

COLLECTIVE BARGAINING AGREEMENT

City of Mason, Ohio

and

Fraternal Order of Police, Ohio Labor Council, Inc.

SERGEANTS

Expiration Date:  
July 31, 2011



## AGREEMENT

THIS AGREEMENT is between the CITY OF MASON, OHIO, hereinafter referred to as the "Employer", and THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC., hereinafter referred to as the "Union," a labor organization as defined in Chapter 4117 of the Ohio Revised Code.

## ARTICLE ONE

### PURPOSE

1.1 This Agreement is made for the purpose of promoting cooperation and continuous harmonious relations between the Employer, its employees, and the Union.

## ARTICLE TWO

### RECOGNITION

2.1 The Employer recognizes the Union, as the sole and exclusive bargaining agent for the purpose of representation and collective bargaining with respect to wages, hours, and terms and conditions of employment of all employees in the bargaining unit certified in Case No. 90-REP-03-0069 consisting of all police officers of the City of Mason Division of Police holding the rank of patrol officer.

### ARTICLE THREE

#### DUES DEDUCTIONS

3.1 Upon presentation of a written deduction authorization by any bargaining unit employee, the Employer shall cause the deduction of the periodic dues, initiation fees and assessments of F.O.P. members covered by this Agreement, and the treasurer of the F.O.P. shall promptly issue a receipt to the Employer for all dues, initiation fees and assessments within ten (10) days of payment.

3.2 The F.O.P. agrees that it shall indemnify and hold the Employer harmless from any recovery of damages and expenses sustained by Employer relative to the Employer's agreements under this Article.

3.3 The Employer shall be relieved from its obligation to make such "checkoff" deductions upon:

- A. termination of employment, or
- B. transfer to a job other than one covered by the bargaining unit, or
- C. lay-off from work, or
- D. an agreed leave of absence without pay, or
- E. written revocation of the checkoff authorization by the employee submitted during the period of 120 to 60 days prior to the expiration of this Agreement.

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

## ARTICLE FOUR

### INTERPRETATION OF AGREEMENT

4.1 Unless otherwise indicated, the terms used in this Agreement shall be interpreted in accordance with the applicable provisions of Chapter 4117 of the Ohio Revised Code. Where this Agreement makes no specifications about a topic, the Employer, the F.O.P., and the Employees are subject to all applicable federal, state, and local laws and regulations pertaining to the wages, hours, and terms and conditions of employment for bargaining unit members. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, and retirement are not superseded by this Agreement. The conduct and grading of promotional examinations, the rating of candidates, the establishment of eligible lists from examinations and the original appointments from eligible lists are not subjects of bargaining under this Agreement.

4.2 Should any part of this Agreement be invalid by operation of law now existing or promulgated in the future, or should any part of this Agreement be declared invalid by any state or federal court of competent jurisdiction, such invalidation shall not invalidate the remaining portions of this Agreement and such remaining portions shall remain in full force and effect. In such event, and upon written request by either party, the parties to this Agreement shall meet within thirty (30) days at a mutually agreeable time in an attempt to modify the invalid provisions of this Agreement and enter into good faith negotiations on the same subject.

4.3 It is the intention of both parties to this Agreement that the terms of this Agreement are the sole and exclusive expression of the rights and benefits provided to the members covered by this Agreement. Provisions of the Ohio Revised Code and the Ordinances of the City of Mason, which grant rights or provide benefits to employees are superseded and preempted by the express provisions of this Agreement. Statutory rights and benefits, and any rights and benefits set forth in

City Ordinances, in regard to probationary periods, hours of work, layoff and recall, vacation, sick leave, bereavement leave, injury leave, holidays, and any other matter set forth in this Agreement are preempted by the terms of this Agreement.

