



06/27/11
10-MED-10-1529
0237-02
K27430

AGREEMENT
BETWEEN
THE CITY OF MIDDLETOWN
AND
FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.
January 1, 2011 - December 31, 2013
(DISPATCHERS)

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
ARTICLE 1	Recognition-the Collective Bargaining Unit	1
ARTICLE 2	No Discrimination.....	2
ARTICLE 3	Union Activity, Visitation & Bulletin Boards.....	2
ARTICLE 4	No Strike or Lockout.....	3
ARTICLE 5	Management Rights	4
ARTICLE 6	Employee Rights	5
ARTICLE 7	Probationary Employees	6
ARTICLE 8	Dues Deduction & Fair Share Fee.....	7
ARTICLE 9	Discharges, Suspensions and Penalties	8
ARTICLE 10	Grievance Procedure.....	9
ARTICLE 11	Arbitration	10
ARTICLE 12	Paid Leave.....	11
ARTICLE 13	Holidays.....	11
ARTICLE 14	Vacation	13
ARTICLE 15	Longevity	14
ARTICLE 16	Funeral Leave.....	15
ARTICLE 17	Sick Leave	15
ARTICLE 18	Injury Leave	18
ARTICLE 19	Unpaid Leave	19
ARTICLE 20	Insurance.....	20
ARTICLE 21	Miscellaneous Benefits.....	21
ARTICLE 22	Wages	21
ARTICLE 23	Hours of Work and Overtime	23
ARTICLE 24	Labor-Management Meetings.....	24
ARTICLE 25	Drug Testing.....	25
ARTICLE 26	Modification and Separability.....	28
ARTICLE 27	Layoff and Recall.....	29
ARTICLE 28	Disability	30
ARTICLE 29	Seniority	30
ARTICLE 30	Termination.....	32
	Signature's.....	32

AGREEMENT

AGREEMENT made and entered into by and between **THE CITY OF MIDDLETOWN, OHIO** (hereinafter called the "City" or "Employer" or "Management") and **THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.** (hereinafter referred to as "Labor Council", "Union" or "FOP") acting herein on behalf of the employees of the City, as hereinafter defined, now employed and hereafter to be employed and collectively designated as the "Employees."

WITNESSETH:

WHEREAS, the City recognizes the Union as the collective bargaining representative for the employees covered by this Agreement as hereinafter provided; and

WHEREAS, it is the intent and purpose of the parties hereto that this Agreement protect against interruptions and interferences with services to the citizens of Middletown and surrounding communities and to set forth herein their Agreement covering wages, hours, and conditions of employment;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE 1

Recognition – The Collective Bargaining Unit

1. The City recognizes the Union as the sole and exclusive bargaining representative of a bargaining unit consisting of all permanent, full-time Dispatchers employed by the Employer, but excluding all other employees of the Employer. The SERB certification number is 99-REP-05-0110 and it was certified June 3, 1999.

2. Whenever the word "Employee" is used in this Agreement, it shall be deemed to mean the employees in the bargaining unit covered by this Agreement, as defined in Article 1, Section 1 hereof.

A bargaining unit member who is promoted to Dispatch Supervisor may return to his/her previous bargaining unit position within twelve (12) months of the promotion date, provided there is an available position. The time spent in the supervisory position shall count as time spent in the bargaining unit for purposes of the member's future step increases, if any. Upon return to the bargaining unit, the member will be assigned his/her old seniority date. This provision shall apply whether the return to the unit is completely voluntary or is the result of failure to satisfactorily complete the probationary period of the supervisory position, assuming the member is still eligible for employment as a dispatcher.

ARTICLE 2

No Discrimination

Neither the Employer nor the Union shall discriminate against or in favor of any employee on account of race, color, religion, creed, national origin, sex or handicap. Words used in this Agreement in the masculine gender will be read and construed in the feminine gender as well.

ARTICLE 3

Union Activity, Visitation and Bulletin Boards

1. Upon reasonable notification to a management representative on the premises, a non-employee representative of the Union may have access to the Employer's premises for the purpose of conferring with Management, delegates of the Union and/or employees for the purpose of administering this Agreement, providing that the Employer's operation shall not be impaired. This request shall not be unreasonably denied.

2. The Employer shall provide bulletin boards which shall be used for the purpose of posting proper Union notices, including official Union publications or official communications. Such bulletin boards shall be placed conspicuously in the Communications Office. Any Union notices other than above which are considered inflammatory, political or devoted to Union organizing or grievance matters other than stated above are not permissible for posting on City bulletin boards or property and shall be removed by Management.

3. No insignia which has not been authorized by the Employer shall be worn on employee uniforms.

4. Representation.

(a) Negotiations. The Union, shall select from the bargaining unit two (2) negotiators. Union representatives and/or alternates, on duty, shall be paid their regular rate of salary for the time spent in contract negotiations.

(b) Union Business Leave. Union representatives and/or alternates shall be entitled to a total of 72 hours of paid Union business leave for each year. The Union representatives and/or alternate shall receive their full pay for Union business leave. Union business leave will be used for the purpose of participation in conventions, pension business, educational conferences, grievance handling,

negotiation preparation, and to attend to the normal operating functions of the Union.

ARTICLE 4

No Strike or Lockout

1. No member shall engage in any strike, slowdown, sit-down, sit-in, cessation, stoppage or refusal to perform work

2. The Union, its officers and agents, shall not in any way authorize, assist, encourage or participate in any strike, slowdown, sit-down, sit-in, cessation, stoppage or refusal to perform work.

3. In addition to any other liability, remedy or right provided by applicable law or statute, should a strike, slowdown, sit-down, sit-in, cessation, stoppage or refusal to perform work occur, the Union, within twenty-four (24) hours of a request by the Employer, shall:

- (a) Publicly disavow such action by the employees;
- (b) Advise the Employer in writing that such action by employees has not been caused or sanctioned by the Union;
- (c) Notify employees of its disapproval of such action and instruct such employees to cease action and return to work immediately;
- (d) Post notices at locations approved by the Employer, advising that it disapproves of such action, and instructing employees to return to work immediately.

4. The Employer agrees that it will not lockout employees during the term of this Agreement and the Union and employees agree that no picketing or handbilling against the Employer will occur during the term of this Agreement.

5. In addition to other rights and remedies provided by applicable law or statute, the Employer shall have the right to discharge or otherwise discipline any member violating the provisions of this Article if the strike has been found to be unauthorized under Section 4117.23 of the Ohio Revised Code.

ARTICLE 5

Management Rights

1. Except as otherwise specifically provided in this Agreement, it shall be the Employer's sole and exclusive right and responsibility to:

(a) determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the Employer, standards of services, its overall budget, utilization of technology, and organizational structure;

(b) direct, supervise, assign, reassign, schedule, evaluate, and subject to applicable civil service rules and regulations, hire, suspend, discipline, demote, discharge for just cause, or lay off, transfer, promote or retain employees;

(c) maintain and improve the efficiency and effectiveness of the Employer's operations;

(d) determine the overall methods, process, means, or personnel by which the Employer's operations are to be conducted;

(e) determine the adequacy of the work force, as well as to make, amend, and enforce work rules, regulations, and standard operating procedures and general and special orders;

(f) determine the overall mission of the Employer as a unit of government;

(g) effectively manage the work force;

(h) take actions to carry out the mission of the Employer as a governmental unit.

