by the City in administering discipline to the employee.

II. DEFINITION

A. For the purpose of administering this Policy the following definition of terms is provided:

1. Alcohol - means the intoxicating agent in alcoholic beverages, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.

2. Drug - means any substance (other than alcohol) capable of altering the mood, perception, pain level, or judgment of the individual consuming it.

3. Illegal Drug – means any drug for which sale, purchase, transfer, or unauthorized use or possession is prohibited or restricted by federal or state law or the intentional misuse of a prescription or over-the-counter drug.

4. Over-the-counter Drug – means those drugs that are generally available without a prescription and are limited to those drugs that are capable of impairing the judgment of an employee to safely perform the employee’s duties.

5. Prescription – means any drug used in the course of medical treatment

and that has been prescribed and authorized for use by a licensed health care professional.

6. Reasonable Suspicion – Reasonable suspicion is based on specific, reliable, credible objective facts and reasonable inferences from those facts, that discovery testing will produce evidence of a violation of this policy.

7. Under the Influence – means having alcohol or illegal drugs in the body in excess of the concentration cutoff levels established in this Policy.

III. WHEN TESTING IS REQUIRED

A. An employee may be required to submit to drug or alcohol testing only when there is reasonable suspicion to believe that the employee is in violation of this policy. Reasonable suspicion will not be used to harass or intimidate any employee.

1. The basis for the reasonable suspicion shall be documented in writing prior to or at the time the employee is requested to submit to testing.

2. An Association representative shall be summoned before the employee is approached and the Association representative shall be present when the employee is first told of the reasonable suspicion, unless obtaining an Association representative will delay the notification required by this section for more than two (2) hours.

3. The employee shall be given an opportunity to confer with the Association representative (if readily available), and the employee shall be given an opportunity to explain the reasons for the employee's condition, such as reaction to prescription or over-the-counter drugs, fatigue, exposure to toxic substances, or any other reasons known to the employee, to the City representative telling the employee the basis for reasonable suspicion. The Association representative may be present during this discussion.

B. An employee who refuses to submit to testing for alcohol and/or drugs shall be conclusively presumed to be under the influence of alcohol or an illegal drug for the purpose of administering this Policy, and therefore will be subject to discipline, up to and including immediate discharge.

IV. COLLECTION/TESTING PROCEDURES

A. The Association representative shall be allowed to accompany the employee to the collection site.

B. Alcohol Testing

1. Alcohol testing will be conducted by a trained Breath Alcohol Technician ("BAT") using an Evidential Breath Testing Device ("EBT") which the BAT has been trained to operate in conformance with Department of Transportation's Procedures for Transportation Workplace Alcohol Testing, 49 CFR 40.221, et. seq. ("DOT Procedures")

2. Alcohol testing shall take place at a facility that meets the requirements of the DOT Procedures.

3. The procedures used for conducting all screening and confirmation alcohol tests shall be in conformance DOT Procedures.

4. The cutoff levels for screening and confirmation alcohol tests shall be .02 breath alcohol.

5. The procedures used for reporting the results of alcohol tests shall be in conformance with DOT Procedures.

C. Drug Testing

1. All specimens for drug testing shall be obtained at a collection site that shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing in accordance with the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Mandatory Guidelines for Federal Work Place Testing Programs ("Mandatory Guidelines").

2. All specimens shall be collected in conformance with the specimen collection procedures set forth in the Mandatory Guidelines. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures.

3. A split specimen method of collection shall be used and the split specimen method of collection shall be in conformance with the Mandatory Guidelines.

4. All testing shall be done at a Department of Health and Human Services, Substance Abuse and Mental Health Services Administration certified laboratory and transportation of the specimen to the laboratory shall be in conformance with the Mandatory Guidelines.

