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12/09/2013

# AGREEMENT BY AND BETWEEN

## THE CITY OF WHITEHALL POLICE DEPARTMENT PART-TIME DISPATCHERS



AND

## THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.



**January 1, 2014 through December 31, 2016**

## TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
1	CONTRACT .....	1
2	RECOGNITION .....	2
3	DUES, FAIR SHARE FEE & UNION BUSINESS .....	3
4	NON-DISCRIMINATION .....	5
5	GRIEVANCE PROCEDURE.....	5
6	UNION REPRESENTATION.....	11
7	NEGOTIATIONS .....	12
8	DISPUTE RESOLUTION.....	14
9	MANAGEMENT RIGHTS .....	14
10	CORRECTIVE ACTION AND RECORDS .....	15
11	WORK RULES AND DIRECTIVES.....	18
12	LABOR RELATIONS MEETINGS .....	19
13	SAFE EQUIPMENT.....	19
14	POLITICAL ACTIVITY .....	20
15	SENIORITY/PROBATION .....	20
16	WAGES .....	21
17	HOURS OF WORK AND OVERTIME .....	22
18	UNPAID LEAVE .....	22
19	HOLIDAYS.....	23
20	UNIFORMS.....	23
21	FITNESS FOR DUTY.....	24
22	FISCAL EMERGENCY .....	24
23	RESIDENCY.....	24
24	ENTIRE AGREEMENT.....	25
25	DURATION AND SIGNATURES .....	26

## ARTICLE 1 CONTRACT

### Section 1.1 Contract

This Contract is made and entered into by and between the City of Whitehall, Ohio (hereinafter referred to as the City) and the Fraternal Order of Police, Ohio Labor Council, Inc., (hereinafter referred to as the Union).

### Section 1.2 Purpose

This Contract is made for the purpose of promoting cooperation and orderly, constructive and harmonious relations between the City, Bargaining Unit Employees (hereinafter referred to as Employees), and the Union.

### Section 1.3 Legal References

A. Unless otherwise indicated, the terms used in this Contract shall be interpreted in accordance with the provisions of Chapter 4117 of the Ohio Revised Code. Where this Contract makes no specification about a matter, the City Employees and the Union are subject to all applicable state laws or local ordinances pertaining to the wages, hours and conditions of employment for public Employees.

B. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, and retirement of Employees are not superseded by this Contract, except where supplemental workers' compensation or supplemental unemployment have been negotiated and included herein. The conduct and grading of civil service examinations, the rating of candidates, the establishment of eligibility lists from the examinations and appointments from the eligibility lists are not subjects of bargaining under this Contract.

### Section 1.4 Severability

A. Should any part of this Contract be held invalid by operation of law or by any tribunal of competent jurisdiction, or should compliance with or enforcement of any part of this Contract be restrained by any such tribunal pending a final determination as to its validity, such invalidation or temporary restraint shall not invalidate or affect the remaining portions hereof or the applications of such portions to persons or circumstances other than those to whom or to which it has been held invalid or has been restrained.

B. In the event of invalidation of any portion of this Contract by a tribunal of competent jurisdiction or by operation of law, and upon written request by either party, the parties to this Contract shall meet within thirty (30) days of receipt of a written request from either party to the other, in an attempt to modify the invalidated provisions by good faith negotiations. Should this contract be in conflict with the Americans with

Disabilities Act or the regulations enacted thereunder the parties shall meet to negotiate such changes as are necessary to ensure compliance with such act.

### **Section 1.5 Sanctity of Contract**

The City and the Union agree that no Employee or official hereunder shall be asked to make any written or verbal agreement that may, in any way, conflict with this Contract. Unless otherwise specifically provided in this Contract, no changes in this Contract shall be negotiated during its duration unless there is a written accord by and between the parties hereto to do so. Any negotiated changes, to be effective and incorporated in this Contract, must be in writing and signed by the parties.

### **Section 1.6 Enforceability of Contract**

The City and the Union assert and believe that the provisions of this Contract are enforceable in a court of law. The City believes that the provisions contained herein do not represent any illegal delegation of power.

## **ARTICLE 2 RECOGNITION**

### **Section 2.1 Recognition**

The City recognizes the Union as the sole and exclusive representative for all Employees included in the Bargaining Unit described in Section 2 of this Article in any and all matters relating to wages, hours, and terms and conditions of employment, and the continuation, modification, or deletion of existing provisions between the parties, and the resolution of questions arising under this Contract.

### **Section 2.2 Bargaining Unit**

Pursuant to S.E.R.B. certification number 2010-rep-12-0199 there is hereby established one (1) Bargaining Unit within this Contract. The Bargaining Unit consists of all Employees of the Department who are part-time Police Radio Dispatchers. Excluded from the Bargaining Unit, and thereby from coverage in this Contract, are all other employees.

### **Section 2.3 De-certification**

In the event a different Employee organization attempts to secure exclusive representative status with respect to the Bargaining Unit, said organization must comply with the provisions of Section 4117.07(C) (6) of the Revised Code during a thirty (30) day period between one hundred twenty (120) and ninety (90) days before the expiration of this Contract, or after the expiration date of this Contract, until the City and the Union enter into a new Contract.

## ARTICLE 3 DUES, FAIR SHARE FEE AND UNION BUSINESS

### Section 3.1 Dues Deduction

A. The City agrees to deduct Union membership dues, in the amount certified by the Union to the City, in the first pay period of each month from the pay of any Union member requesting the same in writing. The City also agrees to deduct Union initiation fees and assessments, in the amount certified by the Union to the City, in the first pay period of each month, in which such fees and assessments are due, from the pay of any Union member requesting the same in writing.

