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IN THE MATTER OF FACT FINDING

BETWEEN

AFSCME OHIO COUNCIL 8, LOCAL 100

AND

THE CITY OF CLEVELAND, OHIO

SERB CASES # 13-MED-01-0019

Robert G. Stein, Fact-finder

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INTRODUCTION

The parties to this matter are AFSCME Ohio Council 8, Local 100 AFL-CIO (hereinafter "Union," "AFSCME" or "Unit") and the City of Cleveland, Ohio (hereinafter "Employer" "City," or "Department"). The Employer is located in Cuyahoga County, Ohio. There are approximately 1,350 employees in the Unit, who are employed in over 200 classifications and work in every department or division of the City across a broad geographic area. (See Union Ex. 1) In this report the current collective bargaining agreement shall be referred to as ("CBA" or "Agreement"). Negotiations for a successor agreement between the parties has been going on for an extended period of time, having gone well past the Agreement's ending period of March 31, 2013, but with a mutually agreed upon Extension Agreement in place. (See Union Ex. 3) The parties declared impasse having yet to resolve 68 issues. They are comprised of 5 main issues (Wages, Insurance, Release time for the Union President and Vice President, Equity Adjustments for City-wide Classifications, and Posting/Job Bidding Procedures) and an additional 63 addendum issues dealing with a variety of monetary demands and proposed language issues. The first three (3) days of fact finding were set aside for mediation in an effort to reduce the number of unresolved main and addendum issues. During the first day of mediation the parties attempted, with the assistance of the fact finder to reach tentative agreement on the five (5) main issues in dispute as defined above. Through the efforts of well-seasoned advocates and with the assistance of the fact finder, considerable progress was made in understanding these issues, but no tentative agreement was reached. As a result the fact finder set the issues aside for fact finding. On day two and three of mediation a concerted effort was made to reduce the sixty-three (63) separate addendum issues that were at

impasse. Again through the efforts of seasoned negotiators and with assistance from the fact finder several issues were either resolved or withdrawn, reducing the total number of addendum issues to approximately 8.

General/State/Local Economic Overview: A mixture of prolonged uneasiness and continued hope for signs of improvement have characterized the mood of the country during the years since the “great recession,” was declared to have ended on a national level. Of course, what is often declared to be ended nationally does not always translate immediately at the local level, particularly in Ohio, which has had more than its share of job losses prior to and as a consequence of the great recession. Recovery has been painfully slow since 2008, when job losses in Ohio were the second worst in the nation, behind Michigan. However, there appears to be cause for optimism during the first half of 2014. In the last several years the national and state has been marked by uneven job growth and was unaided by considerable national political discord, which earlier in the year showed signs of a thaw in the long-existing failure of Washington to agree on legislation (e.g. Farm Bill, Budget Bill passage), but recently has returned to gridlock as the mid-term elections approach. In spite of the prolonged lack of agreement in Congress over many important issues that did little to relieve economic uncertainty, the private sector has continued to lead the way with stronger profits, and in adding jobs but in uneven numbers geographically. In April the national unemployment rate was 6.3%, a drop from 6.7% in the prior month. In May the rate stated the same, but an additional 217,000 jobs were created. In Ohio the April rate was 5.7%, which was approximately the rate in 2008 (May’s rate has yet to be announced). Yet, how much of that decline is due to new job creation rather than the effect of people dropping out of the labor market remains unclear. The stock market had a banner year in 2013, but experienced some retrenchment during the first two months of 2014. In May and early June that temporary downturn has reversed and the stock market has demonstrated considerable strength, hopefully reflecting a national economy that is steadily gaining sustained momentum. However, anyone who makes it their business to pay attention to these matters will readily admit the U.S. economy remains vulnerable to national and international events such as instability in Syria, Russian ambition in the Ukraine, just to name a few. At the end of 2013 some economists predicted that *“There’s still a sizable amount of pent-up demand in the consumer*

and corporate sector”, and that may be “signaling strong demand at home and abroad that could boost growth prospects into next year.” (WSJ, 12-3-13). If the sales of automobiles in May is any indicator this prediction may be holding up as we conclude the first half of 2014. (Associate Press, 6-4-2014) What remain to be seen long term is the depth, breadth, and strength of the recovery across a broad array of sectors in the economy, and most importantly the creation of good paying jobs in an economy largely driven by consumerism.

Infrastructure issues along with recovery from record severe weather will be a challenge for cities and states across the country and in Ohio for the foreseeable future. Business continues to learn how to be more efficient and do more with less or with part-time rather than full-time employees. In the experience of this neutral, public sector entities in Ohio, having to have endured multiple rounds of severe reductions in state assistance in recent years, are following the lead of the private sector and are very leery to again be put in a position to have to cut back services, make drastic cuts in staffing, reduce benefits, and freeze or reduce wages just to balance their budgets. In Ohio the majority of manufacturing jobs are related to transportation, which has experienced sustained recovery. Yet, caution still exists and there is still cause for concern in the number of people unemployed and underemployed. Many of the jobs being created in Ohio, as in other parts of the country are not the same well-paid jobs, with good benefits that in the past created and sustained a vibrant middle class. Currently there are more than 4 million people who have been unemployed for 6 months or more. Complicating the future in another manner is the fact that for millions of workers income has not changed markedly for several years. (“Incomes are Flat, Reflecting a Slowdown in Job Growth, but Consumer Spending Rises,” Associated Press, 2-2-14) What affect this will eventually have on markets and the willingness and ability of citizens to be able to financially support their communities is a question only time will answer.

As previously stated Ohio’s economic picture has been slowly improving, painfully slow for many, but hopeful signs of improvement from a very long and severe national recession appear to be gaining momentum. Substantial activity has been initiated in the areas of shale gas and oil exploration, with a promise of billions of dollars of added income to Ohio in the future. (“Shale gas and oil will add \$5 billion to Ohio’s economy by 2014, say economists” by John Funk, Plain Dealer, 2-29-12) And some would argue that jobs created

from this exploration provide more employment for out of state workers than those who live in Ohio. (“Fracking: So where’s the economic boom that was promised?” by Spencer Hunt and Dan Gearino, Columbus Dispatch, January 28, 2014) But, as previously stated, the April unemployment rate in Ohio is the lowest it has been since 2008 and it is hoped that most of that is a result of new job creation. What holds for the remainder of 2014 is not certain on a national or statewide perspective, yet signs of a sustained recovery remain hopeful.