This waiver of statutory rights does not apply to any right which is not the subject of an express written provision of this Agreement. If this Agreement is silent as to any matter provided in state or federal law, or city ordinances, the provisions of such laws shall not be waived by this Section. This Section is not intended to be a waiver of any federal law which provides an express benefit or grants a specific right, this waiver shall be read as a part of any and all sections of this Agreement.

4.4 This Agreement supersedes and replaces all applicable state and local laws which it has authority to supersede and replace. Where this Agreement is silent, the provisions of applicable law shall prevail.



## ARTICLE FIVE

### MANAGEMENT RIGHTS

5.1 The Union recognizes the Employer's exclusive right to manage its affairs and the Employer retains and reserves into itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and constitutions of the State of Ohio and of the United States and the Charter of the City of Mason. Further, all rights which ordinarily vest in and are exercised by employers except such as are specifically relinquished herein are reserved to and remain vested in the Employer including but without limiting the generality of the foregoing:

- A. the right to manage its affairs efficiently and economically, including the determination of quantity, quality, frequency and type of services to be rendered;
- B. the determination, purchase, and control of the types and numbers of materials, machines, tools and equipment to be used; the selection of the location, number and type of its facilities and installations; and the addition or discontinuance of any services, facilities, equipment, materials or methods of operation;
- C. the right to hire and set the starting rate of pay for new employees; the right to determine the starting and quitting time and number of hours to be worked, including overtime, lunch, coffee breaks, rest periods and clean up time; and to determine the amount of supervision necessary, work schedules and the method or process by which work is performed;

- D. the right to contract for the construction of new facilities or the improvement of existing facilities; to adopt, revise and enforce working rules and carry out cost control in general improvement programs; and prescribe and assign job duties, job content and job classification and establish wage rates for any new or changed classifications;
- E. the right to determine the existence or nonexistence of facts which are the basis of the management decisions; to establish or continue policies, practices, or procedures for the conduct of the Police Department and its services to the citizens of Mason and, from time to time, to change or abolish such practices or procedures; the right to determine and, from time to time, redetermine the number, locations and relocations and types of its employees or to discontinue any performance of service by employees of Mason; to determine the number of hours per day or week any operation of the Police Department may be carried on except to the extent specifically limited in this Agreement; to select and determine the number and types of employees required; to assign such work to such employees in accordance with the requirements determined by management authorities; to establish training programs and upgrading requirements for the employees within the Department; to establish and to change work schedules and work assignments; to transfer, promote, demote, terminate or otherwise relieve employees from duty; to lay off employees for lack of work or lack of funds; to determine the facts of lack of work and lack of funds; to continue, alter, make and enforce reasonable rules for the maintenance of discipline; to take

such disciplinary measures as the Employer may determine to be necessary  
for the orderly and efficient operation of the Police Department;

5.2 To the extent that the above rights are specifically limited by the provisions of this Agreement, alleged violations are subject to the grievance procedure.

## ARTICLE SIX

### NON-DISCRIMINATION

6.1 The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, race, color, religion, handicap or national origin.

6.2 The Employer agrees not to interfere with the rights of the employees to become members of the Fraternal Order of Police, and there shall be no disparate treatment, interference, restraint or coercion by the Employer or any representative of the Employer against any employee because of Fraternal Order of Police membership or because of any legal employee activity in an official capacity on behalf of the Fraternal Order of Police.

6.3 All references to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

## ARTICLE SEVEN

### LABOR/MANAGEMENT MEETINGS

7.1 In the interest of sound labor/management relations, upon request of either party, on a mutually agreeable day and time, the Employer and/or its designee(s) shall meet with not more than two (2) employee representatives of the Fraternal Order of Police, Ohio Labor Council, Inc., to discuss pending problems and to promote a more harmonious labor/management relationship.

7.2 An agenda will be exchanged by the parties at least five (5) working days in advance of the scheduled meeting with a list of matters to be taken up in the meeting and the names of those FOP Representatives who will be attending. The purpose of such meetings shall be to:

- A. Discuss the administration of this Agreement;
- B. Disseminate general information of interest to the parties;
- C. Consider and discuss health and safety matters relating to employees.