B. If a deduction is desired, the Union member shall sign a payroll deduction card. The City shall furnish to the Union, once each calendar month, a warrant in the aggregate amount of the deductions made for that calendar month, together with a listing of the Union members for whom deductions were made. Although Union dues should be paid by payroll deduction, nothing herein shall prohibit Union members covered by this Contract from submitting dues directly to the Union if said dues are not being deducted from Employee wages by the City.

C. The City shall provide Union members with additional payroll deductions if the Union provides additional Employees benefits, providing the City's payroll accounting system possesses sufficient capacity and capability for additional deductions.

D. No other Employee organization's dues shall be deducted from any Employee's pay for the duration of this Contract.

### Section 3.2 Fair Share Fee

A. Bargaining Unit Employees who are not members of the Union shall, as condition of employment, pay to the Union a fair share fee. The amount of the fair share fee shall be determined by the Union, but shall not exceed dues paid by Union Bargaining Unit members. The accurate amount of such fair share fee shall be certified by the Union to the City, as often as necessary during the term of this Contract. Fair share fee payments shall be subject to an internal Union rebate procedure meeting all requirements of State and Federal Law.

B. For the duration of this Contract, such fair share fee shall be automatically deducted by the City from the payroll check of each Bargaining Unit Employee who is not a member of the Union. The automatic deduction shall be made in the first pay period of each month. The City agrees to furnish the Union once each calendar month, a warrant in the aggregate amount of the fair share fees deducted for that calendar month, together with a listing of Bargaining Unit Employees for whom said deductions are made.

C. The automatic deduction shall be initiated by the City whenever a Bargaining Unit Employee who is not a member of the Union has completed the first sixty (60) days of employment. All dues, fees, and assessments shall be mailed to the

Fraternal Order of Police, Ohio Labor Council, Inc., 222 E. Town Street, Columbus, Ohio 43215-4611 no later than thirty (30) days from the date of deduction from members' paychecks.

### **Section 3.3 Indemnification**

The parties agree that the City assumes no obligation, financial or otherwise, arising out of the provisions of the Contract regarding the deduction of Union dues or fair-share fee. The Union hereby agrees that it will indemnify and hold the City harmless from any and all claims, demands, suits, actions or proceedings that may or shall arise out of or by reason of action taken or not taken by the City in compliance with this Article, including the defense thereof.

### **Section 3.4 Bulletin Boards**

The Union shall be permitted, upon prior notification, to maintain a Union bulletin board at Department headquarters. Union bulletins and Union materials will only be permitted to post on this board.

### **Section 3.5 Ballot Boxes**

The Union shall be permitted, upon prior notification to the Chief of Police, to place a ballot box at Department Headquarters for the purpose of collecting members' ballots on all Union issues subject to the ballot. Such box shall be the property of the Union and neither the ballot box nor its contents shall be subject to the Department's review.

### **Section 3.6 Use of Intra-Department Mails and Emails**

The Union shall be permitted to utilize the intra-departmental mail and email systems for the purpose of providing information pertaining to Union business or Bargaining Unit representation, to Bargaining Unit Employees. The Union agrees that the use of the mail and email system will be reasonable and limited to providing information that is necessary for the normal conduct of Union business or Bargaining Unit representation. All mail placed into the mail system by the Union shall be the property of the Bargaining Unit Employees to whom it is addressed, and such mail shall not be subject to the City's review. No confidentiality shall attach to the Union's use of the email system and the City reserves the right to monitor email content and usage.

### **Section 3.7 Union Business**

Representatives of the Union shall be permitted to transact official Union business at Departmental work sites at all reasonable times, provided that this shall not interfere with or interrupt normal departmental operations.

## ARTICLE 4 NON-DISCRIMINATION

### Section 4.1 Joint Pledge

The City and the Union shall not discriminate against any Employee of the Bargaining Unit on the basis of the Employee's age, race, color, sex, creed, religion, ancestry, national origin, handicap, political affiliation, or physical disability as protected by law.

### Section 4.2 City Pledge

The City agrees not to discriminate against any Employee of the Bargaining Unit on the basis of the employee's membership or non-membership in the Union, nor to discriminate, interfere with, restrain or coerce any Employee because of or regarding the employee's activities as an officer or other representatives of the Union.

### Section 4.3 Union Pledge

The Union, within the terms of its Constitution and By-laws, and the City agree not to interfere with the desire of any Employee of the Bargaining Unit to become and remain a member of the Union. The Union agrees to fairly represent all Employees of the Bargaining Unit subject to the provisions and procedures set forth in Sections 4117.11 (b) (6) and 4117.12 of the Revised Code.

### Section 4.4 Gender

All references in this contract to the male gender shall be construed to equally apply to the female gender, and all referenced to the female gender shall be construed to equally apply to the male gender.

## ARTICLE 5 GRIEVANCE PROCEDURE

### Section 5.1 Grievance Defined

A grievance is any unresolved question or dispute regarding the wages, hours, terms, or conditions of employment of Employees, including but not limited to, unresolved questions or disputes concerning the interpretation and application of this Contract, Department regulation or policy.

Disciplinary actions of oral or written reprimand, taken by the Employer against any bargaining unit employee, may be appealed to Steps 1, 2 and 3 of the grievance procedure, but shall not be appealed to Step 4 (arbitration).

In cases of oral or written reprimands, if an Employee disagrees, the employee may write a memorandum to the Employer explaining the employee's position and

reason for disagreement with the oral or written reprimand. If the Employer agrees with the Employee, the oral or written reprimand shall be removed from the Employee's file. If the Employer does not agree with the Employee, the Employer shall attach the Employee's memorandum to the oral or written reprimand and keep both of them in the Employee's file.

## **Section 5.2 Qualifications**

A. A grievance can be initiated by the Union or an aggrieved Employee. When a group of Employees desire to file a grievance involving each Employee of the group in a substantially similar manner, the Union or the grievance chairman may select one or more Employees to process the grievance as the designated representatives of the affected group of Employees.