2. It is agreed that the above listing of management rights shall not be deemed to exclude other proper functions not specifically listed herein or traditionally exercised by the Employer.

3. It is intended by the parties that the terms of this Agreement shall be consistent with that legislative authority which devolves upon the City Commission of the City of Middletown, the statutes and, in so far as applicable, the rules and regulations of the Civil Service Commission and the Chief of Police. Furthermore, it is understood by the parties that no provision of this Agreement is intended to abrogate the duties, obligations, or responsibilities of any agency or department of the City which

is now expressly provided for respectively by State Statute, Ordinances, Administrative Regulations, Charter or Resolution, of the City of Middletown.

4. In the event the Employer determines to change a current practice of assigning shifts, the Employer agrees that it will meet and confer with the Labor Council regarding the implementation of its decision regarding new schedules and the effects of such new schedules on unit employees.

5. The Employer shall not hereafter subcontract work which will adversely affect unit employees without first notifying the Labor Council of such intention to subcontract and bargaining with the Union about its intention to subcontract. If, after notifying and bargaining with the Union about such subcontracting, an agreement is not reached, the Employer shall discuss with the Union the effects of such subcontracting on its employees and carry out any agreements which may be reached during the course of such discussions.

6. The Employer shall not permit part-time employees to work a number of hours in a calendar week exceeding fifteen percent (15%) of the product of 40 hours times the number of full-time Dispatchers authorized in the annual budget (e.g., 40 hours x 17 dispatchers = 680 hours x 15% = 102 hours per week). Hours worked by part-time employees, which have been refused by full time employees, shall not be considered in applying this limitation.

ARTICLE 6

Employee Rights

1. During the course of an investigation of employee misconduct where discipline may result, an employee may request the presence of a Union representative and/or another unit employee to be present during the investigating interview.

2. The employee being interviewed shall be informed verbally of the nature of the investigation before the interview commences.

3. Copies of all disciplinary actions will be given to the affected employee.

4. (a) Each employee may inspect their personnel file maintained by the Employer in the presence of a management representative designated by the Chief of Police, during the employee's non-working hours, at a reasonable time, and shall, upon request, receive a copy of any or all documents contained therein, provided the employee pays any reasonable charge for the copies. An employee shall be entitled to have a representative of his/her choice to accompany him/her during such review. Said representative of the employee shall not be compensated by the City. An employee's personnel file shall be made available for review and/or copying to the employee when the employee is preparing for a grievance or disciplinary hearings. In responding to

requests for Employees' personnel files the City shall comply with Federal and State law.

(b) The employee is entitled to place a letter of rebuttal or explanation to be attached to any such entry relating to disciplinary action or performance so long as said explanation or rebuttal does not exceed 200 words in length and is submitted within 7 working days of the date the employee is provided with the entry.

(c) Written reprimands may be kept in an employee's personnel file for 2 years. After 2 years, if no further similar disciplinary action has been taken against the employee the written reprimand shall be expunged from his/her file.

5. Preliminary investigations and disciplinary hearings shall be held either during the employee's scheduled working hours or at a time in reasonable proximity to his/her shift.

6. All contacts verbal or written be it disciplinary or any other between an employee and a superior shall be conducted in a calm and professional manner.

7. If the Employer chooses to tape record a preliminary investigation or disciplinary hearing, the employee will, upon request be provided a copy of said tape recording. If an employee wishes to tape record a preliminary investigation or disciplinary hearing, upon the request of the employee, the City will tape record such preliminary investigation or disciplinary hearing and provide a copy of the tape to the employee.

8. The employee may take notes of any proceeding.

ARTICLE 7

Probationary Employees

1. Newly hired employees shall be considered probationary for a period not to exceed one (1) year as set forth and defined in the rules, regulations, general orders, and policies and procedures of the Employer.

2. During the probationary period, the Employer may discharge any probationer at will and such discharge or other discipline shall not be subject to the grievance and arbitration procedure of this Agreement.

ARTICLE 8

Dues Deduction and Fair Share Fee

1. The Employer agrees to deduct from the wages of all bargaining unit employees, all Labor Council membership dues uniformly required. Employees authorizing dues deduction shall submit an individual written authorization card bearing their signature. The Labor Council will notify the Employer from time to time of the dues it charges.

2. Bargaining unit employees shall either become dues paying members of the F.O.P., Ohio Labor Council, Inc. or, remit to the Labor Council monthly, through payroll deduction, a fair share fee in an amount not to exceed the monthly dues of a dues paying member and in accordance with the provisions of O.R.C. 4117.09(c). This amount shall be deducted from the wages of all such non-member(s) of the Labor Council and shall commence 60 days after initial employment in the bargaining unit.

3. The Labor Council agrees to indemnify and to save the Employer harmless from any action commenced by an employee arising as a result of the deductions made under this Article.

4. The Employer shall be relieved from making such "check off" deductions upon:

- (a) termination of employment, or
- (b) transfer to a job other than one covered by the bargaining unit, or
- (c) lay off from work, or
- (d) an agreed leave of absence, or
- (e) written revocation of the check off authorization by the employee.

5. The Employer shall not be obliged to make dues deductions of any kind from the wages of any employee, who, during any dues month involved, shall have failed to receive sufficient wages to equal the dues, initiation fees or assessment deductions.

6. All dues and fair share fees collected shall be paid over by the Employer once each month and sent to the F.O.P. Ohio Labor Council, Inc.

ARTICLE 9

Discharges, Suspensions and Penalties

1. The Employer shall have the right to discharge, suspend or discipline any employee for just cause. Discipline will be administered in a fair and equitable manner.

2. The Employer will endeavor to notify the Union in writing of any discharge or suspension without pay within forty-eight (48) hours from the time of such discharge or suspension. If the Union desires to contest the discharge or suspension without pay, it shall give written notice thereof to the Employer within a period not to exceed seven (7) calendar days from the date of notice of discharge or suspension. In such event, the dispute shall be submitted and determined under the grievance and arbitration procedures hereinafter set forth, commencing at Step 2 of the grievance procedure. An employee shall mitigate any backpay liability resulting from his discharge or suspension pending resolution of the grievance and arbitration procedure hereinafter set forth.

3. Upon request of the Employer, an employee who has been absent from work (other than vacation, holiday or an approved leave of absence which are covered in other Articles herein) must furnish satisfactory proof justifying the reason for the absence or be subject to disciplinary action.

4. The City will endeavor to issue written reprimands within thirty (30) days of the City's knowledge of the offense. Written reprimands shall be subject to the grievance procedure set forth in this Agreement up to and including the 2nd step only.

