

STATE OF MINNESOTA
COUNTY OF HENNEPIN

2009-2-12-43

THE CITY OF FAIRBORN

AND

IAFF, LOCAL 1235

SERB CASE #2009-MED-10-1147

K26532

0899-03

**Effective:
Through December 31, 2012**

TABLE OF CONTENTS

	PAGE
ARTICLE 1	Cooperation..... 1
ARTICLE 2	Purpose..... 1
ARTICLE 3	Management Rights 1
ARTICLE 4	Recognition..... 2
ARTICLE 5	Non-Discrimination Policy 4
ARTICLE 6	Union Business 4
ARTICLE 7	Discipline 5
ARTICLE 8	Probationary Period, Layoffs, Recalls and Promotions 8
ARTICLE 9	Copies of the Agreement..... 9
ARTICLE 10	Grievance Procedure 9
ARTICLE 11	Labor-Management Committee 12
ARTICLE 12	Seniority 13
ARTICLE 13	On Duty Injury 13
ARTICLE 14	Exchange of Tours 13
ARTICLE 15	Transfers 14
ARTICLE 16	Platoon Rotation 14
ARTICLE 17	Health and Safety 14
ARTICLE 18	Employees' Responsibilities..... 15
ARTICLE 19	Miscellaneous Provisions..... 15
ARTICLE 20	Policies and Procedures 16
ARTICLE 21	Hours of Duty, Work Week 16
ARTICLE 22	Overtime, Call-In 17
ARTICLE 23	Relief at Fires and During Emergency Calls..... 18
ARTICLE 24	Vacation 18
ARTICLE 25	Sick Leave..... 20
ARTICLE 26	Injury Leave 21
ARTICLE 27	Health Care Coverage 22
ARTICLE 28	Funeral Leave..... 24
ARTICLE 29	Holidays 24
ARTICLE 30	Company Strength..... 24
ARTICLE 31	Longevity 25
ARTICLE 32	Uniforms 25
ARTICLE 33	Tuition Reimbursement 26
ARTICLE 34	Business Expenses 26
ARTICLE 35	Wages..... 27

ARTICLE 36	Management and Local Security.....	27
ARTICLE 37	Waiver.....	28
ARTICLE 38	Severability	28
ARTICLE 39	Impasse Procedure	28
ARTICLE 40	Educational Incentive Pay.....	29
ARTICLE 41	Contracting Out.....	30
ARTICLE 42	Fitness for Duty.....	30
ARTICLE 43	Duration	35
	Signatures.....	36
	Exhibit A – Job Classification and Wage Rates	37
	Exhibit B – Authorization for Payroll Deduction	38
	Exhibit C – Sick Leave Affidavit.....	39
	Exhibit D –Attending Physician’s Statement.....	40
	Exhibit E – Substance Abuse/Chemical Dependency Checklist	44

AGREEMENT

This Agreement, made and entered into by and between the City of Fairborn, Ohio sometimes hereinafter referred to as "City" or "Management" and the International Association of Firefighters, AFL-CIO, CLC, Local 1235, sometimes hereinafter referred to as "Local" or "Union".

ARTICLE 1 **COOPERATION**

1.01 The City and the Union shall use their best efforts to fulfill their responsibilities as public servants, to achieve better understanding between the City and the employees represented by the Union, to assure the proper and uninterrupted functions of the services of the City, and to promote mutual respect and fair dealing between the City and the employees represented by the Union.

ARTICLE 2 **PURPOSE**

2.01 The purpose of this Agreement is to achieve the cooperation set forth in Article 1, to establish the basic wages, hours of work, working conditions and fringe benefits for all employees represented by the Union and to provide for the peaceful adjustment of differences which may arise.

2.02 The Union recognizes the City Council of Fairborn as the duly-elected representatives of the citizens of Fairborn and the City Manager as the duly-appointed administrator of the City. The City and the Union recognize the requirement that uninterrupted essential services to the citizens of the City of Fairborn, Ohio, must be provided in the most efficient manner and at the least possible burden to the citizens of the City of Fairborn, Ohio, and consistent with principles of fiscal responsibility. The City recognizes its responsibility to act fairly in reference to its employees covered by this Agreement.

ARTICLE 3 **MANAGEMENT RIGHTS**

3.01 Unless expressly provided to the contrary by a specific provision of this Agreement, Management reserves and retains solely and exclusively all of its statutory and Common Law rights to manage the operation of the Department of Fire as such rights existed prior to the execution of this or any other previous Agreement with the Union.

These exclusive rights of the Management of the City to manage and direct the affairs of the employees of the City of Fairborn shall include but are not limited to the following:

- A. To develop, alter or abolish policies, practices, procedures and rules to govern the operation of the Department of Fire including establishing and enforcing safety regulations and to bring about discipline.

- B. To determine work assignments and the manner of performing work tasks; to establish, alter or eliminate work schedules, locations or functions in accordance with municipal or departmental needs.
- C. To transfer, promote or demote or discipline employees; or to layoff, terminate or otherwise relieve employees from duty for just cause.
- D. To recruit, select and determine the number, qualifications and characteristics of employees required.
- E. To establish basic and in-service training programs and requirements for upgrading skills of employees.
- F. To take such measures as the City or Department of Fire may determine to be necessary for the orderly and efficient operation of the Department of Fire for the City including the right to contract services for the efficient operation of the City.
- G. To determine what services are to be performed or discontinued; to determine the size and composition of the work force.