The local economy in northeast Ohio is a mixed bag of prosperity, recovery, and continued austerity. Depending upon location some municipalities are prospering, while others are still finding difficulty in adjusting to substantially less revenue from the state of Ohio, the elimination of the estate tax, lower property values, etc. Fortunately at this time, the City of Cleveland is in a better financial position than it has been in the recent and somewhat distant past. From the data provided by the parties, it appears the City has weathered two economic downturns; in 2004 (prior to the Great Recession) and in 2010 in the midst and largely a result of the Great Recession. For example, in 2004, some 500 employees had to be laid off, along with other severe cuts that had to be made in order to balance the City’s budget. (See City Ex. 4) In 2010, another round of budget cuts had to be enacted along with the institution of unpaid “furlough days” and additional layoffs, largely caused by drastic cuts by the state of Ohio in providing local government funds to cities, along with other legislation affecting local revenue from estate taxes along with a reduction of personal property tax collections. (See p. 3 of Employer’s Pre-hearing Statement, Employer Exs. 1-7) The result has been a smaller workforce for the City, but hopefully a sounder financial outlook for the City and its employees. Good things appear to be in the making in the City, which just so happens to be the hometown of this fact finder. Cleveland is emphasizing its strengths with focus on its considerable health care assets, along with the development of new infrastructure and downtown development. However, that it not to say there aren’t serious ongoing financial concerns and obligations, which become apparent with an evaluation of long overdue infrastructure spending (estimated to exceed 1.5 billion, according to the City) that will be necessary just to maintain the status quo. (See Employer Ex. 13, 14) The expenditure of revenue necessary to provide services to a large segment of Cleveland’s population who are at or near the poverty level and are in need of assistance, and the effects of experienced population losses in northeast Ohio, along with

losses in good paying jobs continue to be challenges to a city that is attempting to reinvent itself.

The items specifically addressed by the fact finder in this report are based upon the evidence and arguments proffered by the Union and the City. The recommendations contained in this report conform to the statutory criteria that all fact finders must follow.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

MAIN ISSUES: Summary of the Parties' Positions and Discussion:

The Union's and the Employer's detailed position and rationale on the unresolved issues can be found in their respective Pre-hearing Statements and in evidence in the record. However, in summary the proposed position of each party on the main issues is as follows:

ISSUE 1 New Article Paid Release Time

UNION: The **Union** is proposing the following language to be added to the Agreement:

Officer Release Time

The City shall release and pay on a full time basis the President and Vice-President, for duties related to the administration of the parties' Labor Agreement and any/all other matters of concern as they relate to the operation of the Local Union.

Further the Union is seeking clarification of the current Union Representation, Paragraph 33, which sets forth the right of attendance of Union Representatives at grievance related meetings, held at the Union Hall. The language would be modified and codify the current practice:

33. A local union officer, chapter officer, steward or alternative steward, within a reasonable time from the time he gives notice to his supervisor shall be permitted to investigate and process a grievance within his own location and attend meetings on City property or at a work location provided for by the Grievance Procedure during his working hours without loss of regular (straight time) pay. Chapter Officers **and Local Union Officers** shall be permitted to attend grievance related meetings at the Union Hall upon prior notice by the Union to the City's Labor Relations Office as to the date, time and person(s) involved. (Remainder of Paragraph Current Contract Language). (Emphasis Supplied)

The Union argues that there has been a very long-standing past practice between the City and Union to provide full-time release to the President and Vice President of the Union to conduct union business, until March of 2013 when the City unilaterally decided to curtail this practice. (See Union Ex. 6) The Union emphasizes the fact that it is not only a very large bargaining unit, but it has members in every department or division in the City and their work locations are widely dispersed, requiring Union officers to have to spend considerable time to adequately represent them. The Union also points out that smaller, less diverse (in classification and locations) bargaining units in the City have full time

release for their union officials. (See Union's Pre-hearing Statement, p. 9 and Union Ex. 7, 8, 9)

CITY: The City is proposing current contract language.

The City, while acknowledging the long standing understanding regarding the City's granting of full time release for the Union President and Vice President makes the following arguments:

“For upwards of 30 years, the City had paid a full salary and benefits to AFSCME's President and Vice President to perform Union business (or whatever else they were doing on their unmonitored time). Approximately two years ago, the City decided that to pay two union representatives a full-time salary and benefits wherein it was getting no work in return was a blatant waste of its taxpayers' money. Therefore, the City converted the President and Vice President to half-time employees, requiring them to come to work only for one-half of their scheduled hours – this despite the fact that it had no contractual obligation to do so. Simply put, the City could have required both Union officers to return to full duty. It did not.

Now the Union seeks a contractual requirement for the City to pay its President and Vice President on a full-time basis to perform union business. The Union will undoubtedly point to the small handful of other City unions which have full-time union representatives. However, in those cases, the City is required to do so by contract, and for each case, the City is seeking to modify those agreements to either eliminate or reduce the full-time union positions.

As for the Union's proposal seeking enhanced union leave for other union officers, the leave provisions now are very generous. Indeed, the union leave is exercised to such a degree that it is creating an impediment to business operations. The Union's proposal should not be recommended.” (See Employer Pre-hearing Statement, p. 12,13)

DISCUSSION: The size of the bargaining unit, the very long history of bargaining between the parties that began well before the passage of the Collective Bargaining Law in Ohio, and the internal comparable bargaining units in the City support the Union's arguments for a return to full-time status for the Union President and Vice President. While the City argues that a return to full release for these two individuals would “create an impediment to business operations” what seems to be underappreciated is the many issues that are resolved internally with the intervention of responsible union officials counseling their members about the rights and limitations contained in the Agreement. Done right, accountable Union officials can be an ally to management in keeping operations running smoothly. The particular diverse nature of the bargaining unit, with over 200 separate classifications in every department and division of the City, and the geographic distance between said members adds further weight to the Union's position in the matter of re-establishing full time status for the Union President and Vice President. The history of this issue also supports the informal form it has taken over more than three decades that was more than likely shaped by the challenges placed upon these two officers in responding to changing conditions and demands brought about over this lengthy time period. However, recent history regarding this issue calls for some formality to provide assurance that recognizes the practice is in place. Finally, with a benefit of this nature comes great responsibility and accountability to use said release time for its intended purpose. As to the

other more minor changes proposed by the Union regarding Article 33, there is a lack of sufficient evidence to depart from long-standing contractual language contained therein.

RECOMMENDATION (including any prior TAs):

Within sixty (60) calendar days following the ratification, the parties shall agree upon the language of a Memorandum of Understanding regarding the granting of full-time release to the Union President and Vice President, which will contain language that establishes it for the life of the Agreement and it shall continue, unless modified or eliminated by the parties. The full-time release for the President and Vice President of Local 100 shall be effective no later than the first full pay period in September, regardless of the execution of the Memorandum of Understanding.