7.3 It is further agreed that if special labor/management meetings have been requested and mutually agreed upon, they shall be convened as soon as possible.

7.4 It is further understood and agreed that labor/management meetings do not open the contract to further negotiation and will not, of themselves, affect the duty to either party to bargain.

## ARTICLE EIGHT

### GRIEVANCE PROCEDURE

8.1 The term "grievance" shall mean an allegation by a bargaining unit employee that there has been a breach, misinterpretation, or improper application of the Agreement. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement, nor in those matters not covered by this Agreement.

8.2 If specific administrative relief of a judicial or quasi-judicial nature is provided for by the statutes of the State of Ohio, or the United States, for review or redress of specific matters (such as workers' compensation, unemployment compensation, equal employment opportunity, civil rights, etc.) such matters may not be subject to grievance, or be processed as such.

8.3 All grievances must be presented at the proper step and time in progression in order to be considered at subsequent steps. Any grievance may be submitted directly to the step from which it originates.

8.4 An employee may withdraw any grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse without further appeal.

8.5 Any grievance which is not processed by the employee within the time limits provided, shall be considered resolved based upon Management's last answer.

8.6 Any grievance not answered by Management within the stipulated time limits, will automatically move to the next step in the grievance procedure. All time limits on grievances set forth herein, may be extended only upon mutual written consent of the parties. In no case may a grievance be filed more than seven (7) days after the events giving rise to the grievance or within seven (7) days after the grievant knew or should have known of the events giving rise to the

grievance. The time for filing will be extended in the event that the management agent with whom the grievance must be filed is out of town and unreachable at the time the grievance must be filed.

8.7 A grievance may be brought by any aggrieved employee covered by this Agreement. Where a group of bargaining unit employees shall desire to file a grievance involving an incident affecting several employees in the same manner, one employee shall be selected by the group to process the grievance. Each aggrieved employee who desires to be included in such grievance, as class action, shall be required to sign the grievance.

8.8 For purposes of this Article, "day" means a calendar day.

8.9 An aggrieved employee shall use a written grievance form which shall provide the following information:

- A. aggrieved employee's name and signature.
- B. date, time and location of grievance.
- C. description of incident giving rise to the grievance.
- D. Articles and Sections of the Agreement violated.
- E. date grievance was first discussed.
- F. name of supervisor with whom grievance was first discussed.
- G. date grievance was filed in writing; and
- H. desired remedy to resolve grievance.

8.10 The FOP shall have the responsibility for duplication and distribution of, and its own accounting for, the grievance forms.

8.11 It is the mutual desire of the Employer and the FOP to provide for prompt adjustment of grievances, with a minimum of interruption of the work schedules. Every reasonable effort shall

be made by the Employer and the FOP to effect the resolution of grievance at the earliest possible step. In furtherance of this objective, the following procedures shall be followed.

STEP 1. In order for a grievance to receive consideration under this procedure, the employee shall orally present the grievance to the Assistant Chief within seven (7) days of the occurrence that gave rise to the grievance. Upon request of the employee, a representative of the FOP shall be present. The Assistant Chief shall investigate and provide an appropriate answer within seven (7) days following the informal hearing.

STEP 2. If the grievance is not resolved in Step 1, and the employee wishes to proceed to Step 2, the employee shall reduce the grievance to writing and shall, within seven (7) days of the reply by the Assistant Chief, present the written grievance to the Chief of Police. The Chief of Police, or his designee, shall investigate and respond, in writing, to the employee within seven (7) days following the presentation of the written grievance, to Step 2.

STEP 3. If the grievance is not resolved in Step 2 and the employee wishes to proceed to Step 3, the employee shall present the written grievance to the City Manager or his designee within ten (10) days from the receipt of the answer in Step 2. The City Manager or his designee shall investigate the matter, and shall meet with the employee and his FOP representative, and shall respond to the grievant, in writing, within ten (10) working days following the presentation of the grievance to Step 3.