3.02 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 4 **RECOGNITION**

4.01 The City recognizes the Union as the sole and exclusive bargaining agent with respect to wages, fringe benefits, hours of work and working conditions of the employees for the following bargaining unit:

- A. All sworn full-time personnel who are classified as Firefighters and have completed the required probationary period, and Fire Lieutenants.

4.02 The term "employee" as used in this Agreement shall refer only to those persons in the bargaining unit who hold the position classifications as set forth in Section 4.01 of the Agreement. No employee covered by the provisions of this Agreement shall be required as a condition of employment to acquire and/or maintain membership in the Union.

4.03 There shall be no discrimination by the City or the Union against any employee on the basis of such employee's membership or non-membership in the union.

4.04 The City agrees to withhold the regular monthly Union dues of any Union member from the available wages earned by such Union member each month and to transmit the same to the Union as soon as practicable, but no later than ten (10) calendar days following the pay in which the dues were withheld, upon presentation of an "AUTHORIZATION FOR PAYROLL DEDUCTION" form (Exhibit "C") individually and voluntarily completed by such Union member. This authorization

shall terminate after an employee notifies the Finance Director, in writing, to cancel deduction of Union dues from his/her paycheck.

4.05 The parties agree that the Employer assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of Union dues or fair share fees. The Union hereby agrees that it will indemnify and hold the Employer harmless of any claims, actions, or proceedings by any employee arising from deductions made by the Employer pursuant to this Article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union except as otherwise provided by law.

4.06 Any change in the present membership rate will be certified to the City Manager by an authorized officer or officers of the Union at least one (1) month in advance of the effective date of such change.

4.07 The Union agrees to refund to the City any amounts paid to it in error on account of the dues deduction provision upon presentation of proof positive thereof.

4.08 Fair Share Fee

- A. Payroll Deduction of Fair Share Fee. The City shall deduct from the pay of non-probationary employees who elect not to become or to remain members of the Union, a fair share fee for the Union's representation of such non-members during the term of this Master Agreement. No non-member filing a timely demand shall be required to subsidize political or ideological causes not germane to the Union's work in the realm of collective bargaining.
- B. Probationary Employee. For the purposes of this Article, a probationary employee is any employee who has worked for the City for less than one (1) year.
- C. Notification of the Amount of Fair Share Fee. Notice of the amount of the annual fair share fee, which shall not be more than 100% of the unified dues of the Union, shall be transmitted by the Union to the Finance Director of the City on or about January 15 of each year during the term of this contract for the purposes of determining amounts to be payroll-deducted.
- D. Transmittal of Fair Share Fee Deduction. The City agrees to promptly transmit all amounts deducted to the Union, and to accompany each transmittal of fair share deductions with a list of the names of the employees for whom all such fair share fee deductions were made, the period covered, and the amounts deducted for each.
- E. Rebate Procedure. The Union certifies to the City that an internal rebate procedure has been established in accordance with Section 4117.09 (C) of the Ohio Revised Code and that a procedure for challenging the amount of the representation fee has been established and will be given to each member of the bargaining unit who does not join the Union and that such procedure and notice shall be in compliance with all applicable state and federal laws and the Constitutions of the United States and the State of Ohio. Upon timely demand, non-members may apply to the Union for an advance reduction/rebate of the fair share fee pursuant to the internal procedure adopted by the Union.

- F. Termination of Membership. The Finance Director of the City shall, upon notification from the Union that a member has terminated membership during a membership year, commence the deduction of the fair share fee with respect to the former member, and the amount of the fee yet to be deducted shall be the annual fair share fee less the amount previously paid through payroll deduction. The deduction of said amount shall commence on the first pay date occurring on or after forty-five (45) days from the termination of membership.

ARTICLE 5
NONDISCRIMINATION POLICY

5.01 The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination in any manner which would violate applicable laws because of age, sex, marital status, race, color, creed, or national origin. The Union and/or the City shall bear the responsibility for implementing this section of the Agreement.

ARTICLE 6
UNION BUSINESS

6.01 For purposes of this Agreement, the Union is authorized to select one (1) Union Steward per shift, one (1) of whom shall serve as the Chief Steward, and one (1) alternate per shift to act in the absence of the Union Steward or when the Union Steward of a shift has been assigned to another shift. In order to conduct Union business on City time, Union Stewards and their alternates shall be certified to the City in writing by the union. The President or Vice-President shall have the privileges accorded to a Union Steward when it is known that a Steward will be absent or unavailable; other elected officials may act in the absence of President or Vice-President.

6.02 Upon reasonable notice and after authorization from the Fire Chief or designee, Union Stewards shall be allowed reasonable time without loss of pay to investigate grievances.