ISSUE 2 Wages

CITY: The City is proposing the following:

Effective 6/1/14 – 3% wage increase

Effective 4/1/15 – 2% wage increase

The City makes the following arguments:

“Under the factors to be considered by this Fact-Finder, the City’s proposed five percent wage increase over three years is by far the most reasonable. As this Fact-Finder recognizes, where unions have already negotiated increases for an employer in a round of negotiations, the union attempting to secure more favorable increases has a very high burden to satisfy.

Here, a large number of unions represented by seasoned negotiators and in arms-length negotiations have resolved with the City at a five-percent increase over three years. Specifically, such union heavy-hitters as the Teamsters, SEIU, and the Operating Engineers, along with over a half-dozen other unions have agreed to the five-percent wage pattern (1%, 2%, 2%).

The City has proposed five percent here, but has eliminated the retroactive component of the proposal for a number of reasons. First, the other negotiations were resolved prior to or at the time that the 2014 budget was finalized. As such, the City’s paltry projected year-end balance was not yet known or confirmed. That change in circumstances warrants the elimination of retroactive payments for this and any other union which has dragged the process out to this and later points.

Another basis for the elimination of a retroactive payment is that this Union’s members are maintaining insurance coverage under the Cadillac plan and under the lower premium-contribution rates. Yet, those employees represented by unions which have settled have been paying more for their healthcare insurance since April 1, 2014.

Finally, this Union should not be rewarded with retroactive payments where they have forced a protracted process and now seek fact-finding, costing the City time and money to defend the wage pattern.

The other factors to be considered by this Fact-Finder – such as the City’s financial condition and the monstrous demands on its budget, and the reasonableness of a three-year, five-percent increase, as compared to increases being provided generally – each speak forcefully in favor of the City’s proposal.”

UNION: The **Union** is proposing the following:

The Union proposes the following Across-the-Board Wage Increases (which includes the percentages to be added to any wage-step scales):

1. Effective April 1, 2013, all bargaining unit wage rates and step increases be effective increased by two percent (2%).
2. Effective April 1, 2014, all bargaining unit wage rates and step increases be effective increased by three percent (3%).
3. Effective April 1, 2015, all bargaining unit wage rates and step increases be effective increased by three percent (3%).

The Union, while acknowledging the City has been through some very trying times, argues the financial outlook of the City is now solid and stable as indicated in the Mayor’s 2014 Estimate, submitted February 1, 2014. The Union points out that last year the City projected a balance of \$4 million dollars to begin 2014. Yet, the actual beginning balance for 2014 was 49.3 million dollars, which exceeds the Moody’s and Standard and Poor’s recommended year end fund balance totals. Additionally the City’s change in health insurance will save the City some 10.5 million dollars including plan design changes and the elimination of state fees and taxes. And, the Water Department, which has its own enterprise funds, is in even better financial condition. (See Union Pre-hearing Statement, p. 7)

DISCUSSION: The City size and unionized configuration that is made of numerous bargaining units that vary in size and work content, requires uniform consideration to employees, both in times of prosperity and hardship. As indicated in the forefront of this Report, the City and its employees have been through some very trying times, yet they remain standing to serve the people of Cleveland. Regardless of whether a city is experiencing prosperity or financial hardship, employees are keenly aware, particularly in a monetary sense, that it is vital they are being treated fairly. And, the evidence establishes a generally consistent settlement among several bargaining settlements has taken place prior to the instant impasse. (See City Pre-hearing Statement, p. 6) In the troubled times of the Great Recession, the request from the City was for shared sacrifice in an effort “to keep the ship afloat.” And in more stable times, everyone is looking to improve their lot, while remaining keenly aware that if sacrifices are generally to be endured in equitable fashion, the same should apply to any form of prosperity; regardless of the level it takes. Internal equity of across-the-board increases is an important principle in labor relations that has a great deal to do with maintaining labor peace and worker morale. When parties do depart

from a patterned settlement for multiple bargaining units; it is usually for specific reason(s) that can be justified, based upon market conditions, recruitment, turnover, etc. In a large city that has many bargaining units, as is the case in these negotiations, recognized inequalities can take place over time for a variety of market or work content reasons. They are then targeted for specific equity adjustment based upon additional duties and new skills required or in some cases recruitment or retention becomes a problem do to market conditions (e.g. computer repair staff). In such cases they are almost always handled outside of the main wage settlement pattern. Equal wage treatment is a well-recognized bargaining practice for employers with multiple bargaining units, particularly if bargaining history has generally confirmed this approach.

RECOMMENDATION (including any prior TAs):

Effective April 1, 2013, all bargaining unit wage rates and step increases be effective increased by two percent (1%). (retroactive pay)

Effective April 1, 2014, all bargaining unit wage rates and step increases be effective increased by two percent (2%). (retroactively paid)

Effective April 1, 2015, all bargaining unit wage rates and step increases be effective increased by two percent (2%).

ISSUE 3 Insurance

CITY: The City is again proposing conformity with the pattern for health care. It is proposing the following changes:

Effective 4/1/14 modify insurance coverage as follows:

Premium Contributions:

- Effective 5/01/2014:
Single – 16% of premium (non-wellness); 12% of premium (wellness)*
Family – 15% of premium (non-wellness); 11% of premium (wellness)
- Effective 1/01/2015:
Single – 17% of premium (non-wellness); 13% of premium (wellness)
Family – 16% of premium (non-wellness); 12% of premium (wellness)

Plan Design

- Annual deductible:

Single - \$500 (current \$400)
Family - \$1,000 (current \$800)

- Office co-pay - \$20 (current \$10)
- Office co-pay (specialist) - \$30 (current \$10)
- Co-insurance - 90/10
- Out-of-pocket maximum:
Single - \$1250 (current \$1,000)
Family - \$2500 (current \$2,000)
- Emergency Room co-pay - \$100 (current \$80)
- Prescription drugs:
Generic - \$10 (current \$5)
Name brand formulary - \$25 (current \$20)
Non-name brand formulary - \$40 (current \$35)

(The proposal also provides for an optional high-deductible plan and language regarding the City's ability to modify plan designs)

*"Premium" for employee contributions is defined as the cost or the premium-equivalent-rate of hospitalization, prescription drugs, vision and dental.

