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AGREEMENT
BETWEEN
THE CITY OF MIDDLETOWN
AND
FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.
(POLICE CIVILIAN EMPLOYEES)

January 1, 2014 – December 31, 2016

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AGREEMENT

This Agreement (hereinafter "Agreement", "Contract" or "Collective Bargaining Agreement") is made and entered into by and between **THE CITY OF MIDDLETOWN, OHIO**, (hereinafter referred to as the "City", "Employer" or "Management") and **THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.**, (hereinafter referred to as the "Union" "Labor Council" 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 the Agreement as hereinafter provided; and

WHEREAS, it is the intent and purpose of the parties hereto that this Agreement set forth their agreement covering wages, hours and conditions of employment;

NOW, THEREFORE, and in consideration of the mutual covenants contained herein 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 Police Department Civilian Employees in the classifications of Word Processing Operator, Community Service Officer, Neighborhood Improvement Specialist and Police Records Clerk as set forth in the certification issued by the Ohio State Employment Relations Board in case number 07-REP-02-0027 on May 22, 2007. All other personnel employed by the City are excluded from this bargaining unit.

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.

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 one central location selected by mutual agreement. 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 and/or civilian attire while at work.

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. Normally, notice of three (3) working days will be given the Chief of Police for the use of this time. There shall neither be a carryover nor an accumulation of unused leave to the next contract year. Necessary contacts between the Union and bargaining unit members shall be made during non-productive and off time where possible.

ARTICLE 4

No Strike or Lockout

1. No member shall engage in any unlawful strike, slowdown, sit-down, sit-in, cessation, stoppage or refusal to perform work, except as permitted by Ohio Revised Code Chapter 4117 and regulations promulgated thereunder.

2. The Union, its officers, members 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, etc. except as permitted by Ohio Revised Code Chapter 4117 and regulations promulgated thereunder.

3. In addition to any other liability, remedy or right provided by applicable law or statute, should an unlawful 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 or unless a lawful strike has been authorized.

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 Ohio Revised Code Chapter 4117 and regulations promulgated thereunder.

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. It is further agreed the Employer's failure to exercise any rights or functions hereby reserved to it or the Employer's exercise of any such right or function in a particular way shall not be considered a waiver of the Employer's right to exercise such right or function or preclude it from exercising the same in some other way not in conflict with this Agreement.

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 Council 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. The right of contracting or subcontracting is vested exclusively in the City. If operations are contracted or subcontracted, then the City shall negotiate the effects of the contracting or subcontracting upon union members as otherwise provided by law.

5. The City shall retain the right to hire part-time employees in the Division of Police, including within the job classifications covered by this Agreement.

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.

(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 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 the employee's commencement or completion of the work day.

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 six (6) months 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 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), on a bi-weekly basis. 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

Discipline

1. (a) The Employer shall have the right to reprimand, discharge, suspend, with or without pay, demote or otherwise discipline any employee for just cause. Discipline will be administered in a fair and equitable manner.

(b) If an employee fails to furnish satisfactory proof justifying the reason for an absence from work (excluding vacation and holidays not scheduled to be worked) upon request of the Employer, such employee is subject to disciplinary action.

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. When being sent, such notice shall be forwarded to the offices of the FOP, Ohio Labor Council 5752 Cheviot Road, Suite D, Cincinnati, OH 45247, via regular mail and facsimile. If the Union desires to contest (i.e. grieve) 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 back pay liability resulting from his discharge or suspension pending resolution of the grievance and arbitration procedure hereinafter set forth.

3. 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 Step 2 only.

4. 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 (10) calendar days, to permit the attendance of the representative.
- (d) In special cases, as determined by Management, the employee may be suspended without pay pending a hearing. The suspended employee may request a hearing to be held by the close of the next succeeding work-day. An employee who has been suspended without pay pending a hearing shall have such unpaid time credited towards a subsequent suspension.
- (e) The employee shall be informed of Management's decision and the reasons for it in writing.

5. 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 seven (7) 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 appropriate Deputy Chief or his designee. The Employer shall give its answer to the employee and/or his Union representative within seven (7) calendar days after the presentation of the grievance in Step 1. Within this fourteen (14) 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 or has proceeded immediately to Step 2 in the case of discipline, the grievance may, within seven (7) calendar days after the answer in Step 1, be presented in Step 2 in writing to the Chief of Police, or his designee. If the grievance is not presented within said time period, it will be considered resolved. A grievance so presented in Step 2 shall be answered by the Employer within seven (7) calendar days after its presentation. If the Chief of Police or his designee fails to answer in writing within seven (7) calendar days, the grievance shall be deemed denied.