6.03 The Union shall be provided a total of four hundred and eight (408) leave hours in each two-year period beginning January 1, 2002, and every effort shall be made by the City to accommodate the members of the Union and provide reasonable schedule changes for the:

- A. Local Meetings of Union: One elected officer of the Union will be paid for hours lost while attending such a meeting during regularly scheduled tour of duty. The restrictions herein contained in this provision may be waived at the discretion of the Fire Chief.
- B. District, State or International Meetings: Not more than two (2) members of the Union may be absent as a result of any such meetings at any one time. Attendance at such meetings shall be on a no loss or gain basis in pay. The restrictions herein contained in this provision may be waived at the discretion of the Fire Chief.
- C. Contract Negotiations: Reasonable provisions shall be made by the City so that employee representatives scheduled for duty during the period of contract negotiations may, so as to avoid loss of scheduled hours, 1) request change of duty assignments, or 2) request flexibility

of shift assignment. Additionally, up to two (2) employees scheduled for duty will be given release time without loss or gain in the normal duty rate of pay to attend negotiating sessions provided however, if a call for services is given to the employees scheduled for duty, said employee shall respond to the call. No other payment of wages shall be paid to employees to attend negotiating sessions, and at the conclusion of any negotiating session, employees scheduled for duty shall return to duty to complete the balance of their tour.

6.04 The Union may utilize such leave by having an officer of the Union notify the Fire Chief as soon as practicable upon learning prior to the commencement of said leave, except for local meetings which require seventy-two (72) hours' notice and provided no more than one (1) employee from any one platoon is designated by the Union for said leave. All absences from duty under the provisions of this section are subject to staffing requirements. The time limits set forth in this section may be waived by the Fire Chief or his/her designee.

6.05 The City recognizes the Union officers as the representatives of the Union and the President as its chief representative.

6.06 Except as provided above, and unless authorized by the City Manager, all Union activities shall be conducted by City employees outside of working hours and off City premises.

6.07 The City shall provide at the Fire Department stations, a bulletin board for the use of the Union. Union officials shall be responsible for posting and/or approving the posting of notices thereon which employees may read when reporting to or leaving their work stations, or during their free time. The Union agrees that no notices will be placed on the bulletin boards which contain:

1. Personal attacks upon any City employee;
2. Scandalous, scurrilous or derogatory attacks upon the Administration;
3. Attacks on any other employee organizations;
4. Any obscene material;
5. Discriminatory or offensive material;
6. Partisan issues.

ARTICLE 7 **DISCIPLINE**

7.01 No non-probationary employee shall be reduced in pay and/or position, suspended, removed, or discharged except for just cause.

Except in instances where an employee is charged with a serious offense, discipline will be applied in a progressive and uniform manner. Progressive discipline shall take into account the nature of the

violation, the employee's record of discipline and counseling and the employees' record of performance and conduct.

7.02 When Management deems necessary a disciplinary meeting, or to bring disciplinary action against an employee, Management shall, within fifteen (15) full scheduled tours of duty where the employee works the first eight (8) hours, after they have knowledge of the fact(s) which give rise to the disciplinary action, or with reasonable diligence should have acquired such knowledge, hold a disciplinary hearing or meeting with the employee. However, in the event the employee is on a schedule other than the traditional shift schedule, then Management shall have a maximum of forty-five (45) calendar days in which to hold a disciplinary hearing or meeting with the employee.

7.03 In any conference between a bargaining unit employee and the Employer or designee, once it is reasonably expected that discipline of the employee being interviewed may result, the Employer shall notify the affected employee of the right to have a Union representative be present. There is no entitlement to the presence of a representative prior to such determination

7.04 Whenever the Employer or designee determines that an employee may be suspended without pay for one (1) tour or more, reduced in rank or classification, or terminated from employment for just cause, a predisciplinary hearing will be scheduled to give the employee an opportunity to offer an explanation of the alleged misconduct. The following procedures shall apply:

- A. Not less than seventy-two (72) hours prior to the scheduled starting time of the predisciplinary hearing, the Employer will provide to the employee a written outline of the charges, along with a summary of the evidence in support of the charges, which may be the basis for disciplinary action together with written notification of the date, time, and place of the predisciplinary hearing. The employee must choose to: (1) appear at the conference to present oral or written statement in the employee's defense; (2) appear at the conference and have one [1] chosen representative present an oral or written statement in defense of the employee; or, (3) elect in writing to waive the opportunity to have the predisciplinary hearing. Failure to elect and pursue one of these three options or failure to appear at a scheduled predisciplinary hearing will be deemed a waiver of the employee's right to the predisciplinary hearing.
- B. No later than twenty-four (24) hours prior to the scheduled starting time of a predisciplinary hearing, the employee may present a written request for a continuance of not more than five (5) calendar days, unless mutually agreed. Such request shall contain the reason for requesting a continuance. The Employer shall not unreasonably deny such request.
- C. At the predisciplinary hearing the Employer may present any testimony, witnesses, documents, or other evidence in support of the charges, and the employee may present any testimony, witnesses, documents, or other relevant evidence which explain whether or not the alleged misconduct occurred. The employee shall provide a list of witnesses and the name of the Union representative, if any, to the hearing officer as far in advance as possible, but not later than twenty four (24) hours prior to the predisciplinary hearing. It is the employee's responsibility to notify any witnesses that the employee desires their attendance at the hearing. The Employer may require the attendance of employee witnesses requested by the

employee within reason. Predisciplinary hearings held outside the employee's scheduled working hours shall be considered time worked.

