

**CONSOLIDATED COLLECTIVE
BARGAINING AGREEMENT**

BETWEEN

THE TOWNSHIP OF DARBY

AND

**DELAWARE COUNTY LODGE #27
FRATERNAL ORDER OF POLICE**

2015 - 2019

2015 - 2019 POLICE CONTRACT

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Whereas, the Policemen and the Board of Commissioners of the Township of Darby have engaged in collective bargaining pursuant to the Binding Arbitration Act of 1968 (Act 111) by way of settlements and interest arbitration; and

Whereas, Act 111 provides that any settlements reached by the parties and any determination made by a board of arbitration as a result of collective bargaining shall be set forth in writing; and

Now, therefore, the Commissioners of the Township of Darby and Delaware County Lodge No. 27 of the Fraternal Order of Police, on behalf of the Police Department of the Township of Darby, set forth the following to be effective January 1, 2010 to December 31, 2014 and thereafter until a new agreement shall be reached.

1. WAGES AND COST OF LIVING:

(a) Full-time Officers: On January 1 of 2015, 2016, 2017, 2018 and 2019 the annual base wage of each police officer shall be increased by two percent (2%).

Accordingly, the annual base wage for a patrolman at maximum shall be:

| | |
|--------|-------------|
| 1/1/15 | \$72,867.94 |
| 1/1/16 | \$74,325.30 |
| 1/1/17 | \$75,811.80 |
| 1/1/18 | \$77,328.04 |
| 1/1/19 | \$78,874.60 |

(b) Part-time officers:

(i) Hourly Wages:

Beginning January 1, 2015, hourly wages for a part-time police officer shall not be less than:

\$16.00 per hour for a part-time officer with less than 2 years of completed service.

\$17.00 per hour for a part-time officer with more than 2 but less than 5 years of completed service.

\$18.00 per hour for a part-time officer with more than 5 years of completed service.

These hourly wage rates shall increase by 25 cents on January 1, 2016, by 25 cents on January 1, 2018, and by 25 cents on January 1, 2019.

Nothing in this Agreement shall be construed as prohibiting the Township from paying part-time officers, or such of them as it may select, an hourly wage in excess of that set forth here.

The wages set forth in this part constitute the sole provision regarding compensation and benefits applicable to part-time officers pursuant to this collective bargaining agreement.

(ii) Hours of Work - Part-Time Officers:

The hours worked by all part-time officers shall not exceed thirty-nine (39) hours per week, excluding time spent by the officer in court.

(iii) Number of Part-Time Officers:

The number of part-time officers shall not exceed the number of full-time officers, minus one; e.g., if there are 15 full-timers, there shall be no more than 14 part-timers.

(iv) FOP Dues for Part-Time Officers:

Part-time officers shall have deducted from the pay FOP dues at the rate of one-half the amount paid by full-time officers.

2. PAY RANGE FOR PATROLMAN:

Any patrolman hired after January 1, 1985 shall have the following pay range:

| | |
|-----------------------------|-------------------------------|
| At Date of Employment | Step A (20% less than Step D) |
| After 1 Year of Employment | Step B (15% less than Step D) |
| After 2 Years of Employment | Step C (10% less than Step D) |
| After 3 Years of Employment | Step D (Top of Pay Range) |

3. LONGEVITY:

Beginning January 1, 1989 the longevity payment shall be made twice a year on the first pay period in June and the first pay period in December. If the Township has not made the longevity payments by these pay periods, there shall be a five percent (5%) weekly penalty on the monies owing until it is paid to the officers.

For all officers hired prior to January 1, 1991, the longevity benefit shall be as follows: three percent (3%) after four (4) years; and one and one half percent (1.5%) each two (2) years thereafter, to a maximum of twenty-one percent (21%).

All officers hired after January 1, 1991 shall receive annual longevity increments as follows: three percent (3%) of annual base salary after five (5) years of service, and an additional one and one-half percent (1.5%) of annual base salary for each two (2) years of service thereafter, to a maximum of fifteen percent (15%).

4. RETIREMENT:

(a) Age and Service Options:

(i) An Officer hired prior to January 1, 2015 shall have the option to retire after completing the following service requirements:

| <u>AGE</u> | <u>YEARS OF SERVICE</u> |
|------------|-------------------------|
| 60 | 20 |
| 50 | 25 |

(ii) An Officer hired on or after January 1, 2015 shall have the option to retire after completing the following service requirements:

| <u>AGE</u> | <u>YEARS OF SERVICE</u> |
|------------|-------------------------|
| 50 | 25 |

(b) Retirement Base: Retirement benefits based on years of service and age aforesaid shall be computed on the average salary of each pensioner during the last thirty-six (36) months of employment. As to officers hired on or after January 1, 2015, the severance payment and any other lump-sum payment made at the time of separation to “buy-back” unused paid time off shall not be included in the salary for pension computation.

(c) Early Retirement: Effective January 1, 1999, officers shall be entitled to retire with 20 years of service regardless of age. The amount of such pension shall be determined in accordance with the Act 24 of 1998 amendments to Act 600. Officers electing this retirement benefit shall be entitled to the same benefits (including medical benefits) available to officers at normal retirement.