5. A disciplinary suspension or discharge requires:

- (a) Written notice be given to the employee of the charges against him and the evidence upon which they are based within twenty (20) calendar days of Management's knowledge of the alleged incident and within a reasonable amount of time before the hearing referred to below so the member can prepare an explanation.
- (b) A pre-suspension hearing be held, unless waived by the employee, before the Chief of the Division of Police. The employee shall be afforded, at the hearing, the right to question witnesses and a fair opportunity to be heard in opposition to the charges against him.
- (c) The member has a right to have with him an employee or Union representative of his choosing and any such meeting shall be continued at the request of the employee for a reasonable period of time, not to exceed ten calendar days, to permit the attendance of the representative.

- (d) In special cases the employee may be suspended pending a meeting; the suspended employee may request a hearing to be held by the close of the next succeeding work-day.
- (e) The employee shall be informed of the administrator's decision and the reasons for it in writing.

6. Anonymous complaints with no corroborative evidence shall not be cause for disciplinary action(s).

ARTICLE 10

Grievance Procedure

1. A grievance shall be described as a dispute or complaint arising between the parties hereto under or out of this Agreement or the interpretation, application, performance, termination, or any breach thereof, and shall be processed and disposed of in the following manner:

Step 1: Within a reasonable time, not to exceed five (5) calendar days following the date of occurrence, or when the employee or the Union should have had knowledge of the occurrence, an employee having a grievance and/or his Union representative shall put the grievance in writing and present it to the Deputy Chief assigned to communications or his designee. The Employer shall give its answer to the employee and/or his Union representative within five (5) calendar days after the presentation of the grievance in Step 1. Within this ten (10) calendar day period, the employee is encouraged to seek to resolve this grievance on an informal basis. Grievances based on disciplinary action shall proceed immediately to Step 2 of this grievance procedure.

Step 2: If the grievance is not settled in Step 1, the grievance may, within five (5) calendar days after the answer in Step 1, be presented in Step 2 in writing to the Chief of Police, or his designee. A grievance so presented in Step 2 shall be answered by the Employer within five (5) calendar days after its presentation.

Step 3: If the grievance is not settled in Step 2, the grievance may, within five (5) calendar days after the answer in Step 2, be presented in Step 3 in writing to the City Manager or his designee. At this time a Local or State Representative of the Union may be in attendance at a meeting where, if both parties agree, witnesses and/or evidence may be presented which may relate to a resolution of the grievance. A grievance so presented in Step 3 shall be answered by the Employer within five (5) calendar days after its presentation.

2. Any disposition of a grievance from which no appeal is taken within the time limits specified herein shall be deemed resolved and shall not thereafter be considered subject to the grievance and arbitration provisions of this Agreement. If the

Employer fails to respond within the time limits herein provided, the grievance will proceed to the next step unless the parties have mutually agreed, in writing, to extend the time within which to answer or appeal. Any step in the grievance procedure may be skipped on any grievance by mutual consent.

3. Filing a grievance by an employee or the Union under this Article concerning any matter otherwise appealable to the Civil Service Commission shall be deemed an election by the employee and the Union to use the provisions of this Agreement rather than an appeal to the Civil Service Commission, as the sole and exclusive remedy for resolution of the said grievance or complaint.

ARTICLE 11

Arbitration

1. A grievance as defined in Article 10 which has not been resolved thereunder may, within ten (10) calendar days after the completion of Step 3 of the Grievance Procedure, be referred for arbitration by either party to this Agreement. The arbitrator shall be selected from a panel of arbitrators furnished by the Federal Mediation Conciliation Service (FMCS) or any other arbitration service provider mutually agreed to by the parties.

2. The fees and expenses of the arbitrator shall be borne equally by the parties.

3. The award of the arbitrator hereunder shall be binding upon the Employer, the employee and the Union.

4. The arbitrator shall not have the power to add to, subtract from, or modify any of the terms of this Agreement. Furthermore, in explanation of the Employer's right to promulgate rules and regulations, general orders and standard operating procedures set forth in the Management Rights clause, the Union or grievant shall not have recourse through the grievance and arbitration procedure to challenge the reasonableness and appropriateness of the Employer's existing or future rules and regulations, general orders or standard operating procedures. This provision does not prevent an employee disciplined by any such existing or future rule to grieve the application of that rule to his or her particular circumstances. It is further understood that the said rules and regulations, general and special orders and standard operating procedures shall not be interpreted so as to conflict with the explicit written terms of this Agreement.

ARTICLE 12

Paid Leave

1. Employees shall be entitled to holiday pay, vacation leave, sick leave, and injury leave, as provided in Articles, 13, 14, 17 and 18 of this Agreement.

2. Employees who are called (not volunteered) to serve as jurors, will receive their regular pay less their pay as a juror.

3. Employees will be granted paid leave at their regular rate of pay less their pay as a witness, if they are subpoenaed as a witness in work related court proceedings. If the court proceedings are during an off-duty period for the Employee, the Employee will be paid a minimum of three (3) hours pay. If the employee is required to be at the court proceedings for longer than three (3) hours, the Employee will be paid for the time spent in court. In the event less than three (3) hours has elapsed between a scheduled court appearance and the scheduled beginning of work on a particular day, the Employee will be compensated for the elapsed time between the scheduled court appearance and the scheduled beginning of work on that day.

4. A paid leave of absence may be granted to attend seminars or conferences which are work related. The method for approval shall be the same as set forth in Article 19 herein regarding Unpaid Leave.

5. The Employer shall have the right to demand proof of all items listed above regarding paid leave. Falsification of information with respect to any paid leave shall be grounds for discipline.

ARTICLE 13

Holidays

1. (a) Holidays. The following days shall be celebrated as paid holidays:

New Year's Day	Thanksgiving Day
Martin Luther King Day	Day After Thanksgiving
President's Day	Christmas Eve Day
Good Friday	Christmas Day
Memorial Day	Employee's Birthday*
Independence Day	
Labor Day	

*(b) Employees may take this holiday on their birthday or anytime during the year, subject to the approval of the Chief of Police.

2. All holiday leave shall be subject to the following terms:
- (a) Employees shall not be excused from work on the above holidays unless otherwise scheduled.
 - (b) Loss of Holiday. An employee who is off without pay because of an unexcused absence either the work day before or the work day after a holiday, or, if scheduled, on the holiday itself, shall forfeit holiday pay. An unexcused absence is defined as an absence not covered by approved vacation, sick leave, unless accompanied by a doctor's certificate, approved leaves with pay or approved leaves without pay. In addition, holiday pay ceases during any period an employee is not being paid his regular salary or wage.
 - (c) During Vacation. If a holiday falls during an employee's vacation period, it shall not be charged to vacation time, except where division policy is to grant additional vacation time in lieu of granting regular holidays off.
 - (d) Holiday Pay. Employees who work on a holiday will be entitled to "bank" a holiday in addition to their regular work pay, except that employees working on New Year's Day, Thanksgiving Day, or Christmas Day shall be entitled to an additional 1/2 hour's pay for each hour worked between the hours of 7 a.m. the morning of the holiday and 7 a.m. the following day, in addition to their regular work pay.
 - (e) Banking of Holiday. Each employee shall be able to accumulate (bank) unlimited holidays. An employee who resigns or retires with (2) week's notice, or dies, will be paid at the employee's current regular rate of pay for holidays which have been accumulated but not taken.
 - (f) Personal Day. All employees covered by this contract, shall be granted one (1) personal day each year. This day will be scheduled in the same manner as vacation and longevity days. A personal day cannot be accumulated, carried over to the next year or banked. Personal leave can be taken in four (4) hour increments.
 - (g) Conversion to Pay. In December of each year, an employee shall have the option to request the exchange of up to three (3) holidays annually for their equivalent in salary, provided: (1) approval must be given by the Chief of Police and the City Manager, and (2) there are unused funds available in the police salary budget for payment.