- D. Failure to testify truthfully by any employee, including employees who are serving as witnesses, may result in disciplinary action.
- E. The employee or Union representative will be permitted to question any witnesses present, subject to the Employer's right to reasonably limit the length and extent of such examination.
- F. The hearing officer shall prepare a written report, and submit the hearing report to the Fire Chief within fourteen (14) calendar days following the date of the hearing. The Fire Chief shall determine whether or not the misconduct occurred and whether discipline is warranted. Any discipline resulting in a suspension, loss of pay or position, or discharge shall be issued by the City Manager within fourteen (14) calendar days following the issuance of the hearing officer's report.

7.05 In lieu of a suspension, an employee of the City may offer forfeiture of accrued vacation leave on an hour for hour basis. Should the City and the employee agree to a forfeiture of leave, it shall constitute disciplinary action of record. Such forfeiture shall be noted in the employee's personnel file and shall finally resolve the charges. The resolution shall not be grievable.

7.06 An employee may be placed on paid administrative leave pending a hearing when the nature of the employee's action requires immediate removal from work.

7.07 The time limits imposed in this Article may be extended by mutual written consent.

7.08 Supervisors have the authority to issue a verbal counseling (written record). Grievances concerning a verbal counseling (written record) may be appealed through Steps 1 and 2 of the grievance procedure, but may not be appealed to Arbitration.

Grievances concerning the disciplinary actions of written reprimand, suspension without pay, and termination from employment, or any disciplinary action that results in the loss of pay, shall be submitted directly to Step 2 of the grievance procedure, and may be submitted to Arbitration pursuant to Article 10, Section 10.06, herein.

7.09 Records of verbal and written warnings shall cease to have force and effect or be considered in future progressive disciplinary matters twenty-four (24) months after the date the warning is issued, provided the employee receives no intervening discipline. Records of suspensions and reductions in pay or position shall cease to have force and effect or be considered in future progressive disciplinary matters thirty-six (36) months after the date the suspension or reduction is issued, provided the employee receives no intervening discipline. Upon request of the employee, records of inactive discipline will be removed from all the employee's personnel files and may be placed in an inactive personnel file.

7.10 Management shall send to the Union a copy of any disciplinary action issued to any member covered in the bargaining unit.

ARTICLE 8
PROBATIONARY PERIOD, LAYOFFS, RECALLS AND PROMOTIONS

8.01 Probationary Periods

- A. New firefighters shall be on probation for a period of one (1) year. All firefighters who have successfully completed the one (1) year probationary period and are continued in employment shall be known as permanent employees and the probationary period shall be considered part of their seniority time.
- B. Employees promoted to the rank of Lieutenant shall serve a one hundred eighty (180) day probationary period. If the employee does not successfully complete his/her probationary period, he/she shall be returned to the previously held rank.

8.02 Layoff and Recall:

- A. When the City determines that a layoff or job abolishment is necessary, they shall notify the affected employees thirty (30) calendar days in advance of the effective date of the layoff or job abolishment. The City, upon the request of the Union, agrees to discuss with representatives of the Union, the impact of the layoff on bargaining unit employees.
- B. The City shall determine in which classifications layoffs will occur and layoffs will be by seniority within the bargaining unit. Employees shall be laid off in order of seniority, beginning with the least senior and progressing to the most senior up to the number of employees that are to be laid off. In the event two (2) or more employees have the same seniority date, the employee with the higher score on the applicant list shall be considered more senior. Employees in the Lieutenant classification will have the right to bump into the firefighter classification, if their seniority qualifies.
- C. All temporary, intermittent, part-time and seasonal employees in the department, excluding clerical employees, will be laid off before full-time employees.
- D. When employees are laid off, the City shall create a recall list for a period of two (2) years. The City shall recall employees from layoff within each classification as needed. The City shall recall employees according to seniority, beginning with the most senior employee in the classification and progressing to the least senior employee up to the number of employees to be recalled.
- E. When the City recalls persons off the list, they shall be recalled to their previous classification held at the time of the layoff or displacement, but not necessarily to the unit in which they were working when laid off.
- F. Notice of recall shall be sent to the employee by certified mail with a copy to the Union. The City shall be deemed to have fulfilled it's obligation by mailing the recall notice by registered mail, return receipt requested, to the last mailing address provided by the employee.

- G. The recalled employee shall have ten (10) calendar days following the date of mailing of the recall notice to notify the City of his/her intention to return to work and shall have five (5) calendar days following his/her notification to the City in which to report to duty, unless a later date for returning to work is otherwise specified in the notice.
- H. Recalled employees shall not serve a probationary period upon reinstatement, unless the employee was serving a probationary period at the time of the lay off, in which case the reinstated probationary employee will be required to complete the remainder of his/her probationary period.

8.03 Promotions shall be made in accordance with the applicable Personnel Rules and Regulations of the City of Fairborn, Ohio, such not being inconsistent with the City Charter, and with the Lieutenant Promotional Process Standard Operating Guideline of the Fairborn Fire Department, Article 3, Guide 1, Section 3, Revised.