The City, as with wages, is seeking uniformity of benefit levels and payment obligations among all of its bargaining units. The City also points out that the other bargaining units, who have settled their contracts with the City, have been paying higher employee premium rates since 4/1/2014, while the AFSCME unit has not had to pay these higher rates.

UNION: The **Union** rejects the City's proposal and is proposing to:

1. Maintain current contractual Hospitalization and benefit levels, but is willing to agree to:

2. Increase in the employee's contribution as follows:

Effective date of ratification by both parties ten percent (10%) premium share for family and single coverage, based on wellness participation. (Non-participants in the wellness program would have a fourteen per cent (14%) premium share) (For purposes of the High Deductible Plan the wellness premium share shall be eight per cent (8%) and the non-wellness premium share twelve percent (12%))

3. Employees shall have ninety (90) days after ratification to meet the screening requirements (annual physical) without penalty.

4. If the City disbands the wellness program, the employees will only be assessed no more

than the wellness rate for purposes of premium share.

5. For purposes of determining premium share only hospitalization, prescription drug and dental shall be utilized in the calculation. (Therefore, the AFSCME CARE Plan which supplies vision benefits shall continue to be fully paid by the City (\$6.75 per member, per month).)

6. The Insurance costs for 2014, are predicated on the 2013 rates as confirmed by the City.

DISCUSSION: Health insurance is an issue in which both unions and employers are attempting to achieve the same goals, reasonable coverage at a manageable cost. In general when dealing with insurance carriers it is conventionally sound bargaining strategy to achieve these goals with the advantage of a large number of covered lives and uniformity of benefits. In addition, it is customary in negotiations to address health care as a constant benefit for management and employee alike, in order to assure the best bargaining leverage with insurance carriers, who often will charge more for having to provide multiple benefit plans for smaller groups in the employ of one employer. One exception to uniformity of benefits and premium share is in the vision care benefit that has been part of the AFSCME CARE Plan supported by the City for many years. It is distinct and apart from the City's health benefit, and actually provides a higher level of coverage to the bargaining unit for a more affordable price. (See Union Pre-hearing Statement, p. 16) The history of bargaining between the parties and the unique terms of the AFSCME CARE Plan supports maintaining this benefit as an Employer paid benefit, but adopting the City's proposal for a uniform approach to health care.

RECOMMENDATION (including any prior TAs):

Effective 7/1/14 modify insurance coverage as follows:

Premium Contributions:

- **Effective 7/01/2014:**
Single - 16% of premium (non-wellness); 12% of premium (wellness)*
Family - 15% of premium (non-wellness); 11% of premium (wellness)
- **Effective 1/01/2015:**
Single - 17% of premium (non-wellness); 13% of premium (wellness)
Family - 16% of premium (non-wellness); 12% of premium (wellness)

Plan Design

- **Annual deductible:**
 - Single - \$500 (current \$400)
 - Family - \$1,000 (current \$800)
- **Office co-pay - \$20 (current \$10)**
- **Office co-pay (specialist) - \$30 (current \$10)**
- **Co-insurance - 90/10**
- **Out-of-pocket maximum:**
 - Single - \$1250 (current \$1,000)
 - Family - \$2500 (current \$2,000)
- **Emergency Room co-pay - \$100 (current \$80)**
- **Prescription drugs:**
 - Generic - \$10 (current \$5)
 - Name brand formulary - \$25 (current \$20)
 - Non-name brand formulary - \$40 (current \$35)

(The City's proposal for an optional high-deductible plan and language regarding the City's ability to modify plan designs is recommended)

(a) AFSCME vision care premium shall be consistent with Current Contract Language.

(b) The City's Wellness Program as proposed in fact finding is adopted.

(c) Employees shall have sixty (60) days after ratification to meet the screening requirements (annual physical) without penalty.

(d) If the City disbands the wellness program, the employees will only be assessed no more than the wellness rate for purposes of premium share.

(e) For purposes of determining premium share only hospitalization, prescription drug and dental shall be utilized in the calculation.

ISSUE 4 Posting Procedure (Job Bidding)

CITY: The **City** is proposing changes to the criteria for awarding non-lateral/promotions based upon the following rationale:

“The City’s initial position in negotiations was to get away from strict seniority on job bidding for filling both lateral and non-lateral vacancies. The City withdrew its proposal regarding lateral vacancies, but has maintained it for non-lateral/promotional vacancies. The City’s rationale is simple and straightforward—it should be able to pick the most qualified candidate for the position, and long-time seniority does not always translate into selecting the most qualified candidate.

Additionally, in looking at other City contracts, the City has discretion under those contracts to fill vacancies with the best candidate. Even more compelling is the fact that the AFSCME language here stands out as an anomaly as compared to other AFSCME contracts in Northeast Ohio. A review of those contracts displays provisions allowing management the same or similar discretion being sought here.

In response to this compelling evidence, the Union can present nothing other than the tired argument that seniority prevents favoritism. To that assertion, the City points to the language of its proposal wherein it must rely on the employee’s employment history, including performance evaluations and discipline, and the applicant’s relevant training, education and experience. The City also proposes that seniority serve as the controlling factor where the applicant’s qualifications are equal. Therefore, the Union can challenge decisions of management through the grievance procedure if management cannot support its decision. The City’s proposal should be recommended.

UNION: The **Union** rejects the City’s proposal to establish a new standard for employee/applicant selection from most senior to “most qualified.” It is proposing that the current contract language regarding Posting Procedures Article (Paragraph 102 (a), (b) and (c) which calls for the awarding of positions based on minimum qualifications and seniority within the division or department, be expanded as follows (underlining):

(a) Full-time/non-promotional/same classification

A non-promotional vacancy shall be awarded within the division in which the vacancy exists to the qualified employee-applicant with the most job classification seniority. If there is no employee applicant within the division, the non-promotional vacancy shall be awarded within the department in which the vacancy exists to the qualified employee-applicant with the most job classification seniority. If there are no bids or no qualified bidders from bargaining unit members within the division or within the department, then the City shall award the position to the qualified bargaining unit employee with the most City seniority.

(b) Full-time/non-promotional/different classification

A non-promotional vacancy shall be awarded within the division in which the vacancy exists to the qualified employee-applicant with the most job classification seniority. If there is no employee applicant within the division, the non-promotional vacancy shall be awarded within the department in which the vacancy exists to the qualified employee-applicant with the most job classification seniority. If there are no bids or no qualified bidders from bargaining unit members within the division or within the department, then the City shall award the position to the qualified bargaining unit employee with the most City seniority.