ARTICLE 14

Vacation

1. (a) Each employee will accrue vacation credit at a rate of 5/6 of a day for each calendar month employed in the vacation year, to a maximum of 10 working days in one year. During and after seven (7) years of service, each employee will earn vacation credit at the rate of fifteen (15) working days per year. During and after fifteen (15) years of service, each employee will earn vacation credit at the rate of twenty (20) working days per year. During and after twenty (20) years of service, each employee will earn vacation credit at the rate of twenty-five (25) working days per year. An employee appointed effective the 16th of the month or earlier, earns vacation credit for that month.

(b) Vacation Year and Accrual. The vacation year begins on January 1 of each year and ends on December 31. Vacation taken in any year is based upon vacation credit earned in the previous year.

(c) One Year Minimum Service. After one year of service, an employee may take that portion of his vacation earned in the previous vacation year.

(d) Non-Accrual. An employee on leave without pay for more than two (2) consecutive weeks in any calendar month for any reason shall not accrue vacation benefits.

(e) Scheduling. Vacations shall be scheduled on a seniority basis with the approval of the Chief of Police. In general, the Chief of Police will give as much consideration as possible to the employee's preference, while, at the same time, maintaining the staff necessary to meet operational requirements. Vacation may be taken in increments of four (4) hours.

(f) Vacation Carryover. Vacation credit must be used by year-end, subject to departmental rules and regulations. Requests to carryover vacation must be approved by the City Manager in writing in order to be deferred to the next year.

2. Terminal Vacation Provisions

(a) Vacation from Previous Year. An employee who voluntarily resigns with two weeks notice, or who dies, shall be paid for vacation credit earned in the previous year, but not yet taken.

(b) Vacation for Year of Termination. An employee who voluntarily resigns or retires with two weeks notice, must be paid for vacation credit earned in the present year, provided such is recommended by the Chief of Police, In the case of death of an employee, vacation for the present year will be paid.

- (c) Vacation Upon Dismissal. An employee who has been employed for more than five (5) years and is dismissed will receive payment for his vacation which he has earned in the previous year and not yet taken. He may receive vacation credit earned in the present year as determined by the Chief of Police. Total vacation credit will be calculated to the nearest full day.

ARTICLE 15

Longevity

1. Longevity Vacation Provision.

- (a) An employee will be entitled to two (2) longevity vacation days annually after the first full five (5) years of service; thereafter, each employee shall be entitled to one (1) additional longevity vacation day annually for each additional full five (5) years of service.
- (b) Eligible employees may take longevity vacation days as of his or her appropriate anniversary date subject to the approval of the Chief of Police.

Example: 5 years - 2 longevity days
 10 years - 3 longevity days
 15 years - 4 longevity days
 20 years - 5 longevity days, etc.

- (c) Permanent, full time members may accumulate and defer a maximum of ten (10) longevity vacation days. These days shall be governed by and used in accordance with the City and Division vacation regulations.
- (d) Longevity vacation days may be taken in four (4) hour increments.

2. Longevity Pay Provision:

Each employee will receive longevity pay calculated and paid in the following manner:

After 20 years of service with the Employer - 3%
After 15 years of service with the Employer - 2%
After 10 years of service with the Employer - 1%

Longevity pay is due by the first pay day in December of the year in which it is due and shall be paid in a separate check.

ARTICLE 16

Funeral Leave

1. In the event of death in the immediate family, an employee shall qualify for funeral leave with pay up to 3 consecutive work days (24 hours) for participation in funeral services or arrangements. For purposes of this Section, immediate family is defined as the employee's spouse, child or step-child, grandchild, parent, step-parent, grandparent, brother, sister, parents or step-parents of spouse, and grandparents of spouse.

2. Funeral pay will be provided to accommodate absences occurring only on regularly scheduled work-days at the employee's base rate of pay. Funeral leave will not be granted for any period during which the employee is already in a paid or unpaid leave status (unpaid leave status is interpreted as being military leave, disciplinary suspension, or voluntary unpaid leave of absence).

3. (a) Eligibility is further conditioned upon submission by the employee to his supervisor of a certificate as to the purpose and validity of leave usage and, if required by the Employer, proof of death and relationship.

(b) Requests for funeral leave with pay will not be approved for absences not taken within a seven (7) calendar day period of the date of death or funeral services. Leave requests meeting the conditions of Sections 1 and 2 of this Article must be approved by the employee's shift commander or shift supervisor.

4. In the event of the death of a relative in other than the immediate family, as defined above, leave time with pay of up to one 8 hour work day may, at the sole discretion of the Chief of Police, be taken for participation in funeral services.

5. In the event an employee should require additional time in excess of the allowances established in the above provisions, such additional time may be charged against sick leave time with the approval of the Chief of Police.

ARTICLE 17

Sick Leave

1. Eligibility. Each employee is credited with 10 hours of sick leave for each full calendar month of service.

2. Accumulation. There will be no limit on the amount of sick leave credits that may be accumulated.

3. Approval of Usage

- (a) An employee may use sick leave, upon approval of the Chief of Police, for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, participation in funeral service or arrangements, and for illness in the employee's immediate family requiring the employee's presence at home. Immediate family is defined as the father, mother, sister, brother, spouse, child or stepchild of the member.
- (b) Upon the request of the Employer, an employee must furnish satisfactory proof of his or her illness or disability before a day of sick leave is paid. In the case of an illness or disability for three (3) or more consecutive days, an employee may not return to work without a statement from the employee's physician.
- (c) In cases of illness in the employee's immediate family requiring him to be at home, the employee may be required to submit a certificate from the attending physician attesting to the need, before sick leave will be allowed.

4. Computation of Sick Leave. An employee shall be charged for sick leave usage on a half hour basis in increments of not less than one-half hour.

5. Reporting Off Sick. Sick leave will be paid only when the employee or a member of his immediate family notifies the employee's immediate supervisor of his absence one hour prior to the start of the employee's shift.

6. Non-Accrual. An employee on leave without pay for any reason for more than two (2) consecutive weeks in any calendar month shall not accrue sick leave benefits.

7. Employee's Claim for Sick Leave. An employee shall submit those forms and follow those procedures specified in the Division of Police Rules and Regulations for sick leave claims.

8. Conversion to Vacation Credit. Employees may convert sick leave credit to vacation once a year on the following basis:

- (a) An employee with more than 280 sick leave hours credit may convert all those hours over 280 hours to vacation credit at the rate of 24 sick leave hours for one vacation day, providing that not more than 96 sick leave hours are so converted in any one vacation year.
- (b) An employee with more than 800 sick leave hours may convert all those hours over 800 to vacation credit at the ratio of eight (8) sick

leave hours for eight vacation hours, providing that not more than 32 sick leave hours are so converted in any one vacation year.