ARTICLE 9

COPIES OF THE AGREEMENT

The City is to provide the Union and each of the signers a single copy of this contract at no cost to the Union. The copy provided to the Union shall be reduced by thirty-five (35) percent so long as the City possesses the equipment with these reduction capabilities. The City agrees to provide the Union with a single electronic copy of the contract.

ARTICLE 10

GRIEVANCE PROCEDURE

10.01 Effort to Settle. There shall be an earnest, honest effort to settle disputes and controversies promptly. The procedures of this Article shall serve as a means of settlement of all grievances.

10.02 General Provisions

- A. A "grievance" is defined as an allegation that there has been a breach, misinterpretation, or improper application of this Agreement, including the application of any work rules established and enforced by the City, or the issuance of discipline or discharge of an employee.
- B. A "grievant" is defined as an employee or group of employees allegedly harmed by Management's non-compliance with a specific provision of the Agreement, including the application of any work rules established and enforced by the City, or the issuance of discipline of an employee. In order for a group grievance to be recognized as such, any written grievance must be signed by those persons of the group allegedly harmed or by the Union President or Grievance Chairman listing the names of all affected employees. Union grievances affecting all employees may be filed by the Union President or Grievance Chairman.

- C. No grievance may be filed concerning a matter which may be subject to a charge with a state or federal agency. This provision in no way limits or impairs the ability of employees or Union to file charges with the State Employment Relations Board
- D. The limits in days under each step shall be counted as calendar days unless otherwise specified herein. The number of days indicated at each step shall be considered as maximum.
- E. Any grievance which is not filed at Step 1 within nine (9) calendar days of its occurrence, not including the day of occurrence, after the employee and/or grievant has knowledge of the facts which gave rise to the grievance, or with reasonable diligence shall have acquired such knowledge, shall not be considered a grievance under the Agreement, and may not be processed as such. In no event, however, may a grievance be filed more than thirty (30) calendar days following the date of the occurrence from which the grievance arose. Any matter which is not timely processed by either the employee or the Union, as set forth below, shall not be subject to further processing as a grievance and shall not be subject to Section 10.04.

10.03 Steps

Informal Step:

A grievant is encouraged to first discuss any matter with the Operations Chief or designee, and may discuss with other levels of supervision up to and including the Fire Chief, without invoking the formal grievance procedure. In the event an agreement cannot be reached, then the following steps shall be taken with respect to any grievance.

Step 1. Fire Chief

- A. Any grievant with an alleged grievance shall present his/her grievance in writing to the Fire Chief or his/her designee within nine (9) days as provided in 10.02 (E) above. The Fire Chief or his/her designee shall schedule a meeting within seven (7) calendar days following receipt of the grievance and shall answer the alleged grievance in writing within five (5) working days thereafter. Upon request of either party, a steward may be present during said meeting.
- B. If the grievant is not satisfied with the answer provided in this Step, the grievant may appeal the grievance in writing to Step 2 within nine (9) calendar days following receipt of the Step 1 answer. If the grievance is not referred to Step 2 as provided herein, it shall be deemed to have been satisfactorily resolved.

Step 2. City Manager

- A. If the alleged grievance is appealed to Step 2, the City Manager, or designee, shall investigate and hold such hearings as they deem necessary within ten (10) calendar days following receipt of the appeal and shall answer the alleged grievance in writing within ten (10) work days thereafter.

- B. If the grievant is not satisfied with the answer provided in this Step, the Union may appeal the grievance in writing to Grievance Arbitration within ten (10) days following the receipt of the Step 2 answer. If the grievance is not referred to Grievance Arbitration as provided herein, it shall be deemed to have been satisfactorily resolved.

10.04 Grievance Arbitration

- A. The grievance, if not satisfactorily resolved at Step 2, may be appealed by the Union to arbitration. Notice of the appeal to arbitration must be served on the City Manager in writing within ten (10) calendar days after the written answer was given at Step 2. A failure to invoke arbitration as set forth herein shall deem the matter to be satisfactorily resolved.
- B.
 - (1) Upon receipt of such notification, the City Manager or his/her designee and the Union will jointly request the American Arbitration Association (AAA) to provide the parties with a panel of fifteen (15) arbitrators. Within ten (10) days of the mailing of the panel, each party shall cross off any names from their respective lists and number the remaining names indicating the order of preference. The lists shall be mailed separately to AAA. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, AAA shall appoint an Arbitrator. If the parties fail to agree upon any persons named or if those named decline or are unable to serve, or if for any other reason the appointment cannot be made from the submitted list, AAA shall submit one additional panel of fifteen (15) arbitrators to the parties.
 - (2) If no arbitrator has been selected through AAA, the City and the Union will discuss the appointment of an arbitrator outside of the auspices of AAA.
 - (3) If the parties are unable to agree on an arbitrator, the City Manager or his/her designee and the Union will jointly request AAA to provide the parties with a panel of three (3) arbitrators. Within ten (10) days of the mailing of the panel, each party shall notify AAA and the City or the Union, whichever the case may be, of any strikes for cause, as defined by the Voluntary Labor Arbitration Rules of the AAA. At the expiration of ten (10) days, AAA will appoint an arbitrator from the list of three.
- C. The City and the Union shall each be responsible for the fees and expenses of its representatives. The City and the Union shall equally share any expenses incidental to the arbitration proceeding, except that the City will provide a court reporter for a hearing involving suspension in excess of two (2) tours, demotion or termination. Either party requesting a transcript of the hearing shall be responsible for the cost of the transcription and related fees, if both parties request a copy of the transcript the transcription fee shall be split equally.
- D. Unless contrary to law, the decision of the arbitrator shall be final and binding upon the City, the Union and any employee involved in the matter.