B. An Employee has the right to present grievances and have them adjusted without the intervention of the Union, as long as the adjustment is consistent with the terms of this Contract and as long as the Union has the opportunity to be present at or participate in the adjustment.

## **Section 5.3 Jurisdiction**

A. Nothing in this grievance procedure shall deny Employees or the Union any rights available at law to achieve redress of their legal rights, including but not limited to, the right to appear before the Civil Service Commission (except where arbitration is requested as provided in Article 5, Section 4, Step Four) or to file charges with the State Employment Relations Board when these agencies properly have jurisdiction over the subject matter.

B. However, once an Employee or the Union elects to pursue a legal or administrative remedy in lieu of this grievance procedure, and a court or administrative tribunal takes jurisdiction over the complaint, dispute or charge, the Employee or the Union is thereafter precluded from seeking a remedy under this procedure. Further, once an Employee or the Union requests arbitration under the grievance procedure they shall be precluded from seeking a remedy through any other procedure.

## **Section 5.4 Grievance Procedure**

The following steps and procedures shall be utilized in the resolution of grievances. However, there is nothing in this Article that prevents the parties from mutually agreeing in writing to by-pass any steps in this procedure.

### **A. Informal Step: Immediate Supervisor**

1. An individual Employee having an individual grievance will first attempt to resolve it informally with the immediate supervisor in such cases where the immediate supervisor has authority to resolve the issue in question. Such

attempt at informal resolution shall be made by the individual grievant within fourteen (14) calendar days following the events or circumstances that gave rise to the grievance, or within fourteen (14) calendar days after these events or circumstances first became known to the grievant. At this Step, there is no requirement that the grievance be submitted, or responded to, in writing; however, a grievance chairman may accompany the grievant should the latter request such attendance.

2. When a grievant is not satisfied with the supervisor's informal response to the grievance at this Step of the grievance procedure, the grievant may submit the grievance in writing to the Chief, or designee. This written grievance shall be submitted to the Chief on the grievance form agreed upon by the parties, within seven (7) calendar days after the grievant has received a response to the Informal Step. Grievances submitted beyond the seven (7) calendar day time limit shall not be considered except a grievance submitted directly to the Chief shall have the time limit of fourteen (14) calendar days.

**B. Step One: Chief**

1. The Chief of Police shall date-stamp the grievance form on the date of its receipt. Within ten (10) calendar days of receipt of the grievance form, the Chief of Police or designated representative, shall investigate the grievance, and shall schedule and conduct a meeting to discuss the grievance with the grievant. The grievant may bring the grievance chair to the meeting. The Chief of Police or designated representative may be joined in the meeting by one representative of the City administration.

2. At the meeting called for at this Step, the grievant and/or the chair will be permitted to give a full explanation of the grievance and the material facts relating thereto.

3. Within seven (7) calendar days after the meeting at this Step, the Chief of Police shall submit to the grievant and the grievance chair a written response to the grievance; such response shall be signed and dated.

4. Should the grievant not be satisfied with the Chief of Police's response to the grievance at Step One, the grievant may submit the grievance, within seven (7) calendar days of receipt of response, to the Safety Director at Step Two.

**C. Step Two: Safety Director**

1. The Safety Director shall date stamp the grievance form on the date of receipt. Within ten (10) calendar days of receipt of the grievance form, the Director shall investigate the grievance and shall schedule and conduct a meeting to discuss the grievance with the grievant. The grievant may bring the grievance

chair to the meeting. The Director may be joined in the meeting by one representative of the City administration.

2. At the meeting called for at this Step, the grievant and/or the chair will be permitted to give a full explanation of the grievance and the material facts relating thereto.

3. Within seven (7) calendar days after the meeting at this Step, the Director shall submit to the grievant and the grievance chair a written response to the grievance; such response shall be signed and dated.

4. Should the grievant not be satisfied with the Director's response to the grievance at Step Two, the grievant may submit the grievance, within seven (7) calendar days of receipt of response, to the Mayor at Step Three.

**D. Step Three: Mayor**

1. The grievant or the grievance chair shall present the grievance to the office of the Mayor. The Mayor or designee shall date-stamp the grievance form on the date of its receipt. The Mayor or designee shall schedule a meeting with the grievant within ten (10) calendar days of such presentation, unless the parties mutually agree to a longer period of time. The Mayor or designee may have not more than two (2) City representatives in attendance at this meeting.

2. The grievance chair and a representative of the Union may accompany the grievant to the meeting with the Mayor. The grievant and/or representatives shall be permitted to give a full explanation of the grievance and the material facts relating thereto. Within seven (7) calendar days of such meeting, the Mayor or designee shall furnish a written response on the grievance to the grievant and the grievance chair.

**E. Step Four: Arbitration**

**1. Notification of Intent**

Should the grievant not be satisfied with the Mayor's response to the grievance at Step Three, the grievant shall notify the grievance representative of the desire to proceed to arbitration. The grievance representative will present the grievant's request for arbitration to the Union representative. Should the Union determine to proceed to arbitration with the grievance, the Union shall so notify the City in writing. This written notification shall be delivered by hand or received by the Mayor within fourteen (14) calendar days after the grievant's receipt of the Mayor's written response.