(d) Survivor's Benefits: All officers shall also receive, at no expense to themselves, survivor's benefits that provide as follows:

(i) In the event of the death of a member who was receiving a pension or disability benefit or who had qualified for retirement pension benefits but had not retired, his widow shall be entitled, during her lifetime, to receive a pension equal to fifty percent (50%) of the pension the member was receiving or would have been receiving had he been retired at the time of his death. If no widow survives, then the child or children of the deceased member shall be entitled to receive a pension calculated at fifty percent (50%) of the pension to which the member was entitled. No payment shall be made for any child after his/her 18th year unless the child is attending college and under the age of 23. Effective April 17, 2002, "attending college" shall mean the eligible child(ren) is/are registered at an accredited institution of higher learning and are carrying a minimum course load of seven credit hours per semester.

(ii) Effective January 1, 2015, the Killed-in-Service survivor pension benefit is removed from the contract and such benefits shall be provided by the Commonwealth per Act 51. Survivor medical benefits shall continue to be provided by the Township. In the event that Act 51 is repealed, or if such benefits otherwise cease to be provided by the Commonwealth, the parties agree to immediately commence negotiations for a replacement benefit.

(iii) The surviving spouse (until she remarries) and the officer's dependent children (until they reach age 18 or up to age 23 if full time students, or for such greater period if required by law) shall continue to receive the medical benefits available to the officer at no cost.

(e) Service Increments: Effective January 1, 2015 all officers shall be entitled to an additional pension benefit of one hundred dollars (\$100.00) per month for each year of completed service in excess of twenty-five (25) years, to a maximum of five hundred dollars (\$500) additional per month for having completed thirty (30) years of service. This limitation shall not apply to any officer who has completed a 31st year of service prior to January 1, 2015 and who thereafter retires, as such officer shall be entitled to six hundred dollars (\$600) additional pension benefit per month (with no additional service increment for any years of service beyond that 31st year).

(f) Cost of Living: There shall be an annual cost of living increase for all police officers after their retirement, based on the All Urban Consumers (CPI-U) for the Philadelphia region, as published for the month of October preceding the annual adjustment; however, that such cost of living shall not exceed the percentage increase in the consumer price index for the Philadelphia area during the year in which the police member last worked and provided further that in no case shall the total police pension benefits exceed seventy-five percent (75%) of the salary for computing retirement benefits, and provided further that the total cost of living increase shall not exceed thirty percent (30%).

(g) Health Insurance: The Township shall pay 100% of the cost of all health insurance described in Article 18 of this agreement in effect at the time of retirement (whether for service or disability) up to age sixty-five (65). When the officer or their spouse reaches age 65 and is eligible for Medicare, the Township shall supply that person, at its sole expense, with supplemental medical and prescription coverage so as to maintain the level of coverage enjoyed by that person pursuant to the post-retirement medical coverage they were receiving prior to their Medicare eligibility.

(h) Vested Pension: The Township shall provide for all officers a vested pension benefit under which, after completing twelve (12) years of total service if the officer for any reason ceases to be employed as a full-time police officer by said Township, he shall be entitled to vest his retirement benefits by filing with the Township within ninety (90) days of the day he ceases to be a full-time police officer, a written notice of his intention to vest. Upon reaching the date which would have been his superannuation retirement date, if he had continued to be employed as a full-time police officer, he shall be paid a partial superannuation retirement allowance, determined by applying the percentage his years of service bears to the years of service he would have rendered had he continued to work until his superannuation retirement date to the gross pension, using, however, the monthly average salary during the appropriate period prior to his termination of employment.

(i) Disability: If an officer is totally and permanently disabled from performing police work for the Township of Darby as the result of a service-connected disability, he shall receive seventy-five percent (75%) of his wages (which shall include all monies received in the twelve (12) month period preceding retirement), offset by social security disability received by the officer for the same injury or illness that results in the service-connected disability, but without any offset for Worker Compensation, Township sponsored insurance plan or otherwise, except as modified herein and shall continue to the death of the officer. In no event, however, shall the officer's pension (exclusive of any benefits such as personal insurance or severance pay), exceed one hundred percent (100%) of his wages including worker compensation as received in the twelve (12) month period preceding retirement.

If said disability is non-service connected, and he has less than ten (10) years of service, he shall receive one hundred dollars (\$100.00) per year of service per month, and if he has ten (10)

years or more of service, he shall receive seventy percent (70%) of his average salary for the last sixty (60) months of employment. This shall continue until his death.

(j) Police Retirement Board: A Police Officer shall be appointed to serve as police representative on the Police Retirement Board.

(k) Pension Contributions: The Township shall amend its pension ordinance to provide that police officer-required contributions shall be 4% effective January 1, 2015.

(l) DROP: The parties agree to adopt, and this Agreement expressly incorporates, the Act 44 Retirement Plan attached hereto as Exhibit "A". If a member who enters the Act 44 Plan incurs a service-related injury or illness, and is placed on permanent service-connected disability, that member shall no longer participate in the Act 44 Plan. Thereafter, the member shall receive a service-connected disability pension payable in the same amount as that member's Act 44 benefit (subject to applicable cost-of-living adjustments). It is further agreed that the Act 44 retirement account of a member is subject to a annual charge of \$40, plus a .60% (six-tenths of one percent) annual asset charge, payable out of said account. Should the Township assert a need to increase such charge, the parties shall negotiate concerning that subject.

(m) If an officer shall leave employment with the Township under circumstances where they receive a return of their contributions, those contributions shall be subject to a 3% rate of interest.