If a grievance is not satisfactorily resolved in Step 3, it may be submitted to arbitration upon notification by the FOP.



#### STEP 4. THE ARBITRATION PROCEDURE

Within twenty (20) days from the date of the final answer received under Step 3 of the grievance procedure, the FOP shall notify the Employer of its intent to seek arbitration over an unadjusted grievance. Only the Union may authorize an appeal to arbitration.

After receipt of a notice to arbitrate, a representative of each of the parties (the FOP/OLC and the Employer) shall attempt to agree on an arbitrator. Should the representatives fail to agree on an arbitrator, the arbitrator shall be selected in the following manner:

The Federal Mediation and Conciliation Service shall be jointly requested to submit a panel list of nine (9) arbitrators. The parties shall then choose an arbitrator by alternately striking names from the list until such time as one name remains as the arbitrator chosen by the parties. Prior to beginning the striking procedure, either party may once reject a list and submit a request for another list from the FMCS.

The arbitrator's decision shall be limited strictly to the interpretation, application, or enforcement of specific articles in the Agreement. The Arbitrator may not modify or amend the Agreement.

The question of arbitrability of a grievance may be raised by either party before the arbitration hearing of the grievance, on the grounds the matter is non-arbitrable or beyond the arbitrators jurisdiction. The first question to be placed before the arbitrator will be whether or not the alleged grievance is arbitrable. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance will be heard on its own merits before the same arbitrator.

The decision of the arbitrator shall be final and binding. The arbitrator shall be without the authority to recommend any right or relief on an alleged grievance occurring at any time other than during the contract period in which such right originated. The arbitrator shall not establish any new

or different wage rates not negotiated as part of the Agreement. In case of discharge, suspension or reduction, the arbitrator shall have the authority to award modification of discipline. The arbitrator shall have the power to issue subpoenas to compel attendance of witnesses.

8.12 The fee of the arbitrator and the rent, if any, for the hearing facility shall be borne equally by the parties. The expenses of any non-employee witness shall be borne, if at all, by the party calling such witness. The fees of the court reporter shall be paid by the party asking for one; such fee shall be split equally if both parties desire a reporter or request a copy of any transcript. A member of the bargaining unit who is required to testify at the hearing shall be released from their regularly scheduled assignment, if on duty to testify at the hearing.

8.13 The arbitrator shall render in writing the findings and award as quickly as possible but not later than thirty (30) days after the hearing, and shall forward such findings, award, and all supporting data to the parties.

8.14 A grievant may, if the grievant so desires, have a grievance representative present at any step of the grievance procedure. The Employer shall, to the extent possible, attempt to schedule any grievance meetings provided for in this procedure at a time when the grievant and his representative are on duty. However, the grievance process will not be unduly burdened or delayed for lack of a grievance representative.

8.15 A representative shall be permitted a reasonable amount of time during this regular duty hours without loss of pay or benefits to investigate and process grievances. The Representative's immediate supervisor in charge of the shift shall be notified of the time needed to handle a grievance and shall obtain the approval of the supervisor in charge before spending duty time on the grievance matter. Permission shall not be unreasonably denied. It is the intention of the

parties that grievances be promptly and properly handled without interfering with the work assignment of either the grievant or the representative.

8.16 Only one representative at a time will be assigned to a grievance and only the assigned representative will be given time during the Representative's duty hours to handle the grievance. If shift schedules or vacation schedules make investigation and processing of a grievance impossible, another representative may be substituted for the representative originally assigned. The City Manager shall be advised of the substitution.

8.17 Neither a grievant nor the representative will receive compensation for time spent on grievance matters other than the reasonable time during duty hours described in this section.