## **2. Selection of Arbitrator**

a. Within fourteen (14) calendar days following the receipt of the Union's written notification of the Union's intention to proceed to arbitration, the Mayor or the Director of Human Resources either personally or through an appropriate City designee, and the appropriate Union representative will consult and attempt to select an impartial arbitrator by mutual agreement.

b. In the event these representatives cannot reach agreement on an arbitrator, by joint letter the parties will request the Federal Mediation Conciliation Services to submit a panel of nine (9) arbitrators from which the City and the Union shall select one by mutual agreement.

c. If an agreement cannot be reached as to one mutually acceptable arbitrator from the panel, an arbitrator will then be selected by the representatives of the parties by alternatively striking names and selecting the final remaining name. Either party shall have the option to completely reject the list of names and request another list only once.

d. Nothing in the Section shall prohibit the parties from mutually agreeing on an arbitrator prior to requesting a panel list from FMCS.

## **3. Authority of Arbitrator**

a. The arbitrator shall conduct a fair and impartial hearing on the grievance, hearing testimony and evidence from both parties, unless the parties mutually agree to submit their dispute on written stipulations. The arbitrator shall not have the authority to add to, subtract from, modify, change or alter any provisions of this Agreement. The arbitrator shall be confined to the precise issue(s) submitted for arbitration and shall, absent mutual agreement of the parties, not have the authority to determine any other issue not so submitted for resolution.

b. The arbitrator shall not issue observations, declarations or opinions that are not directly essential in reaching a decision on the issue(s) in question. The arbitrator shall not establish any new or different wage rates not negotiated as part of this contract. In disciplinary cases, the arbitrator shall have the authority to affirm, disaffirm or modify said discipline.

c. The question of arbitrability of a grievance may be raised by either party before the arbitrator hears the merits of the grievance. If a question of arbitrability is raised, the arbitrator may either rule on this issue, or reserve ruling and hear the merits of the grievance before issuing

a ruling on this question. The decision of the arbitrator shall be final and binding upon the Union, the grievant, and the City.

#### **4. Arbitration Costs**

The costs of any proofs produced at the direction of the arbitrator, and the rent, if any, for the hearing room and cost directly related to the arbitrator's services shall be borne equally by each party. The expenses of any non-Employee witness shall be borne, if at all, by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcript. Any affected Bargaining Unit member in attendance for such hearing shall not lose pay or any benefits to the extent such hearing hours are during the member's normally scheduled working hours on the day of the hearing.

#### **5. Arbitrator Award**

The arbitrator's decision will be in writing and should be mailed to the Union and the City within thirty (30) days from the date the hearing record is closed.

### **Section 5.5 Time Off for Presenting Grievances**

A. A grievant and grievance chair shall be allowed time off from regular duties with pay for attendance at scheduled meetings under the grievance procedure with prior approval of their respective supervisors. Grievance meetings shall be held at a time mutually agreeable to the parties involved. The grievance chair or grievant must obtain prior approval from the grievant's immediate supervisor before conducting meetings with the grievant while the grievant is on duty. Such approval by the supervisor shall not be unreasonably withheld.

B. The meetings between a grievant and grievance chairman shall be held at a police facility or the Union office. The grievance chair shall be allowed adequate time, as approved by the supervisor off the job with pay to conduct a proper investigation of each grievance. Such approval will not be unreasonably withheld; the withholding of such approval shall result in an automatic, equivalent extension of the time limits within which a grievant must appeal the grievance or have it heard.

### **Section 5.6 Time Limits**

A. It is the City's and the Union's intention that all time limits in the above Grievance procedure shall be met. However, to the end of encouraging thoughtful responses at each Step, the Union's and the City's designated representative may mutually agree, at any Step, to short time extensions. Any agreement to extend time must be in writing and signed by the parties.

B. In the absence of such mutual extensions, the grievant may, at Steps One and Two, where a response is not forthcoming within the specified time limits, move the grievance to the next Step in the procedure. If a response is not forthcoming within the specified time limits at Step Three, the grievant may presume the grievance to have been granted by the City in full, and the City shall immediately implement the requested remedy. Failure of the grievant to appeal within the specified time limits constitutes a withdrawal of the grievance.

C. Any Step in the grievance procedure may be waived by mutual consent. Union or group grievances shall be initiated at Step One within fourteen (14) calendar days following the events or circumstances that gave rise to the grievance or first became known to the Union or group grievants.

D. If an office specified for receipt of a grievance or grievance appeal is closed for an entire day, which day is the last day of the time period prescribed for the filing of a grievance or grievance appeal, then the grievant will be permitted to file the grievance or grievance appeal on the next day on which such office is open.

#### **Section 5.7 Representatives in Meetings**

In each Step of the grievance procedure outlined in Section 4, certain specific representatives shall be given approval to attend the meetings therein prescribed. It is expected that, in the usual grievance, these will be the only representatives in attendance at such meetings. However, it is understood by the parties that, in the interest of resolving grievance at the earliest possible Step, it may be beneficial that other representatives, not specifically designated, be in attendance. Therefore, it is intended that either party may bring additional representatives to any meetings in the grievance procedure, but only upon advance mutual agreement among the parties who are specifically designated to attend, that such additional representatives have input which may be beneficial in attempting to resolve the grievance.

#### **Section 5.8 Grievance Forms**

The City and the Union shall jointly approve a grievance form. Such forms will be supplied by the Union and made available to all Grievance Representatives.

### **ARTICLE 6 UNION REPRESENTATION**

#### **Section 6.1 Grievance Chair**

Bargaining Unit Employees shall select an Employee from the Unit as grievance chair for the Unit. They shall also select an alternate who shall serve as Grievance Chair in the absence or unavailability of the Grievance Chair. The authorized functions of the Grievance chair shall include the following:

- A. Attendance at any City/ Union joint meeting relating to Employee relations and/or grievances;
- B. Representing the Union in investigating and processing grievances in the Grievance procedure;
- C. Providing general supervision and coordination of grievances in progress; and
- D. Acting as liaison between the City and the Union on matters concerning grievances. Each Grievance chair shall be released from normal duty hours, upon notifying the grievance chair's supervisor, to participate in the aforementioned grievance related duties without loss of pay or benefits.