Step 3: If the grievance is not settled in Step 2, the grievance may, within seven (7) 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. If the grievance is not presented to the City Manager or his designee within said time period the grievance shall be considered resolved. A grievance so presented in Step 3 shall be answered by the Employer within seven (7) calendar days after its presentation. If the City Manager or his designee fails to answer in writing within seven (7) calendar days, the grievance shall be deemed denied.

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. The parties may by mutual written agreement 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 hereunder may, within fourteen (14) 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) from the region in which the City of Middletown is encompassed and the arbitration shall be conducted in conformity with the FMCS rules. The parties may by mutual agreement select an alternate third party to conduct the arbitration (such as the American Arbitration Association and the like) and in such case the arbitration shall be conducted in conformity with the alternate third party's rules.

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 and its members.

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.

5. In the event a case is appealed to an arbitrator and he finds that he has no power to rule on such case, the grievance will be denied. This provision shall not be construed to foreclose the jurisdiction of the State Employment Relations Board.

6. The award of the arbitrator shall be based exclusively on evidence presented at the arbitration hearing and as such an arbitrator shall not conduct an independent investigation. This provision shall not prohibit an arbitrator from considering any applicable law or legal precedent in determining an award.

7. The decision of the arbitrator in any case, shall not require a retroactive wage adjustment in any other case.

ARTICLE 12

Paid Leaves and Unpaid Leaves

A. Paid leaves.

1. Reasons for Paid Leave. Leaves of absence with pay may be granted for any legitimate reason including, but not limited to the following, provided such absence has been approved in advance by the proper authority, as outlined below:

- (a) For military pre-induction examinations.
- (b) When called (not volunteered) to serve on a jury.
- (c) When subpoenaed as a witness in a court case in which the employee is not a party.
- (d) To attend meetings, conventions, conferences, or short courses of instruction which benefit the City, as determined by the City.

2. Procedure for Approval. 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 Personnel Division.

3. Conditions. In all cases, approval of a leave will be given in writing with a copy directed to the Personnel Division. When pay is granted by another agency, such as in a court proceeding, the statement from the agency must be submitted with the next payroll following return to work. The employee may: 1) submit the fee to the Finance Department or 2) have the fee subtracted as an adjustment to his/her next

paycheck. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case.

B. Unpaid Leaves.

1. Reasons for Leave. Leaves of absence without pay for a legitimate reason not covered by the FMLA policy may be granted as follows:

- (a) To further an employee's education. (Ordinarily such a leave will be granted only if the leave will directly benefit the City as well as the individual, and provided the employee agrees to return to City employment for a specified period of time after such leave.)
- (b) To attend funerals not covered by funeral leave and/or sick leave.
- (c) To care for a member of the immediate family during an extended illness after paid leave and FMLA unpaid leave are exhausted.
- (d) Personal illness after paid leave and FMLA unpaid leave are exhausted.
- (e) Injury not covered by injury leave.

2. Procedure for Approval. Requests for Leave Without Pay must be submitted to the Chief of Police in a letter outlining the reason for the request. This letter will then be forwarded to the City Manager for approval and the Personnel Division for coordination.

3. Automatic Leave. An employee who ceases to receive a payroll check is considered to be automatically on a leave of absence, even though still being carried on the payroll.

4. Conditions. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits cease while an employee is on a leave without pay after such leave exceeds ten (10) days (pro-rata with no accrual for the period of time on leave without pay). The employee may continue his/her health insurance coverage at his/her sole expense. In the case of illness, injury, or extreme hardship as determined by the City Manager, however, insurance benefits will be continued provided the employee continues to pay his/her share of the cost, subject to COBRA and the health insurance carrier's restrictions. Longevity pay shall be paid to an employee on a leave of absence without pay during the year on a prorated basis.

The period of the leave of absence without pay will be excluded from the longevity payment.

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

D. 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 Policy and Procedures Manual.

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. The employee birthday is not subject to premium pay. Employees who are scheduled to work, and do work, on any holiday or day observed as a holiday, as determined by the City Manager, other than employee's birthday, shall be paid an amount equal to one and one-half (1-1/2) times the amount which they receive for any other regular work day, in addition to their regular holiday pay, or receive compensatory time off on the basis of one and one-half hours off for each holiday hour worked, at the discretion of the Chief of Police.