- E. The arbitrator shall not have the power to add to, subtract from, or modify this contract and shall only have the authority to interpret the provisions of this contract in light of applicable law as the same relate to the specific grievance appealed to arbitration.

10.05 Procedures

- A. A grievant and appropriate witnesses shall be entitled to be present at any step of the grievance procedure and shall not lose pay as a result of necessary attendance at a meeting during scheduled working hours.

If more than one grievant is involved at any meeting, one of their members shall be selected as spokesman.

- B. The time limits imposed in this Article may be extended at any step by mutual written consent.
- C. Any step of this procedure may be waived by the mutual written consent of both parties.
- D. Either party shall have the right to have a Union representative present at any of the steps of the grievance procedure.
- E. At all steps of the grievance procedure, the failure of the City to answer on time shall give the union and the grievant the right to automatically take the grievance to the next step, at the option of the Union and the grievant, except where time limits have been extended by mutual written consent by the parties.
- F. Nothing in this contract shall require the Union to pursue any grievance at any level or prohibit the Union from exercising discretion in determining whether or not to pursue an alleged grievance.
- G. Any matter submitted as a grievance involving the discipline or discharge of any employee may be initiated at 10.03 Step 2 within the time limits set forth in 10.03 Step 1. Verbal counselings may be grieved, but are not subject to the arbitration procedure.
- H. A Union Representative may be present at 10.03 Steps 1 - 2 of the grievance procedure to see that the terms and conditions of the agreement are adhered to.

ARTICLE 11 **LABOR-MANAGEMENT COMMITTEE**

11.01 In the interest of sound Labor-Management relations, a joint committee of no less than six (6) nor more than twelve (12) members, half of whom shall be from the City and half of whom shall be from the Union will convene from time to time, but not less than once every sixty (60) days for the purpose of discussing subjects of mutual concern including safety and health, but not matters in the formal grievance procedure. It shall be the express purpose of this committee to build and maintain a climate of mutual understanding and respect in the solution of common problems. Either

Management or the Union may request that a representative of their choice participate in a scheduled Labor-Management Committee meeting.

11.02 A Union representative and a Management representative shall alternately chair the meetings and prepare the agenda therefore. Such agenda shall be furnished to all members of the committee at least seven (7) calendar days before the scheduled meeting. The party chairing the meeting shall be responsible for keeping the minutes which shall be made available to both parties.

ARTICLE 12 **SENIORITY**

12.01 The City agrees to establish and maintain a list which will show the order of seniority of all employees in the bargaining unit. Seniority shall be determined by each employee's date of hire and by date of promotion. For employees hired prior to January 1, 2001, the date of hire shall mean the date of hire with the City of Fairborn. For all other employees, the date of hire shall be the date of hire with the Fairborn Fire Department. When more than one employee has the same date of employment, or promotion, their order of appearance on the seniority list shall be determined by the order they were hired from the Firefighter Applicant List or from the lieutenant promotional list.

12.02 The seniority list shall be kept current and a copy of the same shall be posted in each fire station upon the request of the Union. At the time of posting or updating, a copy of the seniority list shall be sent to the Secretary of the Union.

12.03 Seniority, as it applies to the selection of permanent and temporary assignments, and educational and training opportunities within the Fairborn Fire Department, will be applied pursuant to the Fire Chief's general orders.

ARTICLE 13 **ON DUTY INJURY**

13.01 In the event an employee is injured in the line of duty and requires removal to a hospital in an ambulance or medic unit, such removal will be to the hospital of his/her choice within the Fairborn Fire Department's removal district.

ARTICLE 14 **EXCHANGE OF TOURS**

14.01 Members of the Fire Department may exchange tours of duty or days off with consent of the Fire Chief or the officer in charge.

ARTICLE 15
TRANSFERS

15.01 Whenever possible, the City agrees to give the affected employees a minimum of three (3) tours of duty notice before the effective date of platoon transfer. The affected employee will be allowed to carry all previously approved leave to the new platoon's schedule, on adjacent calendar days upon the bargaining unit member's written request.

ARTICLE 16
PLATOON ROTATION

16.01 On February 29th of each leap year, the platoon scheduled to report for duty at 0800 hours will work from 0800 hours to 1600 hours and return for a regular twenty-four (24) hour shift on March 1 at 0800 hours. The platoon originally scheduled for duty on March 1 will work from 1600 hours to 2400 hours on February 29th, and return for a regular twenty-four (24) hour shift on March 2nd at 0800 hours. The platoon originally scheduled for duty on March 2nd will work from 2400 hours to 0800 hours on March 1st, and return for a regular twenty-four (24) hour shift on March 3rd at 0800 hours.