## ARTICLE 7 NEGOTIATIONS

### Section 7.1 Committees

The Union and the City have the right to select their own Negotiations Committee. No later than the second (2<sup>nd</sup>) negotiation session, the members of each party's committee will be fixed for the duration of the negotiations. Should either party wish to change or substitute committee members, they may do so with written notice to the other party. The number of committee members from each party will be mutually determined and set at the first (1<sup>st</sup>) negotiation session. The Union specifically reserves the right to have a Union Staff Representative serve as a member of the Negotiations Committee.

### Section 7.2 Good Faith Bargaining

- A. The parties are obligated to bargain collectively with one another in a good faith effort to reach agreement. Good faith means that each party:
  - 1. will deal with the chosen representatives of the other honestly in a bona fide effort to reach agreement;
  - 2. will meet at reasonable times and places to facilitate negotiations;
  - 3. will have the necessary authority to make proposals, and counter-proposals, to compromise, and to make agreements subject to final ratification; and
  - 4. will not assume positions at the beginning, which it describes as fair and firm, and thereafter not subject to further negotiations.

B. Such good faith bargaining does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

### **Section 7.3 Information Furnished**

The parties are obligated to provide each other with relevant financial and other information, as requested, which is necessary for each party to develop proposals and counter-proposals and to negotiate in good faith. Such information will be provided in sufficient number of copies so that each member of the other party's committee will receive a copy.

### **Section 7.4 Private Meetings**

The parties agree to negotiate in private meetings pursuant to Section 4117.21 of the Ohio Revised Code. These meetings will be held at least once every week, unless mutually agreed otherwise.

### **Section 7.5 Spokesperson**

The Negotiations Committees will formally communicate with each other through a spokesperson named by each party.

### **Section 7.6 Informal Minutes**

Each party may informally keep its own minutes or written records of the negotiations. No official transcript of the negotiations will be maintained.

### **Section 7.7 Caucus and Adjournment**

Either party has the right to call a caucus at anytime or to adjourn the negotiations session.

### **Section 7.8 Negotiations Committee**

The Department agrees to allow one (1) Employee and one (1) alternate from the Bargaining Unit to serve on the Union's Negotiations Committee. The Bargaining Unit Employee shall serve on the Committee in a full pay status during negotiations or any modification of this Contract, if the Employee's duty hours coincide with the meeting hours.

### **Section 7.9 Ratification by Council**

A. The City shall submit to the City Council for approval any matter requiring the approval of the City Council necessary to implement the agreement reached by the Negotiations Committees within fourteen (14) days of the date upon which the parties finalize a tentative agreement.

B. The City Council must approve or reject the submission as a whole, and the submission shall be deemed approved if the Council fails to act within thirty (30) days after the City submits the agreement. The Agreement thereupon becomes binding upon the City, City Council, the Union and the Employees of the Bargaining Unit.

## **ARTICLE 8 DISPUTE RESOLUTION**

### **Section 8.1 Dispute Resolution Procedures**

If either party desires to modify, amend or terminate this Agreement, it shall give written notice of such intent no earlier than one hundred and twenty (120) calendar days prior to the expiration date, nor later than sixty (60) calendar days prior to the expiration date of this Agreement. Such notice shall be by a method approved by the State Employment Relations Board. The parties agree that the dispute resolution set forth in O.R.C. Section 4117 shall be used unless otherwise agreed. The parties may also amend this Agreement at any other time in writing by their mutual consent and agreement.

## **ARTICLE 9 MANAGEMENT RIGHTS**

### **Section 9.1 Management Rights and Responsibilities**

Except to the extent otherwise limited or modified by this Contract, the City retains the 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 City, standard of services, its overall budget, utilization of technology, and organization structure;
- B. Direct, supervise, evaluate or hire Employees;
- C. Maintain and improve the efficiency and effectiveness of governmental operations;
- D. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
- E. Suspend, discipline, demote, or discharge for just cause, or layoff, transfer, assign, schedule, promote, or retain Employees;
- F. Determine the adequacy of the work force;
- G. Determine the overall mission of the Police Department;

- H. Effectively manage the work force; and
- I. Take actions to carry out missions of the Police Department.

**Section 9.2 Subject to Bargaining and/or Grievance**

The City is not required to bargaining with the Union on subjects reserved to the management and direction of the Department except as such subjects would affect wages, hours, terms and conditions of employment of Employees.

**Section 9.3 Understanding**

The Union recognizes and accepts that all rights and responsibilities of the Employer not otherwise restricted or modified by any provision of the Agreement and as permitted by law, shall remain the exclusive function of the Employer and that nothing herein shall be construed to restrict the Employer's inherent and exclusive rights with respect to matters of general managerial policy.

**ARTICLE 10 CORRECTIVE ACTION AND RECORDS**

**Section 10.1 Corrective Action for Cause**

No Employee shall be removed, reduced in pay or rank, suspended, reprimanded, or otherwise disciplined, without just cause.

**Section 10.2 Progressive Corrective Action**

Except as provided otherwise in this Article/Agreement, and for charges other than insubordination, the principles of corrective action will be followed with respect to conduct, which is not a violation of criminal law. However, the charge of insubordination will only be used when no other charge is applicable to the conduct considered insubordinate. Except in cases of serious offenses, the progression of discipline will at least include an oral reprimand before a written reprimand, a written reprimand before a suspension and a suspension before reduction in pay or rank or removal for the same or related offenses. In the case of a serious offense, the Police Chief may give discipline that does not follow this progression.

**Section 10.3 Actions of Records**

A. At any time an inquiry concerning a Bargaining Unit Employee occurs wherein corrective action of record (written reprimand, suspension, reduction in pay or position, or removal) may result, the Employee will be immediately notified that such a result is possible.