5. RANK DIFFERENTIAL:

The schedule for rank differential shall be as follows:

- (a) 7% - Corporal over Patrolman
- (b) 7% - Sergeant over Corporal

- (c) 5% - Lieutenant over Sergeant
- (d) 5% - Chief over Lieutenant

6. ACTING IN RANK:

Any officer acting in the rank of a higher paid officer shall be compensated at the rate of the higher paid officer for each day he so acts beginning with the thirtieth (30th) day he so acts.

7. CLEANING ALLOWANCE:

Effective January 1, 2013, the annual cleaning allowance shall be \$500.00.

8. CLOTHING ALLOWANCE:

Effective January 1, 2013, the annual clothing allowance shall be \$500.00.

9. VACATION:

All officers shall be eligible for annual vacation leave as follows, which vacation may be taken in single days:

| | |
|------------------|--|
| 1 Week | During the first year of service. |
| 2 Weeks per Year | Beginning with second year of service and continuing through the third year of service. |
| 3 Weeks per Year | Beginning with the fourth years of service and continuing through the ninth year of service. |
| 4 Weeks per Year | Beginning with the tenth year of service and continuing through the fourteenth year of service. |
| 5 Weeks per Year | Beginning with the fifteenth year of service and continuing through the twentieth year of service. |
| 5 Weeks + 1 Day | Beginning with the twenty-first year of service. |

| | |
|------------------|---|
| 5 Weeks + 2 Days | Beginning with the twenty-second year of service. |
| 5 Weeks + 3 Days | Beginning with the twenty-third year of service. |
| 5 Weeks + 4 Days | Beginning with the twenty-fourth year of service. |
| 6 Weeks | Beginning with the twenty-fifth year of service and therefore annually. |

It is intended that vacation time shall be used in the year in which it is provided. In order to accommodate that intention, use of vacation should not be denied. If use of vacation time is denied, the officer will be permitted to carry such time over into the next calendar year and use it in that year. Officers who have vacation time which was carried over from years prior to 2015 shall be required to use that time prior to December 31, 2019.

10. HOLIDAYS:

Each officer shall receive fourteen (14) days off per year in lieu of holidays. Days off shall be selected by the officers on the basis of rotating seniority, but in such a manner that a particular shift accommodate the day off. If an officer is unable to take all of his days off in a given year, he shall be paid for those days at straight time in the first pay period after December 31st.

Of the fourteen (14) days off as aforesaid, the holidays of Christmas, Thanksgiving, Easter Sunday and July 4th shall be designated as festive holidays. As to Easter Sunday and July 4th, the festive holiday rate shall commence at 00:00 P.M. on the holiday and apply until 11:59 P.M. on the holiday (24 hours being subject to the festive rate). As to Thanksgiving and Christmas, the festive holiday rate shall commence at 4:00 P.M. on the eve of the holiday and apply until 24:00 hours on the holiday (32 hours being subject to the festive rate). An officer who works on a festive holiday

shall receive, in addition to a paid holiday, wages at the rate of two times his or her normal rate of pay for all hours worked that day.

11. NIGHT DIFFERENTIAL:

Night differential percentage shall be ten percent (10%) above the base salary for any hours worked between 4:00 PM and 8:00 AM based on their annual base salary.

12. PAY PERIOD:

All officers shall be paid on a weekly basis and the week shall begin as of midnight Saturday.

13. OVERTIME (COURT TIME, ETC.):

Payments for overtime shall be made at the rate of one and one-half (1.5%) times base pay for all hours worked in excess of: eight (8) hours per day; forty (40) hours per week; five (5) consecutive days without a full two (2)-days break. Work includes any time required of an officer by a superior officer. Regardless of overtime worked, the minimum payment shall be for four (4) hours at time and one-half, providing the overtime is not an extension of the regular work period.

14. OFF-DUTY OFFICERS:

(a) Appearances before a district justice shall be paid for a minimum of four (4) hours at the rate of time and one-half.

(b) Attendance in Court, (exclusive of appearances as a witness for a third party in a civil matter) shall be paid for eight (8) hours at straight time, regardless of how much time is spent in court that day, or,

(c) Attendance at required schools shall be paid time and one-half with a four (4) hours minimum.

(d) All overtime shall be paid as part of the weekly pay check.

15. SICK LEAVE:

All officers shall earn sick leave at the rate of 1.25 days per month (fifteen (15) days per year), cumulative to a maximum of ninety (90) days. If an officer is out of work three (3) consecutive days he must bring a doctor's note and upon request, and at the expense of the Township, be examined by a physician designated by the Township.

The Township shall provide a disability insurance benefit that shall, after a 30 calendar day waiting period, pay 70% of the officer's weekly compensation (to a maximum of \$1,750 per week) for a period of 365 days. An officer can elect to take available sick time at full pay or accept the disability benefit instead. Should an officer receive disability insurance while receiving his full salary from the Township, he must turn over all such disability insurance payments to the Township.

Upon the exhaustion of the disability insurance benefit, a determination may be made as to whether the officer is likely to return to duty in the reasonably foreseeable future, in which event the officer shall remain on administrative leave with continued medical insurance and other fringe benefits, or be honorably discharged due to permanent disability. Disputes as to this determination shall be resolved by grievance arbitration.

16. SEVERANCE PAY:

When an officer retires for service or disability, he shall be paid a sum equal to eighty (80) days at his annual base salary. Severance shall be paid upon separation, and not be due upon an officer's entry in to the Act 44 Program, and shall not be included in the calculation of the officer's Act 44 benefit.