5. Laboratory security, chain of custody, and analysis procedures shall be in conformance with the Mandatory Guidelines.

6. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used:

<u>Initial Test Level</u>	<u>Nanograms per milliliter (ng/ml)</u>
Amphetamines	1000
Cannabinoids	50
Cocaine metabolites	300
Opiates (codeine / morphine)	300
Phencyclidine	25
Level of the positive result for alcohol	0.02 Breath alcohol

Specimens that test negative on all initial immunoassay tests will be reported negative. No further testing of these negative specimens for drugs is permitted

All specimens identified as positive on the initial test shall be confirmed for the class(es) of drugs screened positive on the initial test using gas chromatography/mass spectrometry (GC/MS) in conformance with the Mandatory Guidelines at the following cutoff values:

<u>Confirmatory Test Level</u>	<u>Nanograms per milliliter (ng/ml)</u>
Amphetamines	500
Cannabinoids (1)	15
Cocaine metabolites (2)	150
Opiates (codeine / morphine)	2000
Phencyclidine	25
Delta-9-tetrahydrocannabinol-9-carboxylic acid	
Benzoylecgonine	

7. Specimens that test negative on confirmatory tests shall be reported negative and no further testing of these specimens for drugs is permitted

8. An essential part of this drug testing program is the final review and reporting of results. The final review and reporting of the results of such drug testing shall be in conformance with the Mandatory Guidelines.

a. This review shall be performed by the Medical Review Officer (“MRO”) prior to the transmission of results to the City. A positive test result does not automatically identify an employee as being in violation of this Policy. The MRO will consider alternate medical explanations in conjunction with their review.

b. The qualifications and responsibilities of the MRO shall be in

conformance with the Mandatory Guidelines.

- c. Prior to making a final decision to verify a positive test result, the MRO shall give the employee an opportunity to discuss the test result with him or her in conformance with the Mandatory Guidelines.
- d. Upon notification by the MRO that an employee has a verified positive drug test or refusal to test because of adulteration or substitution, the employee shall have 72 hours from the time of notification to request a test of the split specimen. The request may be verbal or in writing.
- e. When an employee makes a timely request for a test of the split specimen the MRO shall immediately provide written notice to the laboratory that tested the primary specimen directing the laboratory to forward the split specimen to a second HHS certified laboratory for confirmation testing in accordance with this Policy.

9. Following verification of a positive test result, the MRO shall report the result to the City's official designated to receive results.

10. In the future, the employer may add to the list of prohibited drugs any drug which the federal government adds to their list as prohibited for DOT workers. The employer will follow the same cutoff levels and screening procedures used by the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Mandatory Guidelines for Federal Work Place Testing Programs ("Mandatory Guidelines").

V. CONSEQUENCE OF A NEGATIVE TEST

A. In the event the test results are reported as negative, such test results shall be destroyed, the employee shall be paid for lost work time due to the testing, and no discipline shall be levied against the employee based upon the testing process and/or the result of the testing process.

VI. CONSEQUENCES OF A POSITIVE TEST

A. In the event the MRO reports the test results positive, an employee who tests positive for any of the drugs or alcohol referred to in this Policy may be subject to discipline, up to and including termination.

B. Nothing in this Policy shall be construed to limit the City's right to discipline/discharge a bargaining unit employee for violations of this or any other City / Department policy.

C. Nothing in this Policy shall be construed to limit or abridge any of the rights set forth in the collective bargaining agreement between the Association and the City and/or any rights provided by federal and state law.

VII. RECORDKEEPING

A. All records related to the alcohol or drug testing of an employee shall be treated as confidential medical records.

B. Any employee who is the subject of an alcohol or drug test shall, upon written request, have access to any and all records relating to his or her drug test and any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings. Such access shall not include communications protected by attorney-client privilege.

VIII. RIGHT OF APPEAL

A. Employees and the Association have the right to challenge an alleged violation of this Policy and/or the results of alcohol and drug testing through the grievance procedure set forth in the collective bargaining agreement between the Association and the City.

IX. RIGHT OF ASSOCIATION PARTICIPATION

A. At any time, the Association, upon request, will have the right to inspect and observe any aspect of the drug testing program with the exception of individual test results, provided that such inspection does not delay any testing procedure. The Association may inspect individual test results if the release of this information is authorized by the employee involved.

X. ASSOCIATION HELD HARMLESS

A. The City shall be solely liable for any legal obligations and costs arising out of the provisions of this Policy and/or application of this Policy, except as otherwise provided herein.

B. The Association shall be held harmless for all claims arising out of errors, omissions or negligent acts by the third party contractors hired by the City to conduct the drug testing under this Policy, including failure to abide by the protocol established by this Policy; and for all claims arising out of the implementation/administration of this Drug Policy, except for a failure of the Association to file a timely grievance based on known violations of Article III(A) of this policy.