B. The parties understand that a supervisor may retain documentation in the member's file of the giving of an oral reprimand. However, any private written notes shall not appear in a member's personnel file or other official records of the City of Police Department. Any such written notes found in the City files or records shall be immediately removed. Incident interviews or oral reprimands resulting from citizen complaints may be maintained in an internal affairs file and shall not be considered part of the member's personnel file.

C. A Departmental hearing will be held prior to the imposition of any suspension, removal and reduction in pay or rank, provided the City shall always retain the right to relieve an Employee with pay pending such hearing.

#### **Section 10.4 Departmental Hearings**

A. Prior to any Departmental hearing before the Safety Director, the Employee will receive from the Chief of Police a written statement of all charges and specifications as well as notification of the hearing date and time. The Employee will also receive notification of the evidence, which supports the disciplinary charges and specifications.

B. At Departmental hearings, the charged Employee will be allowed to be represented by a Union representative and/or attorney, will be allowed to call witnesses material to the employee's defense, and will be given an opportunity to cross-examine any adverse witnesses.

C. Hearings will be held in the Police Department unless an alternative site is mutually agreed upon by the parties. All hearings will be recorded and transcribed by the City, and the Employee shall receive a copy of the transcript at no charge.

D. An Employee who is charged, or the Union representative or attorney may make a written request for a continuance of the hearing. Such request will be granted where practicable at the discretion of the Safety Director. The length of such continuance shall be mutually agreed upon.

E. The City will notify the affected Employee and the Union representative of any decisions reached as a result of a Departmental hearing. A good faith effort will be made to provide such notification prior to any public statement.

F. An Employee who is charged, or the employee's attorney, may make written request directly to the Chief to review the employee's personnel file. Such request will be granted within a reasonable time by the Chief in the case of a pending Departmental hearing.

## **Section 10.5 Duration of Records**

A. All actions of record as defined in Section 3 of this Article will be maintained in each Employee's personnel file throughout the employee's period of employment, with the exception that:

1. any record of an oral reprimand will be removed from the file, upon request of the Employee, twelve (12) months after such action was taken, provided that at the time of such record removal no further action of the same or similar nature has occurred.
2. any record of a written reprimand will be removed from the file, upon the request of the Employee, eighteen (18) months after such action was taken, provided that at the time of such record removal no further action of the same or similar nature has occurred.
3. any record of suspension, reduction in pay or rank will be removed from the file, upon request of the Employee two (2) years after such action was taken, provided that at the time of such record removal no further corrective action of the same or similar nature has occurred.

B. Oral and written reprimands, suspensions or reductions so removed from a personnel file shall be sealed in a separate file and retained as required by law. Such removed files shall have no force or effect in future disciplinary action.

C. In any case in which an action of record is subsequently disaffirmed, the Employee's personnel file shall clearly indicate such disaffirmance. At the Employee's request the City shall also expunge records of the case from the Employee's personnel file when such disaffirmance has occurred.

D. Unfounded or unsubstantiated allegations or complaints of misconduct made against an Employee and appearing in the files of the Internal Affairs Bureau shall not be considered in further corrective action or promotional considerations, and shall not be shared outside the Department except required by law. Unfounded or unsubstantiated complaints or allegations shall also not be considered in future transfer considerations.

## **Section 10.6 Review of Personnel Files**

A. Every Employee shall be allowed to review any of the employee's own personnel files (except internal affairs and background files) at any reasonable time upon written request. An Employee may also authorize a Union Representative or attorney to review the personnel file. Such request may be made to the supervisor directly responsible for maintenance of such files. No information in an Employee's personnel file will be shared with anyone outside the Department and the City Administration, except as

required by law. Any Employee may copy documents in the employee's file at the City's expense.

B. If a request is made to inspect and/or copy records within the Member's personnel file pursuant to Section 149.43 of the Ohio Revised Code, and if the City intends to comply with this request, the City shall first provide written notification to the Member of the nature of the request. The member shall have available any and all legal remedies or actions concerning a request to the City under this Section.

### **Section 10.7 Inaccurate Documents**

Should any Employee have reason to believe that there are inaccuracies in documents contained in that employee's personnel file the Employee may notify the Safety Director in writing of the alleged inaccuracy. The Safety Director shall review the challenged material. The material will be removed from the file and destroyed when an Employee's claim that it is inaccurate or unfair is sustained by the Safety Director. The Employee shall also have the right to submit a written statement detailing objections to the materials in question. If such a statement is prepared, it shall be attached to the material objected to by the Employee.

### **Section 10.8 Performance Evaluations**

An Employee's signature on any performance evaluation shall be viewed by the parties hereto only as representation that the Employee has read it, and shall not be viewed as a representation that the Employee has concurred in any or all of the contents or comments thereon. The Employee shall be the last person to sign a performance evaluation and no evaluative comments may be made on record copies thereafter. The Employee shall received a copy of the evaluation in its final form when signed by the employee.

### **Section 10.9 Placement of Material in Personnel File**

No document which does not include as a part of its normal distribution a copy to the Employee, or which does not originate with the Employee, shall be placed in the personnel file unless the Employee is simultaneously provided a copy. Anonymous material shall never be placed in the Employee's personnel file.

## **ARTICLE 11 WORK RULES AND DIRECTIVES**

### **Section 11.1 Work Rules**

The City agrees that work rules including departmental rules, regulations and policy shall be reduced to writing and provided electronically or via hard copy to all Employees forty-eight (48) hours in advance of their taking effect. Work rules shall be applied and interpreted uniformly to all Employees.

After notification, by the City, of any proposed changes in rules, regulations and policies that effect hours, wages, terms and conditions of employment only, the Union shall have no more than ten (10) days to challenge such changes according to State Employment Relations Board's guidelines.