- (c) The employee must have accumulated these hours prior to January 1 of the year in which these days are to be converted and must have sufficient hours at the time of conversion.

9. Conversion to Terminal Leave.

- (a) Upon the death or retirement of an employee with less than 25 years of service, all unused sick leave credit will be converted to terminal leave pay on the basis of 24 sick leave hours for one day's pay, to a maximum of 5 weeks pay (25 working days).
- (b) Upon the death or retirement of an employee with 25 or more years service, unused sick leave credit will be converted to terminal leave pay on the basis of 16 sick leave hours for one day's pay, to a maximum of 10 weeks pay (50 working days).
- (c) Upon the retirement of a member with twenty-five (25) or more years service, and at least 48 years old, all unused sick leave credit will be converted to terminal leave pay on the basis of sixteen (16) sick leave hours for eight (8) hours pay to a maximum of 500 hours, provided the member gives six (6) months notice. The notice must be in writing with a specific date, with the understanding that this is a valid resignation date, which the City is not obligated to extend.
- (d) If a member chooses to take a disability retirement, due to injury or illness, the same procedures will apply if the member files for the disability pension within 60 days of the injury or illness, and the disability retirement is granted within 120 days of the injury or illness.
- (e) Any hours left over after the conversion set forth in the immediate preceding paragraphs shall be banked to be available for use for a member who suffers a catastrophic illness and whose sick leave time has run out. Catastrophic illness is defined as an unusual serious health disorder or injury of a duration of three months or more. In no event shall these banked hours be available to any member who has used or has available 12 months or more of sick leave.

10. If accumulated sick leave is exhausted, an employee may request an advance of sick leave credit in accordance with Administrative Regulation II-27.

ARTICLE 18

Injury Leave

Employees are entitled to receive injury leave for on-the-job injuries, in accordance with the conditions and limitations set forth in this article. Such leave shall be in addition to all other leaves provided in this agreement.

A. An on-the-job injury is a physical injury that an employee suffers during the course and scope of his/her employment for the City of Middletown. On-the-job injury does not include pre-existing injuries, injuries suffered at the workplace which are not in the course and scope of the employee's work activity, psychological or psychiatric injuries or conditions. However, any member who suffers a heart attack or stroke, is over forty (40) years of age and has been employed by the City of Middletown for a period of ten (10) consecutive years as a dispatcher shall be presumed to have suffered an on-the-job injury.

B. An employee who suffers an on-the-job injury shall receive up to one hundred and thirty (130) working days of injury leave.

1. Injury leave shall be used consecutively from the date of injury, except that if an employee has not exhausted the leave for an injury, he/she may take such leave for the same injury at anytime within two (2) years of the on-the-job injury. However, any such non-consecutive use of injury leave shall be available only after the employee uses five (5) consecutive days of sick leave before each such non-consecutive use of injury leave. In no event shall injury leave be available more than two years after the initial date of the injury.

C. In order to be eligible for injury leave, the employee must submit, within twenty-four (24) hours of the on-the-job injury, a report, in a form established by the employer, to the appropriate supervisor. In addition, the employee must submit to the employer, within five (5) days of the on-the-job injury, a physician's statement, describing the nature of the injury, limitations on the employee's ability to work, and an expected date of return to work. If an employee is hospitalized immediately following the injury, he shall submit the physician's statement within five days after his dismissal from the hospital to the employer.

1. If the employee fails to comply with the requirements of paragraph C of this article, the first ten (10) days of leave shall be charged as sick leave and subtracted from the injury leave balance, unless the employee fails to submit either the report or the physician's statement within thirty (30) days of the injury, in which case, the employee shall lose his/her entitlement to any injury leave.

D. An employee claiming the right to receive, or who is receiving injury leave compensation, may be required by the employer from time to time to submit himself for a medical examination by a licensed physician, selected by the employer. The employer

will pay any legitimate cost for examination that the employee's medical insurance or workers' compensation does not cover, including travel expenses.

If an employee refuses to submit to a medical examination, or if the report from the physician conducting the medical examination, provides that the employee is either not injured or is able to return to work, further injury leave compensation may be suspended or denied.

If the report from the physician selected by the city is in conflict with the report submitted by the member's physician regarding the nature of the injury, limitations on the member's ability to work or the expected date of return to work, the member shall be examined by a third physician selected by the employer from a list of physicians to be mutually agreed to by the parties. The opinion of said third physician shall be determinative.

E. An aggravation or re-injury of an existing injury or condition shall be treated as part of the original injury, and shall be subject to the limitations in paragraph B of this Article. The employer retains the right to require written evidence of the aggravation or re-injury from the employee's physician. This provision is subject to paragraph D of this Article.

F. A member who is injured and unable to perform his regularly assigned duties may be assigned at the sole discretion of the Chief of the Division to perform duties not requiring great physical exertion in lieu of receiving injury leave compensation, with the approval of the member's physician or the employer's physician as set forth in paragraph (D) above.

ARTICLE 19

Unpaid Leave

Employees shall be eligible for unpaid leave in accordance with the following:

1. Maternity Leave. Upon exhaustion of sick leave and all other paid leave that the employee is entitled to, a member who is off of work due to maternity leave shall, subject to the requirements of the insurer, have continued the health insurance provided by this agreement, with the City and the employee paying their respective amounts for a period not to exceed a maximum of 9 months.

2. Military Leave. Leaves of absence, for the performance of duty with the United States Armed Forces or with a Reserve component thereof, shall be granted in accordance with applicable City ordinances and the Policy and Procedures Manual.

3. Other Leaves. Leaves of absence without pay or benefits for other reasons may be granted at the sole discretion of the Employer.

4. When an employee returns to work following a leave of absence, he shall be returned to his former classification without the loss of seniority and with all across the board wage increases, unless otherwise provided in this Agreement.

5. Except as otherwise provided in this Agreement, benefits and insurance will not accrue during any period of unpaid leave exceeding two (2) consecutive weeks, except that during such leave of absence, upon the employee's request, the Employer will continue group health insurance coverage at the expense of the employee.

6. An employee desiring to apply for a leave of absence without pay must submit an application to his immediate supervisor outlining the reason for the request. Leave requests of five (5) days or less will be acted upon by the Chief of Police. Leave requests exceeding five (5) days will be forwarded to the City Manager by the Chief of Police, together with his recommendations. Approval of all such leaves of absence without pay will be in writing with a copy to the employee and the Director of Employee Relations.

7. Family and Medical Leave. An employee may take Family and Medical Leave in accordance with the provisions of the Family and Medical Leave Act and the appropriate City policy and procedures as promulgated by the City Manager governing such leave.

ARTICLE 20

Insurance

1. Members shall be entitled to participate in the City's health insurance program as recommended by the Health Care Committee and described in the documents on file in the Finance Department.