2. All holiday leave shall be subject to the following terms:

(a) In the event that an employee is scheduled to work on one of the above holidays, such employee shall not be excused from work unless prior approval has been obtained from the Chief of Police allowing the employee to be excused from work.

(b) Loss of Holiday. If an employee is off without pay and the absence is unexcused either the workday before or the workday after a holiday, that holiday pay is forfeited and the employee may be subject to disciplinary action. (An unexcused absence is an absence not covered by approved vacation, disciplinary suspension, accumulated sick leave, military leave or any other approved leaves with 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) If any of the above listed holidays (excluding Employee's birthday) fall on a Saturday, the preceding Friday will be granted as a day off with pay in lieu of the actual holiday. If the holiday falls on a Sunday, the following Monday will be granted as a day off with pay in lieu of the actual holiday.
- (e) 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. Only one employee per shift will be granted personal leave. A personal day cannot be accumulated, carried over to the next year or banked. Personal leave can be taken in four (4) hour increments.

ARTICLE 14

Vacation

1. (a) 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. Employees on leave without pay for any reason exceeding ten (10) days shall not accrue vacation benefits (pro rata with no accrual for the period of time on leave without pay).

(b) Vacation Credit. Employees shall receive vacation credit as follows:

1 - 4 Years	-	10 days
5 - 9 Years	-	12 days
10 Years	-	13 days
11 - 14 Years	-	18 days
15 - 19 Years	-	19 days
20 Years	-	20 days
21 - 24 Years	-	25 days
25 - 29 Years	-	26 days
30 - 34 Years	-	27 days
35 - 39 Years	-	28 days

(c) All vacation credit is accrued on a monthly basis to the maximum to be used in the following year of employment, except as otherwise provided in paragraph d. Upon termination or retirement, or in the case of leave without pay, vacation shall be prorated on the basis of monthly accrual.

(d) Employees may take vacation during their first calendar year of employment after they have been employed for ninety (90) days in accordance with the schedule below. Scheduling of vacation during the first year of employment will be at the discretion of the Chief of Police.

<u>Month of Hire:</u>	<u># Days of Vacation:</u>
January	9
February	8
March	7
April	6
May	5
June	4
July	3
August	2
September	1
October	0
November	0
December	0

(e) On January 1 of the first full calendar year of employment, employees will be deemed to have accrued their vacation credit in accordance with this Article, in full. Thereafter, vacation shall be accrued and used as described in paragraph (c). If an employee terminates (including resignation, termination, retirement or dismissal) their employment with the City prior to using the vacation provided in this paragraph, no terminal pay will be made for such vacation time under paragraph (d).

(f) Non-Accrual. Employees on leave without pay for any reason for ten (10) days shall not accrue vacation benefits.

(g) 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.

(h) 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. 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 120 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 40 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.

3. 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 one (1) year and is dismissed will receive payment for his vacation which he has earned in the previous year and not yet taken. Employees terminated during their probationary period will receive vacation payment at the discretion of the Chief of Police. Total vacation credit will be calculated to the nearest full day.

4. In the event that City Council alters section 11 of Ordinance O2007-85 during the term of this collective bargaining agreement the parties shall meet to discuss vacation benefits for the members.

ARTICLE 15

Longevity

- 1. Eligibility. Employees shall be eligible for Longevity payment as follows:

- (a) In December of the calendar year of the attainment of the tenth (10th) anniversary and each calendar year thereafter through the fourteenth (14th) anniversary of employment, each salaried employee shall be eligible for 1% of his/her existing base salary as of November 30th of the year in which they are paid the longevity.
- (b) In December of the calendar year of the attainment of the fifteenth (15th) anniversary and each calendar year thereafter through the nineteenth (19th) anniversary of employment, each salaried employee shall be eligible for 2% of his/her existing base salary as of November 30th of the year in which they are paid the longevity.
- (c) In December of the calendar year of the attainment of the twentieth (20th) anniversary and each calendar year thereafter until retirement or resignation, each salaried employee shall be eligible for 3% of his/her existing base salary as of November 30th of the year in which they are paid the longevity.

2. Payment of Longevity.

- (a) Longevity will be paid in a lump sum in December of each year.
- (b) In order to receive longevity payments, an employee must be on the payroll when such payment is made, except as provided herein.

3. Death, Retirement or Resignation. In the event of death, retirement or resignation of an employee, longevity pay for that year will be paid prorata to the date of death, retirement, or resignation. This proration shall not apply to employees who have been dismissed from City employment.