### **Section 11.2 Internal Review Procedures and Member Assistance Program**

A. The City shall maintain a policy and procedure regarding "Member Assistance Program" and "Internal Review Procedures" for the life of this Contract. These policies may not be changed by the City except for good cause and not without first giving the Union written notice of any proposed change and offering the Union an opportunity in a labor relations meeting to provide input as to any proposed change.

## **ARTICLE 12 LABOR RELATIONS MEETINGS**

### **Section 12.1 Labor Relations Meetings**

A. The parties recognize the benefit of exploration and study of current and/or potential problems including Departmental rules, regulations and policy. They agree to hold labor relations meetings at such times as necessary, upon written request of either party. The request shall include an agenda stating the matters to be discussed. In these meetings, the Mayor, the Safety Director and the Chief, plus the Director of Human Resources may represent the City; one (1) Employee of the Bargaining Unit and a Union Representative shall represent the Union.

B. With prior approval from both parties, either party may bring additional individuals as may be helpful to understand or explain the item(s) discussed. The Committee shall not engage in collective bargaining. No subject matter shall be brought before the Labor Relations Committee that can be addressed in the existing Grievance procedure until such time as that procedure has failed to resolve the issue.

### **Section 12.2 Semi-annual Meeting**

Labor Relations Meetings may be held on a semi-annual basis, if needed, (January and July) unless more frequent meetings are required.

## **ARTICLE 13 SAFE EQUIPMENT**

### **Section 13.1 Safe Equipment**

The City will furnish and will maintain in the best possible working condition, within the limits of its financial capability, the necessary tools, facilities, supplies and equipment required for Employees to safely carry out their duties. Employees are

responsible for reporting unsafe conditions or practices, for avoiding negligence and for properly using and caring for tools, facilities, supplies and equipment provided by the City.

## **ARTICLE 14 POLITICAL ACTIVITY**

### **Section 14.1 Permitted Political Activity**

In addition to other lawful partisan political activity, so long as a Member is not in violation of O.R.C. 124.57, a Member is permitted (outside the City of Whitehall) to actively participate in partisan political activity, provided that a Member undertake such activity while off-duty, not in identifiable uniform, and does not represent that such activity is either undertaken in his official capacity as an Employee of the City or is sanctioned by the City.

## **ARTICLE 15 SENIORITY/PROBATION**

### **Section 15.4 Seniority List**

A seniority list by title shall be kept by the Chief according to job titles and shall be updated as needed. A copy shall be available for inspection in a location designated by the Chief for the purpose of defining seniority, a member's continuous service with the Whitehall Police Department by title. The seniority list shall list all members and the dates of their first date of work for the Department as a part-time employee in order from the most senior to the least senior member in service.

### **Section 15.5 Probationary Period**

Every newly hired member will be required to successfully complete an initial probationary period. The initial probationary period shall consist of eighteen (18) months from the date of hire.

All provisions of this contract shall apply to members in their initial probationary period except that neither the FOP/OLC nor such probationary member shall have the ability to grieve or proceed to arbitration challenging the City's ability to terminate such member's employment because of disciplinary action or unsatisfactory service.

## ARTICLE 16 WAGES

### Section 16.1 Pay Plan

The following straight time wages shall be paid to Employees. The increase in wages will be effective on January 1 of each year or at the completion of the Employee's training period.

Training Hourly Wage	Non-Training Hourly Wage 2014	Non-Training Hourly Wage 2015	Non-Training Hourly Wage 2016
\$ 17.00	\$ 20.889	\$ 21.202	\$ 21.520

### Section 16.2 Pay Plan Administration

The following provisions shall apply to the administration of the pay plan set forth in Section 1 of this Article unless delayed due to unsatisfactory service or discipline.

A. The Training Wage shall be the minimum rate and shall be the hiring rate of all classes.

B. An Employee shall be advanced by the appointing authority to Non-Training Wages upon the completion twelve (12) calendar months.

### Section 16.3 Application of Pay Rates

The rates of pay set forth in Section 1 are based on part-time employment of less than forty (40) hours in a workweek, or less than eighty (80) hours in a bi-weekly pay period, and two thousand and eighty (2,080) hours annually, and shall be used to calculate wages in paid status.

### Section 16.4 Pay Period

All Employees shall be paid on a bi-weekly basis (or pay period) on alternating Fridays. The pay period shall consist of fourteen (14) consecutive calendar days (two (2) consecutive regular workweeks).

**ARTICLE 17 HOURS OF WORK AND OVERTIME**

**Section 17.1 Workday/Workweek**

The workweek shall consist of seven consecutive days and generally less than forty (40) hours.

**Section 17.2 Paid Status**

For purposes of this Contract, "paid status" shall include hours actually worked.

**Section 17.3 Overtime**

A. All hours worked in excess of forty (40) hours in a workweek, shall be paid at the overtime rate of one and one-half (1 ½) times the regular rate of pay, except as otherwise specifically provided. The overtime computation shall be applied to all hours in paid status. Overtime pay shall be included in the compensation for the affected pay period.

B. A member's regular rate of pay for purposes of computation of overtime shall be calculated in accordance with law.

**Section 17.4 Training Stipend**

When an Employee is assigned to train a new Employee, the Employee shall receive one (1) hour of straight time pay for each eight (8) hour training day.

**ARTICLE 18 UNPAID LEAVE**

**Section 18.1 Unpaid Vacation Leave**

Any part-time Employee who has completed his/her probationary period may be considered for taking unpaid vacation leave on an infrequent basis. Approval of such leave is contingent upon operational considerations as determined by the Chief of Police.