17. REDUCTION IN FORCE:

Any officer furloughed or terminated as a result of a reduction in force or termination of the police department shall receive, in a lump sum, an amount equal to three (3) months his base salary.

18. HEALTH INSURANCE:

(a) The Township shall provide to officers hired before January 1, 2015, at no expense to police officers and their dependents, the following hospital and medical benefits:

(i) Medical and Prescription: the Township shall provide Personal Choice 10/20/70 PPO Plan medical coverage (not "Flex" coverage) with \$5 generic/\$10 brand name prescription coverage. The Township shall reimburse all out-of-pocket expense incurred under the coverage related to any hospital stay, up to \$400 per stay, which shall be paid within 30 days of submission of documentation of the out-of-pocket expense.

(ii) Dental: The full dental program, together with 100% coverage on all four (4) options. (BC/BS)

(iii) Vision Care: The Vision Care Program, excluding contact lenses. The Township shall also provide each officer with one pair of prescription sunglasses every two (2) years, if requested to do so. (BC/BS)

(iv) Orthodontic Rider: UCR Orthodontic Rider of \$2,000.00 per individual under nineteen (19) year of age.

(b) The Township shall provide to officers hired on or after January 1, 2015, at no expense to police officers and their dependents, the following hospital and medical benefits:

(i) Medical and Prescription: the Township shall provide the Keystone HMO 10 Plan medical coverage with \$5 generic/\$10 brand name prescription coverage.

(ii) Dental: The full dental program, together with 100% coverage on all four (4) options. (BC/BS)

(iii) Vision Care: The Vision Care Program, excluding contact lenses. The Township shall also provide each officer with one pair of prescription sunglasses every two (2) years, if requested to do so. (BC/BS)

(iv) Orthodontic Rider: UCR Orthodontic Rider of \$2,000.00 per individual under nineteen (19) year of age.

(c) Officers entitled to the PPO coverage may elect the HMO coverage and shall receive 50% of the difference in premium for thirty-six (36) months. Once those officers elect the HMO coverage, they may not switch back to the PPO except upon retirement.

19. EDUCATION BENEFITS:

Officers who obtain sixty (60) credits at an accredited college or university shall have two hundred fifty dollars (\$250.00) added to their annual salary. Any officer who obtains one hundred twenty (120) credits as aforesaid shall receive an additional five hundred dollars (\$500.00) annually.

20. DEATH BENEFITS:

All officers shall be provided the following death benefits through life insurance: before retirement fifty thousand dollars (\$50,000.00) with double indemnity; after retirement, ten thousand dollars (\$10,000.00) to age sixty-five (65) and five thousand dollars (\$5,000.00), thereafter.

In the event the Township is unable to obtain the double indemnity coverage, the Township will add the equivalent cost to the annual base salary of each officer on a pro rated basis.

21. RESIDENCY:

There shall be no residency requirements as a condition of employment.

22. NEGOTIATING COMMITTEE:

Officers who serve on the Police Negotiating Committee and attend negotiating or arbitration sessions while off-duty shall receive paid days off for attendance at such sessions.

23. CIVIL AND CRIMINAL SUITS:

The Township shall provide the police Professional Liability Insurance Coverage of \$100,000.00 minimum for each officer, \$300,000.00 for each incident and \$500,000.00 aggregate for the entire year.

The Township shall also provide insurance coverage for all officers when they are sued criminally for matters that arise from the officer's duties as a Darby Township Police Officer. If the insurance carrier will not permit the officer his own selection of an attorney in said criminal suit and the officer therefore elects to choose his own attorney in said suit, then the Township will provide a maximum annual amount of seven thousand five hundred dollars (\$7,500.00) non-cumulative, to pay said counsel fees. This maximum shall apply to all criminal suites commenced during a calendar year, without regard to when the fee is earned payable or paid. Payment shall be made only if the officer is not found guilty in the criminal proceedings.

24. GRIEVANCE AND ARBITRATION PROCEDURES:

(a) Definition:

(i) "Grievance" means any dispute involving the application or interpretation of any provision of this agreement or any arbitration award rendered between the parties and any dispute involving the application or interpretation of any statute.

Any statute affecting the rights, benefits and working conditions of police officers employed by the Township, including but not limited to any applicable statute providing for civil service or tenure.

(ii) "Grievant" means the person asserting the claim resulting in any such dispute. Where applicable it shall also include the F.O.P.

(b) Any grievance shall be resolved in the following manner:

(i) Level I - Superior Officer - No later than thirty (30) days after a grievable event occurs or thirty (30) days after the officer has personal knowledge that the grievable event has occurred, the employee should first discuss the matter with the immediate supervisor who has authority to resolve the grievance. He or she may do this, either directly or through the F.O.P. representative, with the objection of resolving this matter informally.

(ii) Level II - Chairman of the Police Committee - In the event the grievant is not satisfied with the disposition of this grievance at Level I, or in the event that no decision has been rendered within five (5) days after the discussion of the grievance, he may submit a written description of the grievance to the Chairman of the Police Committee. Such submission shall be made within seven (7) days after the decision in Level I should have been rendered.

The Chairman of the Police Committee shall arrange a conference with the grievant and his F.O.P. representative (if he has elected to use his F.O.P. representative) within five (5) days after receipt of the written grievance. The Chairman of the Police Committee shall render a decision in writing, to the grievant with a copy to the F.O.P. (if an F.O.P. representative has been designated) no later than five (5) days after the conference.