8.18 The Union may select from the bargaining unit one representative and one alternate who may investigate and process grievances. Within fourteen (14) days following the effective date of this Agreement, the Union shall provide the Personnel Director or the City Manager with a list of designated representatives. If it is necessary to replace a designated representative, the Union shall advise the Personnel Director or the City Manager of the change. A representative whose name does not appear on the list shall not be recognized by the Employer and shall not be permitted to conduct representative duties on City time.

## ARTICLE NINE

### STEWARDS/F.O.P. BUSINESS

9.1 The Fraternal Order of Police is authorized to select one (1) representative and one (1) alternate to conduct approved F.O.P. business for the bargaining unit. The representative, upon giving reasonable notice, and upon authorization from the immediate supervisor, shall be allowed reasonable time off without loss or gain in pay to investigate a grievance, consult with the Employer in processing a grievance, or to assist in the settlement of disputes. Permission to investigate and/or process a grievance or attend a disciplinary hearing shall not be unreasonably denied.

9.2 At the discretion of the Chief of Police, the F.O.P. may designate one (1) representative to work on F.O.P. business for no more than twenty-four hours (24) per year; further, such time shall be deducted from a "pool" of time donated by the bargaining unit members from their accrued vacation, holiday or compensatory time balances. The Chief of Police has discretion regarding the use of this time and the time of day when it is used. Divisional equipment may be used, with the exception of postage and long distance telephone calls.

9.3 F.O.P. representatives who provide services under 9.1 above shall be compensated at their regular rate for their scheduled duty hours during which they attend to such matters. For any time spent in negotiations that is not during their regular duty hours, the FOP representative shall be credited on an hour for hour basis. This time shall be placed in a pool which the FOP representative may take at a later time. Any time taken from this pool must first be approved by the Chief of Police. At the end of the negotiating session, the FOP representative shall return to their regular assignment if the session ends before the end of the regularly scheduled shift.

9.4 The Employer shall recognize the designated F.O.P. representative as the representative of bargaining unit members in disciplinary proceedings. Said bargaining unit

members shall have the right to be represented by an F.O.P. representative in disciplinary hearings and the F.O.P. representative shall be permitted a reasonable amount of time during their regular duty hours without loss of pay or benefits to investigate the facts involved in the disciplinary situation. As in the grievance procedure, the FOP representative's immediate supervisor in charge of the shift shall be notified of the time needed to represent an Employee in a disciplinary matter and shall obtain the approval of the supervisor in charge before spending duty time on the disciplinary matter. It is the intention of the parties that the bargaining unit members have reasonable access to their representative without interfering with the work assignment of either the accused or the F.O.P. representative. Only one representative at a time will be assigned to a disciplinary matter and only the assigned representative will be given time during regular duty hours to represent the accused bargaining unit member. If shift schedules or vacation schedules make an investigation impossible, a replacement representative may be substituted for the original representative assigned to the case. The City Manager shall be advised of the substitution. Neither the bargaining unit member nor the representative will receive compensation for time spent in the disciplinary proceedings other than a reasonable time during duty hours described in this section.

## ARTICLE TEN

### PROBATIONARY PERIOD

10.1 All regular employees shall serve a probationary period beginning on the date they commence work as certified police officers and ending twelve (12) months later. During the probationary period, the Employer has the right to terminate the employment of the Employee with or without cause. Employee shall not receive seniority during the probationary period. Upon successful completion of the probationary period, an Employee's seniority shall be counted from their date of hire.

10.2 An Employee promoted to a new position shall serve a probationary period of one hundred eighty (180) days. During this probation period, the Employer shall evaluate the performance of the Employee in the new position, and if the Employer determines, in its sole discretion, that the Employee is unsuitable for the new position, the Employer shall return the Employee to the employee's former position and rate of pay. An Employee who is promoted to a new position has the option, to give up the new position and return to their former position and rate of pay within ten (10) days after the date upon which the employee begins work in the new position.