- (a) The City agrees to maintain a City Health Care Committee for the purpose of regularly reviewing employee health care needs, and implementing a health care program for its employees. The Committee shall act in accordance with the Final Report of the Health Care Task Force Report dated July 10, 2006 and further amendments by the Committee. If the Committee is not maintained by the City, the City will provide the health care benefits in place at the time of the dissolution of the Committee for the remainder of the Agreement and health insurance shall be a mandatory subject of collective bargaining in successor agreements unless otherwise agreed to by the parties.
- (b) The Union agrees to participate in the City Health Care Committee and to adhere to the recommendations of the Committee regarding all aspects of health issues, including, but not limited to, the

selection of carrier, determination of coverage and determination of co-payments, deductibles, and employee contributions. The City agrees to adhere to recommendations of the Committee as such recommendations apply to the members. The Union shall have one (1) designee that serves on the Committee and may exercise voting rights on behalf of the Union. Any member appointed as the Union's designee shall be paid for attending the Committee meetings. Any overtime incurred by a member while attending meetings of the committee shall be paid at one and one-half times their regular rate of pay.

(c) All coverage shall be subject to the insurance company's requirements and eligibility.

2. All employees shall receive \$15,000 group life insurance coverage paid by the City. Double Indemnity premiums shall be paid by the City on all coverage.

3. Members retiring from the City who were hired prior to January 1, 2011 shall receive \$5,000 life insurance coverage paid by the City. Double indemnity will not be provided on such coverage.

ARTICLE 21

Miscellaneous Benefits

1. Influenza Shots. Employees may receive free annual immunization against influenza, at such times as may be scheduled by the Health Department, at the discretion of the City Manager.

2. Skin Tests for Tuberculosis. So long as there is no cost to the City, an employee and his family living in Butler County, may obtain skin tests at the Butler County Clinic, 701 North University Boulevard.

ARTICLE 22

Wages

1. There are hereby established the following pay ranges for Dispatchers:

Current Wages

	Pro	A	B	C	D	E	F	G
Annual	\$32,077.76	\$33,656.48	\$35,240.40	\$36,895.04	\$38,627.68	\$40,644.24	\$42,349.84	\$44,342.48
Bi-Weekly	\$1,233.76	\$1,294.48	\$1,355.40	\$1,419.04	\$1,485.68	\$1,563.24	\$1,628.84	\$1,705.48
Hourly	\$15.4220	\$16.1810	\$16.9425	\$17.7380	\$18.5710	\$19.5405	\$20.3605	\$21.3185

January 1, 2011 – 1%

	Pro	A	B	C	D	E	F	G
Annual	\$32,399.16	\$33,993.46	\$35,593.01	\$37,264.20	\$39,014.58	\$41,050.89	\$42,774.17	\$44,786.53
Bi-Weekly	\$1,246.12	\$1,307.44	\$1,368.96	\$1,433.24	\$1,500.56	\$1,578.88	\$1,645.16	\$1,722.56
Hourly	\$15.5765	\$16.3430	\$17.1120	\$17.9155	\$18.7570	\$19.7360	\$20.5645	\$21.5320

January 1, 2012 – 1%

	Pro	A	B	C	D	E	F	G
Annual	\$32,723.57	\$34,333.60	\$35,949.77	\$37,637.67	\$39,405.56	\$41,461.61	\$43,202.54	\$45,234.81
Bi-Weekly	\$1,258.60	\$1,320.52	\$1,382.68	\$1,447.60	\$1,515.60	\$1,594.68	\$1,661.64	\$1,739.80
Hourly	\$15.7325	\$16.5065	\$17.2835	\$18.0950	\$18.9450	\$19.9335	\$20.7705	\$21.7475

January 1, 2013 – 1%

	Pro	A	B	C	D	E	F	G
Annual	\$33,051.22	\$34,677.77	\$36,309.48	\$38,014.05	\$39,799.82	\$41,876.64	\$43,635.19	\$45,687.16
Bi-Weekly	\$1,271.20	\$1,333.76	\$1,396.52	\$1,462.08	\$1,530.76	\$1,610.64	\$1,678.28	\$1,757.20
Hourly	\$15.8900	\$16.6720	\$17.4565	\$18.2760	\$19.1345	\$20.1330	\$20.9785	\$21.9650

Upon execution of this contract, members shall receive a one-time cash payment of six hundred dollars (\$600).

2. **Shift Differential.** For any regularly assigned shift commencing between the hours of 2:45 p.m. and 6:44 a.m. of the following day, differential pay shall be as follows:

- (a) For any shift starting at 2:45 p.m. or after, but not later than 7:44 p.m.\$.60 per hour
- (b) For any shift starting at 7:45 p.m. or after, but not later than 6:44 a.m.\$.45 per hour

3. **Salary Adjustment.** The salary of each member in the bargaining unit shall be reviewed annually by the Chief of Police for the purpose of determining which member may be entitled to a step increase. Upon reaching Step C, the salary of each member in the bargaining unit shall be reviewed every 6 months. All personnel records, performance, and length of service shall be considered in making recommendations with major emphasis placed on the evaluation of services rendered. On the recommendation of the Chief of Police, the City Manager may advance an employee until the maximum step has been reached.

4. Clothing and Equipment Maintenance Allowance. Each member shall receive a clothing and equipment maintenance allowance in the amount of \$600 to be paid in two equal installments on January 15 and July 15 of each year.

5. All monetary allowances under Section 4 of Article 22 of this contract should be prorated with no allowance paid for periods prior to hire, or after resignation, retirement, death, dismissal or during leaves of absence without pay. Said allowance shall be paid during disability leaves of absence. All allowances shall be paid on the 15th of the payment month and the pro-rations shall be calculated by looking back retroactively for the six month period before the payment date to determine the above prorated factors. Partial allowance payment shall be paid in accordance with the above prorated factors.

6. Employees who are assigned to training duties will be paid an additional \$1.50 per hour for every hour in which they are actually performing training. The assignment of trainers shall be at the sole discretion of the City.

7. Members agree that all payroll payments will be direct deposited in an account of their choice in compliance with the guidelines established by the City of Middletown Finance Department.

8. Mandatory Meeting Pay. Members will receive hourly pay at the rate for actual time worked with a minimum of two (2) hours pay for any mandatory job assignment scheduled outside the member's normal work hours, including but not limited to staff meetings and training. If the assignment begins during the member's regular scheduled shift or begins at the conclusion of the shift the members shall not be eligible for this premium pay.

ARTICLE 23

Hours of Work and Overtime

1. Effective January 1, 1990, the work week of all employees covered by this Agreement will be forty (40) hours per week with work schedules and starting times to remain flexible based on the needs of the Employer.

2. (a) An employee working in excess of forty (40) hours in one week, as defined by The Fair Labor Standards Act, as amended, (provided that holidays for which the employee is paid, funeral leave and injury leave are counted in the 40 hours) shall either be paid time and one half his/her regular rate or receive compensatory time off on the basis of one and one half hours off for each hour of overtime worked. Each employee shall have the right to request payment of overtime work in compensatory time off at a rate equal to the rate of pay to which he would be entitled for the overtime.

Time off to use earned compensatory time will be granted within sixty (60) days of the request made by the employee. When compensatory time is used, it shall not count as hours worked during the applicable work period for purposes of determining overtime.