16.02 The City and the Union agree that the purpose of 16.01 above is for more equitable distribution of holidays worked, and no overtime shall be paid to accommodate this provision, nor shall any member lose any benefits normally accumulated during a normal twenty-four (24) hour shift.

ARTICLE 17
HEALTH AND SAFETY

17.01 The City and the Union share mutual concern and responsibility for the health and safety of the employee. Both parties agree to cooperate in resolving problems and unsafe conditions. Matters affecting employee health and safety may be discussed during the Labor-Management Committee meetings after first being discussed by the Health and Safety Committee comprised of three (3) members of the Union and three (3) members of Fire Administration.

17.02 The City shall furnish and thereafter maintain and replace, at no cost to the employee, gloves; helmets, protective clothing and any other protective equipment as specified by the Chief of the department. The Fire Chief may solicit input on the bunker equipment from the Labor-Management Committee. Employees are responsible for proper care of the above listed items.

17.03 The parties agree that employees are at risk of exposure to communicable and/or contagious diseases, and, therefore, the City agrees to provide at no cost to the employees, immunizations to prevent contracting a crippling or disabling disease on the job. The thrust of this article is to provide for immunizations that will either shield employees or limit the disease contracted. All participation is voluntary. Immunizations shall include tetanus-diphtheria and hepatitis-B. The parties further agree that these immunizations are not static and that based on experience, advances in technology and other changing circumstances, these policies will need to be reviewed on a periodical basis.

ARTICLE 18
EMPLOYEES' RESPONSIBILITIES

18.01 All employees agree to report for work on time, not to leave the job early, to be prompt in reporting for assigned duties, and to faithfully perform their duties.

18.02 Employees not expecting to work because of emergencies or other justifiable causes must notify their shift supervisor of such absence and the reason there for not later than one hour before the start of work.

ARTICLE 19
MISCELLANEOUS PROVISIONS

19.01 Each employee shall be entitled to a fifteen (15) minute break in the morning and afternoon and a one (1) hour lunch break; said breaks to be scheduled by supervision. The morning fifteen (15) minute break shall be scheduled between 9:30 a.m. and 10:30 a.m. and the afternoon fifteen (15) minute break shall be scheduled between 2:30 p.m. and 3:30 p.m. The one (1) hour lunch break shall be scheduled between 11:30 a.m. and 1:30 p.m. It is understood and agreed by the Union and employees that each person on duty must remain continuously available for emergency response regardless of scheduled breaks.

19.02 The City agrees to provide an outside telephone line at each fire station for limited use by the employees during non-scheduled duty hours as long as the Union pays for charges in excess of the minimum monthly billing for each telephone.

19.03 Employees shall not be required to perform outdoor in-service training if the outdoor temperature is 90 degrees Fahrenheit or above or when an air alert has been declared.

19.04 For employees covered hereunder, pension pick-up shall continue to be provided pursuant to the provisions of Ordinance No. 29-84, passed on May 21, 1984.

19.05 The City shall place no restrictions on any member of the recognized bargaining unit as it pertains to the location of their residence.

19.06 Members of the bargaining unit shall not be required to perform clean-up or maintenance in administration areas of the Fire Department.

19.07 Employees shall be covered by and eligible for benefits provided by the Family and Medical Leave Act as per Section 10.5 of the City of Fairborn Personnel Rules and Regulations.

ARTICLE 20
POLICIES AND PROCEDURES

20.01 The City has the right to establish reasonable work rules, regulations, policies and procedures to regulate employees in the performance of their job and the conduct of the Employer's operations, services, programs, and business.

- A. The Union will be notified of any changes in written work rules, general orders and special orders and given every opportunity to fully discuss such changes in meetings of the Labor-Management Committee.
- B. To the extent possible the City agrees that amendments to the written rules, regulations, policies and procedures shall be provided to the Union in written form fourteen (14) days in advance of their implementation. Every effort will be made to give advance notification to the Union of changes in the Fire Department Standard Operating Guidelines.
- C. If the change is not a mandatory topic of bargaining under O.R.C. Chapter 4117, the Employer is not required to bargain over the implementation of the change; however the Employer may elect to do so, at its sole discretion, without waiving the Employer's rights. If the change is a mandatory topic of bargaining, the Employer may not implement the change without the City offering to bargain with and agreement by or acquiescence by the Union unless the change is necessary because of exigent circumstances or because of the change in State or Federal law.

20.02 To the extent any work rules, policies and procedures have been or will become reduced to writing, each work station in addition to the Union shall be provided with a copy.

20.03 It is recognized that the employees currently enjoy certain privileges. These privileges may or may not be included in existing work rules, policies or procedures.

ARTICLE 21
HOURS OF DUTY, WORK WEEK

21.01 Employees shall receive a total of twelve (12) earned days off (EDOs) with pay per year, for an effective average work week of 50 hours, except for those assigned to a 40 hour work week. Effective January 1, 2004, employees shall receive and use two (2) EDOs bi-monthly. Employees must use 48 hours of EDO time in each bi-monthly period. The scheduling and cancellation of EDOs shall be governed by the procedures contained within Article 24 – Vacation. EDOs shall be scheduled and taken in 24-hour increments.