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. In the event of death of the employee's spouse, child, parent or loco parentis the employee shall qualify for funeral leave with pay for up to 5 consecutive work days (40 hours).

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). In no event will a member on funeral leave be paid for more than their regularly scheduled hours in a 24-hour period.

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. If the conditions set forth in the Article are not satisfied the Employer has the authority to deny the use of funeral leave.

(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 this Article must be approved by the employee's immediate 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 additional work day may, at the sole discretion of the Chief of Police, be taken for participation in funeral services.

5. Funeral leave in excess of the three or five days for immediate family, or in excess of one day because of the death of one other than a member of the immediate family, as defined herein, shall be charged against accumulated sick leave, not to exceed one (1) day.

ARTICLE 17

Sick Leave

1. Eligibility. Each employee is credited with 10 hours of sick leave for each full calendar month of service. The hours of sick leave earned shall be credited to each employee on the first check of every month.

2. Accumulation. There will be no limit on the amount of sick leave credits that may be accumulated. Employees on leave without pay for any reason exceeding ten (10) days shall not accrue sick leave benefits (pro rata with no accrual for the period of time on leave without pay).

3. Approval of Usage. The Chief of Police or his designee has authority to approve or deny the use of sick leave. Sick leave shall not be approved for unauthorized uses. The Chief may, at his/her discretion, require a doctor's certificate of cause and/or a signed statement regarding the facts surrounding the reason for sick leave for any claim of sick leave.

Sick leave credit may be used for the following:

- (a) Sickness or off-duty injury to the employee, provided in the case of injury, it is not in connection with outside employment.
- (b) On-the-job injury of the employee, the first five days off following the day of the injury unless the employee is hospitalized during these days. The first five days off will be credited back to the employee as allowed under the Injury Leave Policy.
- (c) Quarantined because of contagious disease, and/or exposure to contagious disease which could be communicated to other employees.
- (d) Sickness or disability in the immediate family that requires the employee's presence at home. For purposes of this section the immediate family is defined as the father, mother, sister, brother, husband, wife, child or step-child in the employee's custody or care. Time off shall not exceed three days for any one illness of the family member without the written approval of the Chief of Police except for medical leave cases covered by the FMLA policy.
- (e) Death in the immediate family. For purposes of this section immediate family is defined as the employee's spouse, child or stepchild, grandchild, parent, stepparents, grandparent, brother, sister, parents or step-parents of spouse, and grandparents of spouse. An employee may utilize sick leave with the approval of the Chief of Police for participation in funeral services or arrangements not covered by Funeral Leave, subject to the limitations in Article 16.
- (f) Family leave as defined in the Family Medical Leave Act policy.

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. If an employee who works a 40-hour week is scheduled to work on a holiday and reports off sick, the employee will receive regular holiday pay and no sick leave will be charged. In no event will a member on sick leave be paid for more than their regularly scheduled hours in a 24-hour period.

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 commencement of the employee's start time.

6. 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, including submission of a sick leave form upon the employee's return to work. 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. 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.

7. Conversion to Vacation Credit. Employees may convert sick leave credit to vacation once a year as set forth in Article 14.

8. Conversion to Terminal Leave. With the approval of the Chief of Police, sick leave may be converted from sick leave to terminal payment as follows: Upon the death, retirement or involuntary layoff of an employee with less than 25 years of service, all unused sick leave credit, in excess of 280 hours, will be converted to termination pay on the basis of 24 hours sick leave for 8 hours pay, to a maximum of five (5) weeks' pay (25 working days or 200 hours);

Upon the resignation of an employee, regardless of age or years of service, all unused sick leave credit in excess of 280 hours will be converted to termination pay on the basis of 24 hours sick leave for 8 hours pay, to a maximum of five weeks pay (25 working days or 200 hours);

Upon the death or retirement of an employee with 25 or more years service, all unused sick leave credit, in excess of 280 hours, will be converted to termination pay on the basis of 16 hours sick leave for 8 hours pay, to a maximum of ten (10) weeks pay (50 working days or 400 hours);

Upon the resignation of an employee with 25 or more years of service, all unused sick leave credit in excess of 280 hours will be converted to termination pay on the basis of 16 hour sick leave for 8 hours pay, to a maximum of ten (10) weeks pay (50 working days or 400 hours).

If a member chooses to take a disability retirement due to injury or illness, these 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.