No employee shall be permitted to accrue more than two hundred forty (240) hours of unused compensatory time and any member who has accrued unused compensatory time to the two hundred forty (240) hour limit shall be paid in cash for additional overtime worked. If an employee is paid in cash for accrued compensatory time, he/she shall be paid at the employee's regular rate at the time of payment. Upon termination of employment, unused compensatory time shall be paid at the employee's average regular rate for the last three (3) years of employment or the employee's final regular rate, whichever is higher.

(b) An employee shall not be ordered to work two (2) consecutive calendar days of overtime. An employee voluntarily working overtime on their day off shall not be ordered to work any time over the amount the employee has volunteered to work on that day.

(c) It is the intention of the parties, for reasons of efficiency and economy, that the Employer be permitted to utilize work scheduling and compensatory time to minimize its overtime liability.

3. An employee who is already in overtime status will not be subject to an involuntary holdover. Employees who are involuntarily held over shall receive pay at the rate of 1 ½ times their regular rate of pay.

ARTICLE 24

Labor-Management Meetings

1. In the interest of sound labor/management relations, labor management meetings will be held. The meetings will not be held more frequently than every 90 days unless mutually agreed upon. The meetings will be held on a mutually agreeable day and time for approximately 1 hour. The Employer or his designee shall meet with (1) one Union representative from each bargaining unit, to discuss pending problems and to promote a more harmonious labor/management relationship.

Upon request by an FOP/OLC Union representative, (1) one Ohio Labor Council Representative may be present at the above mentioned meetings.

2. An agenda will be exchanged by the parties at least (5) working days in advance of the scheduled meeting with a list of matters to be taken up in the meeting and the names of those who will be attending. The committee will alternately consider items of each party's agenda during the meetings. The purpose of such meeting shall be to:

- (a) Discuss the administration of this agreement.
- (b) Notify the FOP of changes made by the Employer which affect bargaining unit employees of the FOP.
- (c) Discuss grievances which have not been processed beyond the final step of the grievance procedure when such discussions are mutually agreed to by the parties.
- (d) Disseminate general information of interest to the parties.
- (e) Discuss ways to increase productivity and improve effectiveness.
- (f) To consider and discuss health and safety matters relating to employees.
- (g) To discuss changes in work orders, regulations, standard operating procedures, and/or general orders.

3. Any issue unresolved at the labor-management meeting may be appealed to the City Manager or his designee.

ARTICLE 25

Drug Testing

1. PURPOSE OF DRUG TESTING PROGRAM

(a) The Police Department has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug dependence or illegal drug use.

(b) A reasonable drug testing program must establish a balance between the rights of the employee and the compelling governmental interest in maintaining a police agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves or the public.

(c) There is sufficient evidence to conclude that use of illegal drugs and/or drug abuse (whether illegal or prescription drugs) seriously impairs an employee's performance and general physical and mental health. The illegal use of drugs by police employees (therefore, possession) is a crime in this

jurisdiction, and clearly unacceptable. There are unique corruption hazards with drug use by the police.

2. DEFINITIONS

(a) Drug Test – A urinalysis test administered under approved conditions and procedures to detect drugs by a laboratory certified no later than 12/31/90 in accordance with Department of Health and Human Services rules and regulations.

(b) Reasonable Suspicion – An apparent state of facts and/or circumstances found to exist upon inquiry by the supervisor, which would warrant a reasonable, prudent person to believe the employee was under the influence of drugs/narcotics.

3. GENERAL RULES

(a) Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine shall notify their immediate supervisor if the medication prescribed has the potential to impair the employee's performance. The specific medication prescribed need not be identified, but the employee shall provide a statement from the prescribing physician that medication is prescribed for a physical, mental or psychological condition, and any potential side effects of the medication which may impact on the employee's ability to perform his or her job. If side effects exist, which are not certified by the physician, the employee shall present such side effects to his/her supervisor in writing. Any statutorily defined illegal use of drugs by an employee, whether on or off duty, is prohibited.

(b) All property belonging to the Department, including the entire premises of the department, is subject to inspection at any time without notice as there is no exception of privacy.

1. Property includes, but is not limited to, City owned vehicles, desks, files, and storage lockers.

2. Employees assigned lockers (including those that may be locked by the employee) are subject to inspection by the employee's supervisor after accepted reasonable advance notice (unless the requirement for notice is waived by the Chief of Police) and in the presence of the employee.

(c) Failure of any police employee to comply with the intent or provisions of this article of the contract is grounds for disciplinary action, including dismissal or other action determined appropriate by the Chief of Police. Refusal by a police employee to take a required test, i.e., a test that is ordered based upon reasonable suspicion as defined in paragraph 2 (B) above, or under

circumstances described in paragraphs 4, (A) and (B), below, or follow this article of the collective bargaining agreement, will result in immediate relief from police duties pending disposition of any administrative personnel action. A refusal occurs if the employee fails to agree to submit to a required test within two (2) hours of receiving the order.

4. POLICY-DRUG TESTING/URINALYSIS

(a) Employees of the department shall be required to submit to a test for drug or narcotic use as outlined below:

1. The Chief of Police or a police supervisor may order a drug test when he or she has reasonable suspicion that an employee is using, or is under the influence of drugs or narcotics.
2. The employee shall be advised of circumstances surrounding the order to test.
3. Whenever practical, prior approval should be obtained from the Chief of Police before the Supervisor orders the test.
4. A supervisor who orders a drug test when he has reasonable suspicion of an employee's usage or possession, or that an employee is under the influence of drugs, shall forward a report containing the facts and circumstances directly to the Chief of Police. The report shall be made available to the employee upon request. The employee may provide the report to the Union if he/she so chooses.
5. Test results reporting illegal drugs, narcotics, the use of controlled substances without a lawful prescription, or the abuse of prescribed drugs, will be submitted as a part of a written complaint by the supervisor ordering the test.

(b) In the event that an employee is required to submit to a drug test, the following guidelines should be observed:

1. The employee shall be granted enough time to change from uniform to civilian clothing.
2. The employee will be transported to the designated testing center by a supervisor.
3. The employee may request that a police department employee of his/her choice be present for the transportation and test, provided said individual is off duty and reasonably available.

4. A controlled test will be conducted by personnel of the testing site.
5. The sample will be properly labeled, sealed, and turned over to the site personnel by the employee.
6. All parties involved will be transported back to the police department.
7. If the employee is held over his/her assigned time, he/she will be compensated for that time.

(c) A negative test result shall bar the City from further discipline, for refusing to submit to a test, and the use or abuse of drugs, in violation of this policy, as it relates to the test in that instance. Nothing in this provision is intended to limit the ability to test an employee under this policy, either randomly or under other facts establishing a basis for a test under this policy.

(d) A positive result, after a second qualifying test, may serve as a basis to refer the employee to the Employee Assistance Program maintained by the City of Middletown. If the employee refuses or fails to attend the EAP or to follow any and all recommendations of the EAP, the employee shall be subject to disciplinary action. The Employer shall have the option to have a third test performed. The third test shall be performed by the designated test center, or a laboratory designated by the test center. The third test shall be a G.C. Mass spec. or a test of equal or greater accuracy (at the designating test center's option). A positive result on the third test may result in discipline.