(iii) Level III - Board of Commissioners - In the event that the grievant is not satisfied with the disposition of the grievance at Level II or in the event no decision has been rendered at Level II within the time provided for such decision, the grievant may request a hearing with the Board of Commissioners. This request, in writing, and accompanied by copies of all relevant written materials from previous levels, must be

made within seven (7) days of the rendering of the decision at Level II or of the expiration of the time provided for the rendering of such decision. The Board of Commissioners shall hold the hearing within seven (7) days of the receipt of the request.

The grievant may be accompanied by his F.O.P. representative (if he has elected to use his F.O.P. representative). The Board of Commissioners may have its' representative at the hearing.

The Board of Commissioners shall render a decision in writing to the grievant with a copy to the F.O.P. (if an F.O.P. representative has been designated) and to the Township no later than ten (10) days after the final hearing.

(iv) Level IV - Arbitration - In the event that the grievant is not satisfied with the disposition of the grievance at Level II or in the event that no decision has been rendered at Level III within the time provided by such decision, the grievance may be referred to arbitration by a written request made within five (5) days following the decision at Level III or the expiration of the time provided for such decision.

If the parties cannot voluntarily agree upon the selection of an arbitrator within ten (10) days of the written request, the parties shall notify the American Arbitration Association of their inability to do so. The American Arbitration Association shall then submit to the parties the names of seven (7) arbitrators. Each party shall alternately strike a name until one (1) name remains. The Township shall strike the first name. The person remaining shall be the arbitrator.

The cost of arbitration shall be shared equally by the parties. Fee paid to the arbitrators shall be based on a schedule established by the AAA.

The arbitration award shall be in writing and shall set forth the arbitrator's opinion and conclusions on the issues submitted.

The decision of the arbitrator shall be final and binding on both parties.

(c) Miscellaneous:

(i) Both parties agree to apply the decision of the arbitrator to all substantially similar situations arising thereafter and to eliminate the filing of grievances where possible by application of the award as precedent.

(ii) Where any statutory remedy is provided for resolution of the grievance, the election of a grievant to pursue such remedy shall constitute a waiver of his rights to pursue the grievance procedure here provided, and his election to pursue the grievance procedure here provided shall constitute a waiver of his right to pursue such statutory remedy.

25. COMPUTATION OF SICK LEAVE, VACATION AND OVERTIME:

If an officer is charged with sick leave or vacation time, these days are counted as work days for the purpose of computing overtime.

26. F.O.P. REPRESENTATIVE:

If the F.O.P. Representative is scheduled to work the 4:00 PM to 12:00 midnight shift on a night of a monthly F.O.P. meeting, he shall be granted the shift off to attend the monthly meeting with full pay.

27. FUNERAL LEAVE:

Each officer shall be entitled to five (5) days funeral leave with pay for any member of his immediate family, which shall include, spouse, child, parent, grandparent, grandchild, brother, sister, mother-in-law, father-in-law.

28. PERSONAL DAYS:

All officers shall receive three (3) personal days per year. An officer may request a personal holiday 20 days or more in advance of the holiday and shall receive a response from the Chief within 5 working days. Personal days requested less than 20 days before the holiday shall be reviewed by the Chief (or his designee) and responded to promptly, as the circumstances dictate (but within 5 working days). Personal holidays will be granted when staffing needs permit. Personal holidays not used as of the end of the calendar year may be held over for use within the first 90 calendar days of the following year. Officers who do not use their allotment of personal days in a given year (or in the 90 days thereafter) shall be paid for those days at straight time. Officers who do not carry over unused personal days shall be paid for those days in the first pay period after December 31st; officers who carry over personal days shall be paid for those days, in the event that they are not used within the 90 days, in the first pay period following March 31st.

29. SERVICE CONNECTED DISABILITY - HEART & LUNG ACT PROCEDURES:

(a) Temporary Service-Connected Disability:

(i) Purpose:

To provide a formal procedure to afford prompt and equitable treatment to all police officers of the Darby Township Police Department who are injured or who are otherwise disabled as a result of the performance of their duties.

(ii) Coverage:

This procedure is established for all sworn full time police officers of the Darby Township Police Department.

(iii) Definitions:

(a) Work Related Injury - Any injury or illness arising from the performance of the officer's duties. All such injuries or illnesses shall be considered as temporary until medically determined to be otherwise. The term "Work Related Injury" may also be referred to as "IOD" (Injured on Duty).

(b) Police Officer - Any sworn police full time officer of the Darby Township Police Department. (Unless otherwise specified, masculine references shall include the feminine and the singular shall include the plural and vice-versa.)

(c) F.O.P. - Pennsylvania Fraternal Order of Police, Delaware County Lodge 27 - the collective bargaining representative of the Darby Township police officers.

(d) Township - Darby Township Administration

(iv) Procedure:

(a) All police officers must report any work-related injury or illness as soon as possible.

(b) The injured officer, if able, will provide a written report about the injury within twenty-four (24) hours. If the injured officer is unable to prepare this

report, the immediate supervisor or the officer assigned to investigate the incident will prepare a basic injury report within twenty-four (24) hours.

(c) Any officer injured on duty, who goes to a hospital for emergency treatment will be immediately covered under the Heart and Lung Act and receive the benefits accorded thereby.