(c) Full-time/promotional

The vacancy shall be awarded within the division in which the vacancy exists to qualified employee-applicant with the most City seniority. If there is no qualified employee-applicant from within the division, the vacancy shall be awarded within the department in which the vacancy exists to the qualified employee-applicant with the most City seniority. If there are no bids or no qualified bidders from bargaining unit members within the division or within the department, then the City shall award the position to the qualified bargaining unit employee with the most City seniority.

DISCUSSION: As a common developing principle found in many contemporary contracts, the Employer makes compelling arguments regarding expanding the selection criteria for non-lateral or promotion, based upon promotional language in other City bargaining units and upon language that AFSCME has agreed to in other nearby bargaining units, such as the Cleveland Regional Sewer District and Metro General Hospital and other AFSCME agreements that contain similar expanded language. However, when due consideration is given to the parties extensive bargaining history the City's proposal to immediately move from a "most senior" approach to a "most qualified" system in selecting candidates for non-lateral transfer or promotion becomes problematic. In the experience of this neutral moving from criteria of qualified and "most senior" to a "most qualified" selection, particularly after many decades of bargaining history under a "qualified/most senior system," requires a SEA-change in culture coupled with managerial training and selection systems that have been validated as fair and unbiased based upon the classifications represented by the Union.

Local 100 has had a contractual relationship with the City of Cleveland for decades, predating the passage of ORC 4117. During that very lengthy period the criteria for promotion has been based upon a combination of meeting civil service established qualifications and being the most senior candidate. That has been the culture related to transfer and promotion. And, the expectations and employment decisions made by employees to transfer/promote to division or department or to remain in division or department has been based upon this criteria. It is reasonable to speculate that many management personnel, who at one time were AFSCME members, have benefited from being promoted as they gained more experience and seniority. Bargaining unit employees

understand and accept the current system for non-lateral movement and for promotion. To introduce an entirely new criteria, without sufficient notice and planning is not supported by the facts or the application of statutory criteria at this time. Had there been evidence of the City having discussions and placing the Union on notice well in advance, along with assurances of the implementation of a fair system in which employees understood the criteria that would be used, the City's proposal would have more weight in this deliberation.

Is the Employer prepared to implement such a system and has it created evaluation procedures and protocols for each of the 200 plus classifications represented by the Union and have said procedures been validated by Human Resources? And, while many of the same management personnel are required to apply the language of other collective bargaining agreements that the City has identified as comparable in supporting its proposed language change, the classifications represented by AFSCME are different and vary as do the duties and responsibilities. Most importantly they likely vary as to what it takes to be "most qualified," which would have to be established or conveyed to the AFSCME bargaining unit. This neutral has HR managerial experience at University Hospitals, when the 7,000 employees in 1,100 classifications were converted to 200 classifications, along with all the education and culture change that accompanied transfer and promotional criteria, along with rewriting performance evaluative systems. It is an enormous task that takes planning, execution, and buy-in from both employees and management in order to be successful.

As to the Union's demand for liberalizing the ability of employees to be transferred and promoted, the same lack of evidence exists to justify a change in a system that has existed for many years.

RECOMMENDATION (including any prior TAs):

Maintain current contract language.

ISSUE 5 New: Pay Scales Secretary and Private Secretary

UNION: The **Union** is proposing to establish pay scales for the classifications of Secretary and Private Secretary as follows:

Secretary

Step5	17.69
Step 4	16.80
Step 3	15.24
Step 2	14.50
Step 1	13.95
Start	13.41

Private Secretary

Step 5	21.21
Step 4	20.31
Step 3	19.35
Step 2	18.17
Step 1	17.29
Start	16.80

The Union points out that in the classification of Secretary; the current wages of each the nine (9) secretaries ranges between \$11.62 per hour and \$17.69 per hour. Absent a step schedule, which many members of the bargaining unit have, there is no explanation as to why there is such a wide disparity or inequity in pay for primarily the same work. The Union avers the problem has been further compounded by years of no pay increase. The same arguments are proffered by the Union regarding the classification of Private Secretary, in which the pay rate for these eight (8) people ranges between \$15.97 and 21.20 per hour. Again, there is no current step schedule for this classification and no clear explanation as to this wide variety of pay. The Union refers to six (6) external comparable cities in northeast Ohio where pay for a secretary range from \$14.94 to \$21.02. (See Union Pre-hearing Statement, p. 19 and 20) The classification of Private Secretary appears to be used less frequently and in the case of the City of Parma appears to be akin to the classification of administrative assistant, which has a pay range of between \$20.67 and \$22.11 per hour.

CITY: The **City** is proposing to maintain current contract language. It contends “the duties and responsibilities of the job of “secretary” can be significantly different, not only from department to department, but also from one employer to another employer. Therefore, although comparables can be a relevant factor for consideration for public-sector jobs such as police officers or firefighters, where the job duties are virtually the same from city to city, for jobs such as “secretaries” comparable data is of little value. The employees occupying the jobs at issue here were hired into those jobs with a full understanding of the compensation being paid in those positions. Moreover, the Union presents no evidence of any significant changes to the duties of these two job classifications that have occurred over recent times. For all of these reasons, the Union’s proposals should be rejected.

DISCUSSION: Although the City makes a salient point regarding differing demands placed upon secretaries from one division or department from the next, there is considerable overlap of needed knowledge and skills that crosses all work (e.g. managing WORD, general office equipment such as scanners, copying machines, fax machines, using similar communication systems, work possessing, communication skills, payroll forms, etc.) When considering the fact that a many of the employees in the bargaining unit have been paid on a step schedule for many years, the internal comparable arguments of the Union support establishing a salary structure for these employees.

RECOMMENDATION (bold/cross out, including any prior TAs):

Establish Pay Scales for Secretary and Private Secretary (Retroactive to April 1, 2014):

Secretary

Step5	17.69
Step 4	16.80
Step 3	15.24
Step 2	14.50
Step 1	13.95
Start	13.41

Private Secretary

Step 5	21.21
Step 4	20.31
Step 3	19.35
Step 2	18.17
Step 1	17.29
Start	16.80

ADDENDUM ISSUES: Summary of the Parties' Positions and Discussion:

The Union's and the Employer's detailed position and rationale on the unresolved portions of the Addendum issues can be found in their respective Pre-hearing Statements and in evidence in the record. However, in summary the proposed position of each party on the Addendum issues are as follows:

ISSUE(S) 1& 2 Department of Public Works/Recreation

CITY: The **City** is proposing to change the start of the lunch time (#19, p. 62 of the CBA) as follows:

19. Employees assigned to work in a recreation center may combine their rest and lunch periods at the discretion of management. However, such discretion shall not be reasonably denied. Lunch shall not be scheduled before 1:00 p.m.