(e) Employees who have found to be using illegal drugs or narcotics, or abusing prescription drugs, shall be provided a hearing before the City Manager or his designee where evidence is presented and preserved, before final action is taken against the employee.

5. RANDOM DRUG TESTING

Random drug testing will be implemented in accordance with a General Order to be issued by the Chief of the Division of Police. The General Order implementing random drug testing for Dispatchers shall not be amended without the agreement of the parties.

ARTICLE 26

Modification and Separability

1. The Employer and the Union acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make

demands and proposals with respect to any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The Employer and the Union for the term of this Agreement each further agree that the other shall not be obligated to bargain collectively with the respect to any subject matter referred to or governed by this Agreement unless the Employer and the Union mutually agree to alter, amend, supplement, enlarge, or modify any of its provisions.

2. The parties to this contract agree that, where the contract deals with a particular subject, the contract takes precedence over sections of Ohio law, City ordinances, administrative regulations, including the policies and procedures manual, and rules of the Chief of Police, unless specifically prohibited by Ohio law, court decision, or a decision by the State Employment Relations Board. Where this contract does not speak to a particular subject, then the relevant section of Ohio law, City ordinance, administrative regulations, including the policies and procedures manual, or the rules of the Chief of Police shall prevail.

3. If a Court of competent jurisdiction finds any provision of this Agreement to be contrary to any applicable statute, such provision shall be of no further force and effect, but the remainder of the Agreement shall remain in full force and effect. The parties agree that should any provision of this Agreement be found to be invalid, they will schedule a meeting within thirty (30) days at a mutually agreeable time to negotiate alternative language on the same subject matter.

ARTICLE 27

Layoff and Recall

1. **Layoff.** In the event the City should decide to lay off personnel in the job classifications covered by this collective bargaining agreement, the following procedure shall be followed:

- (a) The employee(s) with the least continuous classification seniority shall be laid off first from the affected classification.
- (b) Before a bargaining unit employee is laid off from their position all seasonal, part-time and government funded program employees in the same classification subject to the layoff shall be laid off prior to the layoff of any full-time bargaining unit employee in the affected classification. The City will not negate this provision by transferring seasonal, part-time and government funded program employees to other classifications prior to laying off bargaining unit employees.

- (c) In the event an employee is laid off, the employee shall receive payment for earned but unused vacation, birthday, personal day and sick leave conversion, with the employee's termination pay.

2. Recall. Employees who are on layoff shall be placed on a recall list by classification for a period of twelve (12) months and shall be recalled in reverse order of their layoff by position in the affected classification with the last employee laid off being the first to be called back and continuing in like manner until the required number of employees has been obtained.

3. Recall Notification. No new employee shall be hired in a classification until all employees who have been laid off in that classification in the previous twelve (12) months have been given the opportunity to return to work. Laid off employees will be notified by registered mail at their last known address to return to work within twenty-one (21) calendar days. Failure to report within the time limit removes them from the recall list. In addition, no seasonal, part-time, or government funded program employees shall be hired in the affected classification(s) until all employees on the layoff list have been recalled to the affected classification or until after the twelve (12) month recall period expires.

4. Layoff/Termination. An employee who is on layoff for a period of twelve (12) months is automatically terminated and loses all seniority.

5. Insurance. To the extent that applicable Federal law permits such coverage, an employee on layoff shall have the opportunity to continue health insurance coverage at the sole expense of the employee.

ARTICLE 28

Disability Leave

The City shall comply with State law in regards to disability leave.

ARTICLE 29

Seniority

1. Seniority shall be defined as total length of service in a permanent full-time position(s) with the City.

2. Classification seniority shall be defined as the uninterrupted length of service in any one classification. If two or more employees have the same classification seniority, employment seniority shall be used to establish seniority among those

employees. The length of any temporary demotion shall be excluded from the length of service of that employee for purposes of calculating classification seniority.

3. Seniority shall be broken, i.e., interrupted when an employee:
 - (a) resigns, unless reinstated within one (1) year;
 - (b) is discharged for just cause;
 - (c) is laid off and not recalled within the time limits;
 - (d) retires;
 - (e) engages in a strike or work stoppage during the term of this agreement;
 - (f) fails to return to work after a leave of absence.

4. The City shall establish and post a seniority list no later than December 1 of each calendar year, and such list shall be effective the following January 1. The list shall contain the following information:

- (a) names of bargaining unit members;
- (b) classification;
- (c) date of original City hiring;
- (d) date of classification appointment.

Employees shall have the right to challenge their seniority listing for fifteen (15) days after the date of posting. Thereafter, the list shall remain unchanged until the next yearly posting. A copy of the list shall be given to the Union on the date of posting.

5. Seniority, as defined in this Article, shall be used for all seniority applications specifically set forth in other Articles this Agreement. If those Articles do not specifically apply to seniority, the City shall not be required to consider seniority in applying the provisions of that Article. Seniority does not apply and shall not be required to be used as a factor in assigning particular types of work to employees with a position classification, or in assigning employee's machines, equipment or places of work.

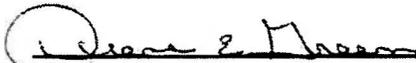
ARTICLE 30

Termination

This agreement shall become effective January 1, 2011, and shall remain in force until December 31, 2013.

**FRATERNAL ORDER OF POLICE,
OHIO LABOR COUNCIL, INC.**

CITY OF MIDDLETOWN



**Diane Green
Dispatchers' Bargaining
Committee Member**



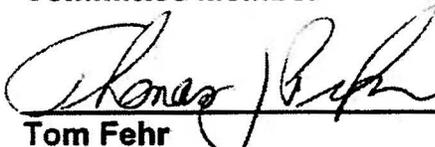
**Judy Gilleland
City Manager**



**Kathy Pierce
Dispatchers' Bargaining
Committee Member**



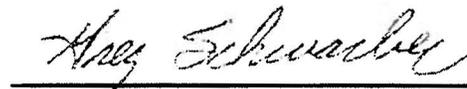
**Sara E. Mills
Assistant Law Director**



**Tom Fehr
Staff Representative, FOP
Ohio Labor Council, Inc.**



**Mark Hoffman, Deputy Chief
Bargaining Team Member**



**Greg Schwarber
Police Chief**

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:

FRATERNAL ORDER OF POLICE,	}	
OHIO LABOR COUNCIL, INC.,	}	Case No(s): 10-MED-10-1529
EMPLOYEE ORGANIZATION,	}	(Dispatchers)
	}	
and,	}	
	}	
CITY OF MIDDLETOWN,	}	
EMPLOYER.	}	
	}	

FILING OF THE COLLECTIVE BARGAINING AGREEMENT

Pursuant to Board Rule 4117-09-07, the F.O.P. Ohio Labor Council Inc. hereby files a copy of the Collective Bargaining Agreement executed between the parties in the above captioned case(s).

Respectfully Submitted,


Tara M. Crawford
Paralegal
F.O.P., O.L.C.I.
222 East Town Street
Columbus, Ohio 43215
614-224-5700

cc: Ms. Sara E. Mills
saram@cityofmiddletown.org