(d) Any officer injured on duty shall fully cooperate in the processing of a claim for Workers Compensation benefits or any other benefits permitted by law or pursuant to previous agreements between the Township and the FOP.

(e) Any officer who is injured on duty may seek medical attention from a physician(s) of his choice and shall provide a medical report to the Township Manager's office within seven (7) days or as soon thereafter as is feasible in light of the injury or illness involved and/or the ability of the physician to prepare the report.

(f) Any officer out on IOD may be requested by the Township to be examined by a physician of the Township's choosing. All costs, including mileage and parking, will be borne by the Township. A copy of all records and reports which are prepared, maintained or in the possession of the Township physician pertaining to the injured officer will be provided to the injured officer within seven (7) days after being requested by the officer or being received by the Township.

(g) If an officer has a reoccurrence of a past IOD injury or illness, he shall follow the procedure as outlined in paragraph (a). If the officer is requested to provide a physician's report, it shall be provided to the Township Manager's

office within seven (7) days or as soon thereafter as is feasible in light of the injury or illness and/or the physician's ability to prepare such report.

(h) After an officer suffers a work-related injury (or reoccurrence of a past work related injury or illness), the Township Manager shall then make immediate arrangements for the proper dispensation of benefits:

(i) Full pay and all benefits as accorded by the collective bargaining agreement. The officer will receive his full pay less deductions for FOP Dues and pension contribution. FOP agrees to indemnify and hold Township harmless for any tax interest and/or penalty subsequently deemed payable as a result of the Township's compliance with this contract concerning deductions from pay.

(ii) Payment of all related medical bills will be paid by the Township its Workers Compensation carrier.

(i) If an officer believes he has been improperly denied Heart and Lung benefits, he may request a hearing before the Board of Commissioners. Such hearing shall be held within twenty (20) business days (Monday through Friday, excluding national holidays) of the request, unless an extension has been agreed to by the parties. Bona fide requests for extensions shall not be unreasonably denied. At the hearing, the police officer shall have the right to counsel, the right to call witnesses and introduce documents, the right to a transcript of the proceedings and a right to submit deposition testimony from medical authorities.

(j) The Board of Commissioners shall render a written decision within forty-five (45) days from the date of the hearing.

(k) If the Township believes that an officer is improperly receiving or otherwise is not entitled to Heart and Lung benefits, they shall notify the officer in writing of the decision and intent to terminate the benefits. Thereafter, the officer shall have the right to demand a hearing by submitting a written request within 14 days from receipt of the notice. That hearing shall be conducted in accordance with procedures set forth in paragraphs (i) & (j).

(l) Any officer out on IOD will provide bi-weekly updates as to his continuing disability. The officer will provide quarterly medical statement(s) from his treating physician(s).

(m) Any officer while out on IOD and receiving Heart and Lung Act benefits, will sign over to the Township all Workers Compensation checks received by the officer of the Township for the period during which Heart and Lung Act benefits are received.

(n) Heart and Lung Act benefits will be discontinued when: (1) the officer returns to full duty, after clearance for such duty from his physician and, if requested, from the Township physician; or (2) at such time that the officer is determined to be permanently disabled.

(o) If the officer's physician and Township's physician disagree concerning the current status of the injury or illness, or the permanency of same, the procedure set forth in paragraph (k) [incorporating paragraphs (i) and (j)] shall be followed.

30. SPECIAL DETAILS:

Effective upon execution of this agreement, the rate paid to officers for special details shall be \$55.00 per hour. That rate shall be renegotiated by the parties for 2018.

31. PAST PRACTICES:

This document is a compilation of all written terms, benefits and conditions of employment as set forth in prior agreements and awards, and shall govern those matters consistent with the existing practice of the parties.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have hereunto set their hand and seals.

TOWNSHIP OF DARBY
("Township")

BY: _____
President

Date: _____

ATTEST:

Secretary

Date: _____

DELAWARE COUNTY LODGE NO. 27
OF THE FRATERNAL ORDER OF
POLICE ON BEHALF OF THE
POLICE OFFICERS OF THE
TOWNSHIP OF DARBY ("Police")

BY: _____
Joseph A. Fitzgerald,
President

Date: _____

ATTEST:

Secretary

Date: _____

**TOWNSHIP OF DARBY
DELAWARE COUNTY, PENNSYLVANIA
ORDINANCE NO. _____**

**AN ORDINANCE OF THE TOWNSHIP OF DARBY, DELAWARE
COUNTY, PENNSYLVANIA AMENDING THE POLICE PENSION
PLAN AND TRUST FOR THE POLICE OFFICERS OF THE TOWNSHIP
OF DARBY TO INCLUDE AN ACT 44 RETIREMENT PROGRAM**

WHEREAS, the Township of Darby did, by Ordinance No. (enacted *DATE* and amended from time to time), revise and restate its Police Pension Plan and Trust for the Police Officers of the Township of Darby; and

WHEREAS, on September 18, 2009 the Pension Payments Plan (Act 44) was approved by the Pennsylvania Legislature amending Title 53 as it relates to Municipal Police Pension Plans; and

WHEREAS, the Township, through collective bargaining negotiations with Delaware County Lodge #27 of the Fraternal Order of Police, determined it is desirable and beneficial to establish an Act 44 Retirement Program for its police officers who meet certain eligibility requirements.