The City makes the following arguments in support of its proposed change in the lunch time and rejects the Union's request for a step schedule. "The City proposes a modification to the lunch-period starting time due to the need for its recreation instructors to be on the floor and working when the bulk of the children come into the building. In many cases, school-age children come

to the facilities in large numbers starting at 2:00 p.m. If a recreation instructor begins taking his/her lunch at 1:30p.m., or if two recreation instructors begin their staggered lunch breaks at that time, the recreation center floor is void of any, or at least one, of the recreation instructors, whose job it is to provide recreational instruction and programs for the children.

As for the step schedule, again, the City submits that the duties of these job titles vary from city to city, thereby placing serious doubt on the relevance of the comparable data presented by the Union. Also, the Union has presented no evidence that a substantial change of duties has occurred over recent years in these jobs.”

UNION: The **Union** rejects the City’s desired change in the lunch schedule and is proposing the following step schedule for the Division of Recreation, Recreation Instructors II:

Step 3	\$16.15
Step 2	\$15.15
Step 1	\$14.15
Start	\$13.15

“The City seeks to push back the starting time for lunch hours one-half (1/2) hour to 1:00 P.M., even though the language they seek to revise has been part of the Collective Bargain Agreement for well over twenty years. The rationale for maintaining the current language is simple and straightforward. The Division of Recreation employees do not begin their work day until 11:00 A.M. and the lunch period should not fall only a fourth of the way through their normal workday. The city offered no rational explanation for the change and it’s hard to imagine a one-half (1/2) hour difference impeding their operational needs. Therefore, the current language shall be maintained.” “Reviewing the comparables in other jurisdictions for the same or similar job functions provided by the Recreation Instructor II, shows that they are vastly underpaid. A cursory review of the City of Columbus, City of Dayton and the City of Toledo for the comparable classification and work shows the following wage rates:

Columbus \$13.16 to \$16.97

Dayton \$17.09

Toledo \$16.30

The Union's proposal should be adopted in its entirety.”

DISCUSSION: The City’s arguments regarding the modification of the lunch hour in order to meet the needs of the public is supported by the statutory criteria of serving the interests and welfare of the public and supporting programing for the children served by the department. The data provided by the Union supports the Union’s argument that the Recreation Instructor IIs are underpaid when compared to other like jurisdictions in large cities. However, in light of other recommendations contained in this report, the following recommendation modifies the Union’s proposed schedule.

RECOMMENDATIONS (including any prior TAs):

A. 19. Employees assigned to work in a recreation center may combine their rest and lunch periods at the discretion of management. However, such discretion shall not be reasonably denied. Lunch shall not be scheduled before **1:00 p.m.**

B. Recreational Instructor II New Pay Schedule (retroactive to April 1, 2014)

Step 4	\$14.47
Step 3	\$13.90
Step 2	\$13.60
Step 1	\$13.35
Start	\$13.14

ISSUE(S) 3, 4 & 5 Department of Public Safety

UNION: 3. The **Union** proposes adding \$1.00 per hour Premium Pay for Telephone Operators.

It argues “the job functions of the Telephone Operators in the Public Safety Department are different in nature and scope than the telephone operator position covered under the newly established telephone operator pay scale. In addition to the job functions performed as a telephone operator, they perform the following job functions:

1. Required to send any email reset requests to the ITS Help Desk and make notification to users that their passwords has been reset.
2. Contact ISS and ITS Help Desk for user follow ups and advise users of any follow up information.
3. Required to notify by phone or text, a network administrator immediately of any high end user calls to be fast tracked.
4. Required to assist Parma Police Dispatch in their reporting problems with their CAD System.
5. Required to reset email passwords for all City of Cleveland Personnel”

4. The Union proposes that the City provide a parking spot at Justice Center for Chapter Chair

The Union asserts, that “the City recognizes the right of the Union to represent employees on grievances and other issues arising under the collective bargaining agreement. Many of the bargaining unit members represented by AFSCME, Local 100, the steward or local

chapter officer works at the same building/location and if they do not, there is typically ample parking available without the chapter officer having to incur additional costs of leaving and returning to work (paying to enter and re-enter the garage). The Safety Chapter Chair position represents bargaining unit members at various locations throughout Cuyahoga County: the Justice Center, House of Corrections in Warrensville Heights and City Hall. The city saw the need for this parking space and made one available for the Chapter Chair for numerous of years until repairs were made at garage at the Justice Center. Additionally, the City offers AFSCME, Local 100 member on the 2nd & 3rd Shift free parking at justice center.

5. The Union rejects the City's proposed change in the discipline time frame. It states that "under the current language an employee in the Division of Fire or the Division of Police who is disciplined, must be disciplined within ten (10) working days. The City is proposing to extend the time frame to twenty-one (21) calendar days. The City makes this proposal to extend the timeframe, even though every other Department and Division under current contract language is held to a five (5) working day time frame. Please note the specific language contained in the Discipline Article, Paragraph 155, which states in relevant part:

155. An employee who is disciplined must be disciplined within five (5) working days of the event upon which the discipline is based or within a reasonable time from the date the City had knowledge of said events.

The Department of Safety already has in place an additional 5 working days in which to administer discipline and has shown no evidence or rationale for needing additional time. Additionally, the City has the ability to request a "waiver of the time limits" if there is difficulty meeting the current time frame."

CITY: The **City** rejects the Union's proposed changes in 3 and 4 above and proposes under 5. a modification of the time frame for issuing discipline from 10 working days from the day of the event to 21 calendar days. It argues "the need for an enhanced timeframe to administer discipline is necessitated by both the size of the Department of Public Safety and the various supervisory levels which may be invoked when serious discipline is in order. The Department of Safety is the largest department in the City with approximately 2500 employees. Therefore, the Department expends significant time investigating possible volatile behavior and administering discipline. Given the sheer volume of investigations, ten working days is simply not workable. Additionally, for serious disciplinary suspensions, the Chief of Police, after reviewing the possible discipline and conducting a pre-disciplinary conference, may be forced to pass the discipline along to the Safety Director, because only that position has authority under City Charter to administer suspensions of ten days or longer.

The Union's proposal for a reserved parking spot at the Justice Center borders on the absurd. Parking at the Justice Center garage has been at a premium for years. In fact, many employees who are regularly employed at the Justice Center – including high ranking officers in the City's Police Department – are unable to secure a regular parking spot in that garage. Nowhere in the

City (covering 31 different unions) does a union officer have preferred parking privileges. The Union can offer no evidence to support such an unusual benefit.