9. Employees may participate in a sick leave bank as set forth in the City's Policy and Procedure Manual.

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. Employees in the classifications of Neighborhood Improvement Specialist and Community Service Officer who suffer 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 an employee shall be presumed to have suffered an on-the-job injury.

B. An employee(s) in the classification of community service officer who suffers an on-the-job injury shall receive up to one hundred and thirty (130) working days of injury leave. Employees in the classifications of police records clerks, word processing operator and neighborhood improvement specialist shall receive up to one hundred and twenty (120) 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 three (3) 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

Court Time/Call-Out

1. Court Time. The Neighborhood Improvement Specialist and the Community Services Officers will receive a minimum of two (2) hours pay at time and one half for any job connected court appearance while off duty as a witness in a criminal, civil, or juvenile prosecution. If a member is required to be in court over two (2) hours, the member shall be compensated for the additional hours. If a court appearance is scheduled one hour or less before a member's start time or up to one

hour following the member's regular quitting time, the member shall be paid overtime for such time.

2. Call-Out. The Community Services Officer shall receive hourly pay for actual time worked with a minimum of three (3) hours pay at 1-1/2 times the employee's regular rate of pay if the employee has been notified to report for work outside his or her regular work time, unless the employee has been notified not to report for his or her regular work time. However, if the call-out occurs within one (1) hour prior to the employee's regular start time the employee will receive two (2) hours of call-out pay at 1 and 1/2 times their regular rate of pay.

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 the 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 group life insurance coverage paid by the City in amount of \$15,000, except that the Neighborhood Improvement Specialist shall receive such coverage in the amount of \$17,500. Double indemnity premiums shall be paid by the City on all such coverage. Additional coverage through "Voluntary Life Insurance" may be purchased by the employees in accordance with the insurance company's requirements.

3. Members retiring from the City who were hired prior to January 1, 2011 shall receive \$5,000.00 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.

ARTICLE 22

Wages

There are hereby established the following pay ranges for the following classifications:

A. Neighborhood Improvement Specialist

	A	B	C	D	E	F	G
Annual	\$37,670.88	\$39,451.31	\$41,283.90	\$43,268.14	\$45,303.46	\$47,431.24	\$49,659.96
Bi-Weekly	\$ 1,448.88	\$ 1,517.36	\$ 1,587.84	\$ 1,664.16	\$ 1,742.44	\$ 1,824.28	\$ 1,910.00
Hourly	\$ 18.1110	\$ 18.9670	\$ 19.8480	\$ 20.8020	\$ 21.7805	\$ 22.8035	\$ 23.8750

B. Police Records Clerks Hired Prior to 6/10/1997

	A	B	C	D	E	F	G
Annual	\$32,496.89	\$34,024.62	\$35,622.09	\$37,298.52	\$39,059.36	\$40,876.17	\$42,839.72
Bi-Weekly	\$ 1,249.88	\$ 1,308.64	\$ 1,370.08	\$ 1,434.56	\$ 1,502.28	\$ 1,572.16	\$ 1,647.68
Hourly	\$ 15.6235	\$ 16.3580	\$ 17.1260	\$ 17.9320	\$ 18.7785	\$ 19.6520	\$ 20.5960

C. Word Processing Operators Hired Prior to 1/1/1999

	A	B	C	D	E	F	G
Annual	\$31,038.89	\$32,496.89	\$34,024.62	\$35,622.09	\$37,298.52	\$39,059.36	\$40,876.17
Bi-Weekly	\$ 1,193.80	\$ 1,249.88	\$ 1,308.64	\$ 1,370.08	\$ 1,434.56	\$ 1,502.28	\$ 1,572.16
Hourly	\$ 14.9225	\$ 15.6235	\$ 16.3580	\$ 17.1260	\$ 17.9320	\$ 18.7785	\$ 19.6520

D. Police Records Clerk Hired On or After 6/10/97 and Word Processing Operators Hired On or After 1/1/1999

	A	B	C	D	E	F	G
Annual	\$27,582.88	\$28,879.86	\$30,237.94	\$31,659.64	\$33,147.94	\$34,705.91	\$36,334.57
Bi-Weekly	\$ 1,060.88	\$ 1,110.76	\$ 1,163.00	\$ 1,217.68	\$ 1,274.92	\$ 1,334.84	\$ 1,397.48
Hourly	\$ 13.2610	\$ 13.8845	\$ 14.5375	\$ 15.2210	\$ 15.9365	\$ 16.6855	\$ 17.4685