NOW, THEREFORE, BE IT ORDAINED THAT:

SECTION I – Ordinance No. , The Police Pension Plan and Trust for the Police Officers of the Township of Darby, is AMENDED to add a new section establishing and implementing an Act 44 Retirement Program:

1. Title. This Section shall be known as the “Darby Police Act 44 Retirement Program.”
2. Definitions. When used in this Section, the below words shall have the meaning indicated.
 - “Township” – Township of Darby, Delaware County, Pennsylvania.
 - “ACT 44 PLAN” – The Pension Payments Plan approved by the Pennsylvania Legislature September 18, 2009, amending Title 53 as it relates to Municipal Police Pension Plans.
 - “ACT 44 PLAN Account” – Separate account created to accept ACT 44 PLAN participants’ monthly pension check while an ACT 44 PLAN participant, as well as any interest thereon.
 - “Fund” or “Plan” – the Municipal Police Pension Plan.
 - “Participant” – a Police Officer who meets the eligibility for and has executed the proper documents for participation in ACT 44 PLAN and has had such application approved by the Township.
 - “Police Officers” - Police Officers of the Police Department.

3. Eligibility. Eligibility for the ACT 44 PLAN shall be determined as follows:

Police Officers who have not retired prior to the implementation of the ACT 44 PLAN program may enter into the ACT 44 PLAN program on the first day of any month following completion of 25 years of credited service and attaining the age of 50. If the officer completed 25 years of credited service and attained the age of 50 prior to the enactment of this ordinance, then the effective date of entry may be July 8, 2015, provided that the officer submits their election form within 90 days of July 8, 2015.

4. Written Election. Eligible Officers who wish to be Participants in the ACT 44 PLAN program must signify that intention in writing as follows:

- A. A Police Officer electing to participate in the ACT 44 PLAN program must complete and execute an "ACT 44 PLAN Participation Election Form" prepared by the Township, which shall evidence the member's election to participate in the ACT 44 PLAN. The form must be signed by the Police Officer and be notarized and submitted prior to the date on which the member wishes ACT 44 PLAN participation to commence. The ACT 44 PLAN Participation Election Form shall include an irrevocable notice to the Township, by the Police Officer member, that the Police Officer shall resign from employment with the Police Department effective on a specific date (the "resignation date"). In no event shall the resignation date be longer than thirty-six (36) months. A Police Officer shall cease to work as a Police Officer on the officer's resignation date, unless the Township properly terminates or honorably discharges the officer prior to the resignation date. In addition, upon providing the ninety (90) day notice to the Township, which may be waived by the Township in its sole discretion, a Participant may resign from employment while in ACT 44 PLAN status.
- B. In addition to the above information, the ACT 44 PLAN Participation Election Form shall also advise the employee of the following: (1) an explanation of the Participant's rights and obligations while in ACT 44 PLAN; (2) that, as a condition of ACT 44 PLAN participation, the Participant foregoes active participation in the Police Pension Plan and foregoes any recalculation of pension benefits to include salary increases occurring after ACT 44 PLAN participation commences; and (3) that the ACT 44 PLAN Participant's service while in ACT 44 PLAN will not count as pension service nor will it entitle a participant to any service increment benefits to which the Participant was not entitled prior to commencing ACT 44 PLAN participation. An ACT 44 PLAN Participant must also complete all necessary and appropriate retirement documents required by the Police Pension Plan Administrator, and such documents must be filed and presented to the Township for approval of retirement and payment of pension, which approval shall not be unreasonably withheld. Once a ACT 44 PLAN Participation Election Form has been approved by the Township, it is irrevocable. Likewise, once a ACT 44 PLAN Participant enters the ACT 44 PLAN program, the Participant may not subsequently leave and then re-enter the ACT 44 PLAN, even if

the employee separates from employment and subsequently begins employment with the Township again.

5. **Benefit Calculation.** For all retirement Fund purposes, continuous service of a Police Officer participating in the ACT 44 PLAN shall remain as it existed on the effective date of commencement of participation in the ACT 44 PLAN. Service thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Township Police Pension Plan. The average monthly compensation of the Police Officer for pension calculation purposes shall remain as it existed on the effective date of commencement of participation in the ACT 44 PLAN. Earnings or increases in earnings thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Pension Plan. The pension benefit payable to the members shall increase only as a result of Cost of Living Adjustments in effect on the effective date of the member's participation in the ACT 44 PLAN or by applicable cost of living adjustments granted thereafter.
6. **Accumulation of the ACT 44 PLAN Account.** The monthly retirement benefits that would have been payable had the Police Officer elected to cease employment and receive a normal retirement benefit, shall, upon the Police Officer commencing participation in ACT 44 PLAN, accumulate to the benefit of that Officer and be paid into that Police Officer's ACT 44 PLAN Account. Participants shall not have the option of self-directed investment of their individual ACT 44 PLAN Account while in the ACT 44 PLAN. Instead, the monies shall be invested in a fund to be identified and selected solely by the Township so as to generate a rate of return of no less than zero percent (0%) and no more than four and a half percent (4.5%).
7. **Accrual of Non-Pension Benefits.** After a Police Officer elects to participate in the ACT 44 PLAN program, all other contractual benefits shall continue to accrue with the exception of those provisions relating to the Police Pension Plan.
8. **Payout.** Upon separation from employment, the ACT 44 PLAN payout options available to the ACT 44 PLAN Participant shall be as follows:
 - A. The balance of the ACT 44 PLAN Participant's account, less withholding taxes, if any, remitted to the Internal Revenue Service, shall be paid to the Participant or the Participant's surviving beneficiary.
 - B. The balance of the ACT 44 PLAN Participant's account shall be paid directly to the custodian of an eligible retirement plan as defined by Internal Revenue Code Section 402(c)(8)(b), or in the case of an eligible rollover distribution to the surviving spouse of a deceased ACT 44 PLAN Participant, an eligible retirement plan that is an individual retirement account or an individual retirement annuity as defined by Internal Revenue Code Section 402(c)(9).
 - C. If the ACT 44 PLAN Participant or beneficiary fails to make an election within sixty days (60) following the date of termination of ACT 44 PLAN participation, then the Township shall implement section 1 above.