Finally, the Union cannot justify its request for a \$1.00 per hour premium payment for the Safety Department Telephone Operators. These Telephone Operators are currently the highest paid in the bargaining unit, earning \$16.17 and \$16.96 per hour – over \$2.00 per hour more than any other telephone operators in the bargaining unit. While the Union will argue that these employees have experienced a substantial change in their job duties, those changes amount to no more than adding some clerical-type duties to their workday and certainly do not justify an added premium to an already favorable rate of pay.”

DISCUSSION: **3.** The Union’s argument regarding providing a \$1.00 an hour premium pay for Telephone Operators in Public Safety is supported by the evidence. The additional duties performed by these employees provide a vital service to the public and an important communication link to those who are charged with ensuring public safety. It is reasonable to recognize their contribution with additional monetary remuneration. **4.** Day shift parking is always a problem in city centers and this is one more example of obstacles that make the job difficult for Union officers. This report already recognized in a prior recommendation to expand the time the Union President and Vice President have to execute the duties of their office. While it is also important for the Safety Chapter Chair to execute his/her duties of servicing members during first shift, the circumstances of unavailable space, as articulated by the City’s advocate, convincingly renders this to be impracticable in light of Cleveland today. The Union’s argument that in prior years this courtesy was extended by the City does not take into account that downtown then is far different than the revitalized downtown of today. A good problem when it comes to an increase in commerce and vibrancy for Cleveland’s city center, but with the attending problem of parking. The evidence does not support the Union’s proposal **5.** I find the rationale proffered by the City regarding expanding the time frame for discipline to be reasonable. The investigation and issuance of discipline is by all accounts a serious matter from the perspective of all the parties involved. What the City is seeking by moving to 21 calendar days, rather than 10 working days, amounts to an additional 7 days to evaluate a matter and determine an appropriate response. This relatively short extension of time does not disadvantage the employee or the Union, and if done right it can serve to provide additional time for a thorough investigation and careful managerial deliberation.

RECOMMENDATIONS (including any prior TAs):

- 3. Provide a \$1.00 per hour Premium Pay for Telephone Operator (Effective April 1, 2014)**
- 4. No additional language(Parking spot for Chapter Chair)**

5. Change Paragraph #4, p. 65 of the CBA as follows:

For the purposes of Paragraph One Hundred Fifty-Five (155) of the Contract, an employee in the Division of Police or the Division of Fire who is disciplined shall be disciplined within **twenty-one (21) calendar days** of the events upon which the discipline is based or within a reasonable time from the date the City had knowledge of said event(s).

ISSUE(S) 6 & 7 Department of Port Control

CITY: The City proposes the following changes to Paragraph 6, p. 88 of the CBA:

6. Twenty-four (24) hours of sick time will be charged for each twenty-four (24) hour shift of due to illness for employees in the job classification of Airport Safetyman.

UNION: The Union proposes the following:

7. If the City does not provide uniforms then the voucher for uniforms be at an annual amount of \$550 versus the City's proposal of \$450. (The parties have already agreed on a \$100 boot allowance)

The City argues its "...Airport Safetyman have the unusual benefit of being charged only twenty (20) hours for calling in sick for a 24-hour workday. Other than the firefighters of the City's Division of Fire, no other City employees enjoy such a benefit. Hence, some 7000 employees, whether they work 8-hour, 10-hour or 12-hour shifts (Division of EMS paramedics) have the precise amount of sick time used deducted from their sick-time bank.

The Union will undoubtedly point to the Division of Fire as its argument in support of maintaining this highly unusual benefit. First, it must be pointed at the City has an active proposal on the table with the Cleveland Association of Firefighters, Local 93, to likewise charge 24 hours of sick time for 24 hours of usage.

Second, although they work similar schedules, AFSCME has argued before SERB in a matter involving a representational raid by a firefighter union, that the Airport Safetyman are not firefighters of a fire department, and therefore are distinguishable from the firefighters in Cleveland's Division of Fire. (See, attached, AFSCME's position statement submitted to SERB in Case No. 2013-REP-71).

Third, the City canvassed the union contracts of 30 suburban fire departments in Cuyahoga County and not a single contract identifies a deduction of less than 24 hours for a 24-hour shift missed due to sick leave usage. (See, attached chart). Yet, the City's Airport Safetyman work a 48-hour average workweek which is below the County-wide average of 49 hours – meaning that they should not receive this highly unusual benefit designed to allow them to bank more time-off. The evidence overwhelmingly supports the City's position here.

As for the Union's proposal regarding the uniforms voucher, the City asserts that the Union's proposed amount exceeds the amount needed for its members. It should be stated, as an initial matter, that all of the turn-out gear needed by employees is provided by the City. What we are generally speaking of here are the casual clothes worn by the employees throughout the day. Second, with the City's proposal, members would receive \$450 for uniforms, \$100 for boots and a \$200 maintenance allowance (a \$50 increase agreed to by the City in this round of negotiations) for an annual total payment of \$750. The City submits that this amount is more than enough to adequately clothe its Safetymen.

The Union asserts that "... Airport Safety Men act in the capacity of an Airport Fire Fighter. The Airport Safety men are required to maintain firefighter certification and also are required to be conversant in all aspects of airport fire suppressant. Additionally, they are required to work 24 hour shifts, the same as a municipal firefighter. For all intense and purposes they are airport first responders. The language in the current contract comes directly from the IAFF Local 93 and City of Cleveland Contract; which state in relevant part: When sick, an employee's accumulative Sick Leave shall be decreased as follows:

8 hour personnel- 8 hours for each 8 hours off sick
 10 hour personnel- 10 hours for each 10 hours off sick
 48 hour personnel- 20 hours for each 24 hour shift off sick or 4 hours for each 6 hour increment.
 (Article XIII, Leave of Absence, Section C (3), IAFF, Local 93 and City of Cleveland)

The language as constituted to act as an incentive to firefighters because of the nature of the work they perform and the requirement of working 24-hour shifts. There is no need to change the current language, nor to the Union's knowledge has the City attempted to propose modification to the language in the IAFF Local 93 Contract. The language should be maintained."

Airport Safety Men Uniforms: The Union argues "the City is proposing to provide a \$450 Voucher and an additional \$100 voucher for boots for the classification of Airport Safety Men. During the course of negotiations and fact-finding, the Union located a letter from the City dated February 22, 2013, that increased the annual uniform allotment. In addition to this letter, an annual listing of the uniforms, quantities and their prices were given to the City to reflect the value of the uniforms were more than the City was proposing. Due to the annual allotment increases and the prices of each item, the Union proposed the City provides a \$550 Voucher and an additional \$100 voucher for boots based on the actual cost."