E. Community Service Officer

	A	B	C	D	E	F	G
Annual	\$31,659.64	\$33,147.94	\$34,705.91	\$36,334.57	\$38,045.37	\$39,842.50	\$41,693.70
Bi-Weekly	\$ 1,217.68	\$ 1,274.92	\$ 1,334.84	\$ 1,397.48	\$ 1,463.28	\$ 1,532.40	\$ 1,603.60
Hourly	\$ 15.2210	\$ 15.9365	\$ 16.6855	\$ 17.4685	\$ 18.2910	\$ 19.1550	\$ 20.0450

The current wages shall remain in effect from the effective date of this collective bargaining agreement through December 31, 2015. Article 22 shall be reopened for the negotiation of wage rates to be effective January 1, 2016 in accordance with the provisions of Chapter 4117 of the Ohio Revised Code. No other issue in Article 22 or any other article of this Agreement shall be subject to negotiation by the parties, except as agreed by the parties.

2. Shift Differential. For any shift commencing between the hours of 3:00 P.M. and 4:00 A.M. of the following day, differential pay shall be as follows:

(a) For any shift starting at 3:00 P.M. or after, but not later than 11:00 P.M., \$0.35 per hour.

(b) For any shift starting at 11:00 P.M. or after, but not later than 4:00 A.M., \$0.45 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. 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 who may be required to wear a uniform shall be provided such uniform and any necessary replacement at the cost of the Employer.

5. Direct Deposit. 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.

ARTICLE 23

Hours of Work and Overtime

1. (a) The work week of all employees covered by this Agreement shall be forty (40) hours per week with work schedules and starting times to remain flexible based on the need of the Employer.

(b) Before any schedule of a bargaining unit member is changed for more than a five (5) day period the parties shall convene a special labor management meeting to discuss the necessity for the change and to explore other schedules that are mutually acceptable to the parties. In absence of a mutually acceptable schedule the City shall make any necessary scheduling changes.

(c) All members shall be entitled to breaks as set forth in the Fair Labor Standards Act, as amended.

2. 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, funeral leave, and injury leave for which the employee is paid shall be counted in the forty (40) hours), shall either be paid time at one-half his regular rate, or receive compensatory time off on the basis of one and one-half hours off for each hour of overtime worked. Time off to use earned compensatory time will be granted within twenty (20) 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 employee who has accrued two-hundred forty (240) hours of compensatory time shall be paid in cash for all overtime in excess thereof, 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.

3. Any hour for which an employee receives overtime or premium compensation eliminates that hour from consideration for overtime or premium payment on any other basis. If the time worked falls under two or more overtime and/or premium pay classifications, the higher rate shall prevail. This section shall not eliminate shift premium, where applicable during overtime hours.

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.

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 comply with this article of the collective bargaining agreement, will result in immediate relief from duty 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.

(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.

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 bargaining unit members 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

Seniority

1. Seniority shall be defined as total length of continuous 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 of 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 28

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 lay off 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 29

Termination

This agreement shall become effective January 1, 2014 and shall remain in force until December 31, 2016.

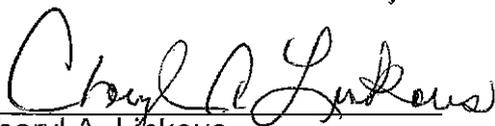
SIGNATURES

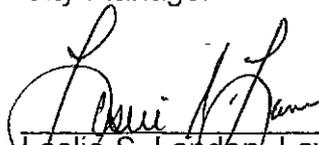
FRATERNAL ORDER OF POLICE,
OHIO LABOR COUNCIL, INC.

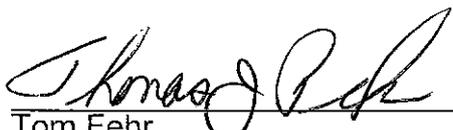
CITY OF MIDDLETOWN


Teresa J. Grout
Bargaining Team Member


Judith A. Gilleland
City Manager


Cheryl A. Linkous
Bargaining Team Member

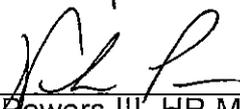

Leslie S. Landen, Law Director
Bargaining Team Member


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


David VanArsdale, Police Chief
Bargaining Team Member


Rodney Muterspaw, Deputy Chief
Bargaining Team Member


Mark Hoffman, Deputy Chief
Bargaining Team Member


Noah Powers III, HR Manager
Bargaining Team Member