**Section 18.2 Unpaid Sick Leave**

Unpaid sick leave for the illness or injury of the Employee which prevents him/her from working will not be unreasonably denied. Should unpaid leave be requested for sick purposes, the City reserves the right to request documentation or evidence as to the adequacy of the reasons for any Employee's absence during the time for which such leave is requested.

**Section 18.3 Attendance**

It is necessary for the efficient operation of the Division of Police and employee morale that every effort be made to maintain the highest possible level of attendance. Excessive absenteeism or patterns of absenteeism will be evaluated for operational impact and may be cause for disciplinary action.

Subsequent causes of action in violation of this article shall be cause for termination.

**ARTICLE 19 HOLIDAYS**

**Section 19.1 Holidays**

The following days are declared to be holidays that will be observed by the Employees:

First day of January	News Year's Day
Last Monday in May	Memorial Day
Fourth day of July	Independence Day
First Monday in September	Labor Day
Fourth Thursday in November	Thanksgiving Day
Day following Thanksgiving Day	Day after Thanksgiving
Day before Christmas	Christmas Eve (4 hours)
Twenty-fifth day of December	Christmas Day
Day before New Year's Day	New Year's Eve (4 hours)

**Section 19.2 Holiday Pay**

When an Employee works on a day celebrated as a holiday, the Employee shall be compensated at the rate of one and one-half (1½) times the employee's hourly rate.

**ARTICLE 20 UNIFORMS**

**Section 20.1 Uniforms and Allowance**

A. Uniform items, as set forth below, shall be provided by the City to each Employee upon initial hire.

B. The following items constitute uniform issue:

- 6 "tops" from any of the following:
  - long sleeve shirts
  - turtlenecks or mock turtlenecks
  - short sleeve shirts
- 3-pairs of trousers
- 1-pair of shoes
- 1-pants belt

- 1-long sleeve sweater or jacket
- 1-ID case
- 1-badge

### **Section 20.2 Uniform Replacement**

A. Uniform parts that are damaged in the performance of duty shall be replaced at City expense and not charged to the member's annual allotment.

B. Uniform parts not damaged in the performance of duty shall be replaced on an as needed basis. Needs will be established by inspection and approved by the Chief or designee. Employees are expected to maintain their uniforms in first class condition.

## **ARTICLE 21 FITNESS FOR DUTY**

### **Section 21.1 Fitness for Duty**

Medical examinations, both mental and physical may also be required at the discretion of the Chief of Police when individual situations raise a concern for a specific Employee's ability to safely perform the material and substantial duties of the employee's position or assignment. Such examinations are intended to guard the health and safety of the Employees and the public and ensure the ability of Employees to perform their duties in a safe manner. Refusal of an Employee to submit to a medical examination upon order of the Chief shall constitute insubordination and grounds for discipline including dismissal.

## **ARTICLE 22 FISCAL EMERGENCY**

### **Section 22.1 Fiscal Emergency**

During a period of fiscal emergency, as determined by the State Auditor, the City of Whitehall may serve written notice to reopen and renegotiate the contract during the term of this contract.

## **ARTICLE 23 RESIDENCY**

### **Section 23.1 Residency Requirements**

As a condition of employment, all Bargaining Unit members must live within Franklin County or one of its contiguous counties.

## **ARTICLE 24 ENTIRE AGREEMENT**

### **Section 24.1 Entire Agreement**

A. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the entire understanding and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

B. Except as otherwise provided in the Article on Duration, the provisions of this Agreement constitute the entire agreement between the Employer and the FOP, Ohio Labor Council, Inc., and for the life of this Agreement, each voluntarily and unequivocally waives the right, and each agrees that the other shall not be obligated to bargain collectively or individually with respect to any subject or matter specifically referred to or covered by this Agreement. Except as may be required by the State Employment Relations Board.

## **ARTICLE 25 DURATION AND SIGNATURES**

### **Section 25.1 Contract**

This Contract shall become effective January 1, 2014 and shall remain in full force and effect until midnight on December 31, 2016.

**Section 25.2 Modification or Renewal**

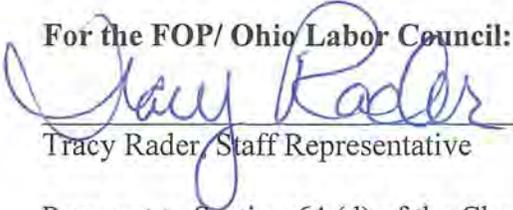
A. If either party desires to modify, amend or terminate this Agreement, it shall give notice of such intent no earlier than one hundred and twenty (120) calendar days prior to the expiration date, nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail, return receipt requested.

B. The parties shall commence negotiations within two (2) calendar weeks upon receiving the notice of intent. The parties may also amend this Agreement at any time in writing by their mutual consent and agreement.

**Section 25.3 Signatures**

Signed and dated by the authorized representatives of the parties to this Agreement for this purpose on this 5<sup>th</sup> day of December, 2013 in the City of Whitehall, Ohio.

**For the FOP/ Ohio Labor Council:**

  
Tracy Rader, Staff Representative

**For the City of Whitehall:**

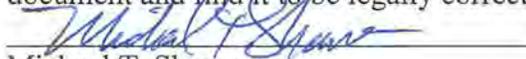
  
Kim Maggard, Mayor

Pursuant to Section 64 (d) of the Charter of the City of Whitehall, Ohio, I hereby certify that sufficient funds have been appropriated for current year expenditures and there is now or is in the process of collection, sufficient revenue to conclude the transaction called for herein.

  
Dan Miller, Auditor  
City of Whitehall, Ohio

11/26/13  
Date

Pursuant to Section 27 of the Charter of the City of Whitehall, Ohio, I have reviewed this document and find it to be legally correct.

  
Michael T. Shannon,  
City Attorney, City of Whitehall, Ohio

11/26/13  
Date