DISCUSSION: The City provided compelling internal evidence of no other bargaining unit member, including those who work in difficult physical circumstances, having a benefit of reduced sick leave calculation. Additionally, the external comparable data that indicates no other firefighters have such a benefit strongly support the City's position to bring sick leave usage in line to match the benefit that all other employees in the bargaining unit experience when they must use this benefit. The evidence supplied by the Union regarding uniform allowance supports the Union's position that increases in uniform prices requires an update in the uniform allotment.

RECOMMENDATIONS (including any prior TAs):

Issue 6:

Modify Paragraph 6, p. 88 of the CBA:

6. **Twenty-four (24)** hours of sick time will be charged for each twenty-four (24) hour shift of due to illness for employees in the job classification of Airport Safetyman. (Effective the first full pay period in July, 2014)

Issue 7:

Provide a **\$550** Voucher and an addition \$100 voucher for boots based upon actual cost.

ISSUE(S) 8 Department of Community Development Certifications

CITY: The **City** proposes the following modifications to paragraph 6 of p. 68:

Rehabilitation Inspectors will be required to obtain and maintain job-related certifications identified by management and under conditions determined by management.

Any employee who fails to obtain and maintain management-determined certifications will be subject to termination.

The City agrees to provide a one-time reimbursement to employees for the fees associated with taking required certification examinations and re-certification or continuing education.

The City shall provide training to Rehabilitation Inspectors regarding the above-referenced certification requirements.

The City shall pay a Two Hundred Dollar (\$200.00) lump-sum, one-time bonus for each required license originally obtained by an employee while an employee of the City.

The Division of Neighborhood Services (a division of the Department of Community Development) provides direct repair/maintenance services to the citizens of the City of Cleveland. The Division is 100% grant-funded. The certifications identified in the current contract (Residential Building Inspector and Lead Risk Assessor) allow inspectors to work only in the Division's CDBG and HOME-funded home repair programs. These funding

sources have significantly declined over the last several years. In the current budget year, these programs received no funding for HOME and only \$216,836.00 for CDBG.

In contrast, the Home Weatherization Assistance Program (HWAP) grant for program year 2014 is \$3.1 million dollars, not including leverage utility funds for the program. For at least the last four years, HWAP has been the largest grant in the Division. Additionally, the Lead and Healthy Homes grants will total over \$3.7 million over three years.

Each grant comes with regulatory requirements concerning work to be performed at the dwelling and requires leveraged funding from other grants. One of HUD's strategic goals is to increase the health and safety of homes and embed comprehensive energy efficiency and Healthy Homes criteria across all federally funded programs. HUD encourages coordination between the various programs (funding sources) to break down barriers to stand-alone approaches. Therefore, the Division's goal will be to seek to reduce energy consumption using HWAP funds, as well as addressing lead, asthma, and safety issues through the Lead and Healthy Homes Grant.

To continue to perform under these grants, the Division must have inspectors certified as Lead Risk Assessors, Lead Abatement Contractors, HWAP Inspectors, Healthy Homes Raters and Residential Building Inspectors. The absence of these certifications within the Division jeopardizes the Division's ability to continue to administer its grants and will limit the Division's ability to provide repair and maintenance services to Cleveland's residents.

To obtain these certifications, the City has committed to providing training for the certifications and to pay for the costs associated with the certifications. The City had proposed a one-time \$100 lump-sum payment for attaining each certification. The City is willing to increase that payment to \$200 (as reflected in the above proposal). However, the City is against the payment of hourly-rate payments for these required certifications for two important reasons. First, these certifications have now become a practical base requirement for the job. As such, their attainment should not be rewarded with hourly-rate enhancements.

Second, the most recent hires by the City into these Rehabilitation Inspector positions have all or nearly all of the certifications needed to perform under the current grants. And, they took these positions without the promise of some added compensation. To provide compensation to those that do not have the certifications and later obtain them would create a two-tiered pay system.

Finally, as noted regarding other grant-funded jobs at the City, there is heightened sensitivity regarding the hourly rates and their potential to exceed the grants' limits. For all of these reasons, the City's proposal should be recommended.

UNION: The **UNION** proposes current contract language, but argues that "...there were initially (6) Rehabilitation Inspectors with the Department of Community Development and currently there only (3). For the past several years Inspectors have retired from the City with management failing to replace them. On numerous occasions the Union has requested an LMC to try and rectify the situation. Unfortunately, the request has fallen on deaf ears

with management unwilling to meet. Now, the City wants to require Rehabilitation Inspectors to obtain up to 5 additional licenses and compensate them only \$100 for each obtained. If the City's proposal was granted it would require the (3) existing inspectors to each obtain 5 additional certifications and the requirement to perform all inspections within the certification for a work load of (6) Inspectors, which is virtually impossible. While the Union seeks to maintain the current contract language, we will alternately argue that if there is a requirement to obtain these certifications that each additional certification requires the City to pay .50 per hour differential. While looking at comparables, the City of Cleveland Rehabilitation Inspectors have reached nearly the top of the pay scale at \$27.37, the Inspectors for the City of Columbus, has a maximum pay scale is \$32.71. The current language should be maintained or alternatively the Inspectors receive the certification previously requested by the Union.

DISCUSSION: With the Rehabilitation Inspectors being reduced, apparently through attrition over the last several years and not replaced, it is difficult to reconcile the City's proposal to increase the demands of certification on current Inspectors while not having replaced the Inspectors who have left over this same period. This fact finder is not in a position to judge what the City needs or what the grants it depends on require without further evidence in the record. However, that is not to say what the City is proposing does not have a legitimate operational basis. Yet, without the advantage of additional evidence to determine why current contract language does not adequately address the City's needs, responding to proposed changes in incentives and certification requirements absent a proper factual context leaves the fact finder without sufficient grounding to respond to proposed changes, no matter the degree of their legitimacy. If grant requirements are truly driving needed change regarding these employees, the parties should meet and negotiate necessary modifications to #6, on p. 68 of the Agreement, or in the alternative agree to a MOU to address the needs of the Department and the future of the employees in it.

RECOMMENDATIONS (including any prior TAs):

Maintain current contract language

TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above shall be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of June 2014 in Portage County, Ohio.

Robert G. Stein, Fact finder

TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above shall be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this 9th day of June 2014 in Portage County, Ohio.


Robert G. Stein, Fact finder