9. Disability During ACT 44 PLAN. If an ACT 44 PLAN Participant becomes temporarily incapacitated during his participation in ACT 44 PLAN, that Police Officer shall continue to participate in the ACT 44 PLAN program as if fully employed. The Police Officer shall receive disability pay in the same amount as disabled Police Officers that are not participating in ACT 44 PLAN. In no event shall a Police Officer on temporary disability have the ability to draw from his ACT 44 PLAN account. However, notwithstanding any other provision in this paragraph, if a Police Officer is disabled and has not returned to work as of the date of his required resignation, then such resignation shall take precedence over all other provisions herein and said officer shall be required to resign. Nothing contained in this Plan shall be construed as conferring any legal rights upon any Police Officer or other person to a continuation of employment nor shall participation in the ACT 44 PLAN Program supersede or limit in any way the right of the Township to honorably discharge a Police Officer based upon an inability to perform his or her full duties as a police officer. If a ACT 44 PLAN Participant becomes eligible for a disability pension and his employment is terminated due to an inability to continue in service on grounds that render him eligible for a disability pension, the monthly normal retirement benefit of the ACT 44 PLAN Participant shall end. Instead, the Police Officer shall receive a service-connected disability pension, the monthly payment being equal to the amount which was payable in accordance with the ACT 44 PLAN benefit calculation and payments.
10. Death. If an ACT 44 PLAN Participant dies, the Participant's eligibility for ACT 44 PLAN shall terminate upon the date of death. In such case, if the ACT 44 PLAN account balances have not yet been paid out, the Participant's legal beneficiary shall have the same rights and options as the Participant to withdraw/roll over the account balance.
11. Forfeiture of Benefits. Notwithstanding a Police Officer's status as an ACT 44 PLAN Participant, a current or former Participant who is convicted or pleads guilty to engaging in criminal misconduct which constitutes a "crime related to public office or public employment," as that phrase is defined in Pennsylvania's Pension Forfeiture Act, 43 P.S. §§ 1311-1314, shall forfeit his right to receive a pension, including any amounts currently deposited in the ACT 44 PLAN Account. In such a case, the Participant shall only be entitled to receive the contributions, if any, made by the Participant to the Police Pension Fund, without interest.
12. Cost of Management for ACT 44 PLAN Program. The Police Officers and the Township agree that any costs or fees associated with the management of the ACT 44 PLAN accounts shall be paid directly and solely from the Pension Fund and not by the Township.
13. Amendment. Any amendments to the ACT 44 PLAN Ordinance shall be consistent with the provisions covering Individual Retirement option plans set forth in any applicable collective bargaining agreement and shall be binding upon all future ACT 44 PLAN Participants and upon all ACT 44 PLAN Participants who have balances in their Individual Retirement option accounts. The ACT 44 PLAN may only be amended by a written instrument, not by any oral agreement or past practice.
14. Construal of Provisions. A Police Officer's election to participate in the ACT 44 PLAN program shall in no way be construed as a limitation on the Township's right to suspend or

to terminate a Police Officer for just cause or to grant the Police Officer an honorable discharge based upon a physical or mental inability to perform his or her duties.

15. Severability. The provisions of the ACT 44 PLAN program shall be severable; and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any of the remaining provisions of the ACT 44 PLAN program shall not be affected thereby. It is hereby expressly declared as the intent of the Township that the ACT 44 PLAN program would have been adopted had such unconstitutional or illegal provision or provisions not been included herein.
16. Effective Date. The Effective Date of the ACT 44 PLAN Program shall be the date the Township approves the Collective Bargaining Agreement, which references the creation of this ACT 44 PLAN.

SECTION II: All Township elected and appointed officials are authorized to take all action necessary to ensure the implementation and effect the purpose hereof.

SECTION III: Any and all Ordinances and/or Resolutions, or parts thereof, conflicting herewith are repealed insofar as the matters herein are affected.

SECTION IV: The provisions of this Ordinance are severable, and if any clause, sentence, subsection or section hereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder but shall be confined in its operation and application to the clause, sentence, subsection or section rendered. It is hereby declared the intent of the Township Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional clause, sentence, subsection, or section had not been included therein.

SECTION V: This is effective immediately upon enactment according to law, and shall remain in effect hereafter until revised, amended, or revoked by action of the Council of the Township of Darby.

ADOPTED by the Township this _____ day of _____, 2015.

President

ENACTED this _____ day of _____, 2015.

Secretary

I HEREBY CERTIFY that the foregoing is a true and correct copy of the said Ordinance duly adopted at a meeting held on the _____ day of _____, 2015.

Secretary