21.02 A full, regular shift shall be for 24 hours commencing at 8:00 a.m. and ending at 8:00 a.m. on the following calendar day. For purposes of this section, employees shall work 24 hours on duty and be off 48 hours.

ARTICLE 22
OVERTIME, CALL-IN

22.01 Overtime shall be defined as time worked in excess of a regularly scheduled work week. When overtime is required, it shall be approved by the officer in charge and will be paid at the rate of time and one-half for the total overtime worked. When overtime is due for a part of a full hour, it will be calculated and paid to the nearest one-tenth (1/10) hour.

22.02 For purposes of computing the regular rate of an employee for compensation of overtime pay purposes, the employee's bi-weekly pay will be divided by eighty (80) hours.

22.03 Employees who have completed the duty assignment and who are called back by the City to work after leaving the City property shall be provided a minimum of two (2) hours' work at time and one half (1-1/2) their regular rate of pay or two (2) hours' pay in lieu thereof at time and one-half (1-1/2) their regular rate of pay. However, to the extent that this minimum two (2) hours' overtime period might overlap with the normal tour of duty or workshift (in cases where the overtime period is immediately prior to the starting time of a normal tour of duty or work shift), then the regular rate of pay will prevail and there will be no double payment of both overtime and normal shift pay simultaneously.

The Fire Chief shall devise a uniform method of rotation for callback service among the needed personnel in order to avoid hardships for employees affected. Every effort will be made to fairly rotate overtime opportunities for firefighters, fire lieutenants and paramedics. A record shall be kept of those contacted concerning overtime along with their response to the request. Overtime lists shall be posted at each station and updated as necessary.

All call-ins shall be determined to be for duty except for required attendance in training and staff meetings. Required off duty training hours shall be paid at the rate of time and one-quarter (1-1/4) of the regular rate of pay. Required off duty staff meeting hours shall be paid at the rate of time and one-half (1-1/2) of the regular rate of pay. Voluntary attendance at approved training seminars during off duty hours shall result in no gain in pay.

22.04 The minimum number of scheduled bargaining unit positions shall be filled by bargaining unit members. Management reserves the right to order bargaining unit members in for duty to fill bargaining unit positions not voluntarily filled.

22.05 Employees who work overtime hours as a result of a platoon transfer shall be ineligible for overtime payment based on the extra hours worked resulting from the transfer. Employees who work less than their regularly scheduled hours as a result of a platoon transfer shall suffer no loss of pay as a result of the platoon transfer.

22.06 For each job related appearance in court, while off-duty, employees shall be paid at one and one-half (1-1/2) times the regular hourly rate for the actual hours at court, but no less than four (4) hours for such appearance. The word "appearance" in this article shall cover all related appearances in the four (4) hour block of time.

ARTICLE 23
RELIEF AT FIRES AND DURING EMERGENCY CALLS

23.01 In the event an emergency situation requires employees to remain on duty longer than the prescribed time, it shall be the responsibility of the officer in charge to insure that employees are relieved promptly by the oncoming shift personnel. Employees, who are required to remain on duty, shall be paid overtime in accordance with Section 22.01 and 22.02. Such overtime shall be computed using one-tenth (1/10) of one hour increments.

ARTICLE 24
VACATION

24.01 Each full time fire personnel who work a regular schedule consisting of twenty-four (24) hours on duty and forty-eight (48) hours off shall accrue vacation in accordance with the following plan:

<u>LENGTH OF SERVICE</u>	<u>AVERAGE ANNUAL TOURS VACATION</u>
Less than five (5) complete years of service.	5 tours
Over five (5) but less than ten (10) complete years of service.	6 tours
Over ten (10) but less than fifteen (15) complete years of service.	7 tours
Over fifteen (15) but less than twenty (20) complete years of service.	8 tours
Over twenty (20) but less than twenty-five (25) complete years of service.	9 tours
Over twenty-five (25) complete years of service.	10 tours

The appropriate hourly accrual rate for vacation is determined by dividing the total annual vacation tour hours by the total average work hours.

24.02 Each full-time fire personnel in the bargaining unit who works a regularly scheduled work week consisting of forty (40) hours shall accrue vacation in accordance with the following plan:

<u>LENGTH OF SERVICE</u>	<u>HOURLY ACCRUAL RATE</u>	<u>AVERAGE ANNUAL DAYS VACATION</u>
Less than five (5) complete years of service	.04615 per hour	12 days

Over five (5) but less than ten (10) complete years of service	.05384 per hour	14 days
Over ten (10) but less than fifteen (15) complete years of service	.06538 per hour	17 days
Over fifteen (15) but less than twenty (20) complete years of service	.07692 per hour	20 days
Over twenty (20) complete years of service	.08461 per hour	22 days
Over twenty-five (25) complete years of service	.09231 per hour	24 days

- A. The appropriate Hourly Accrual Rate is multiplied times 40 (each employee's average work week) to obtain the vacation hours employees accrue each week. Overtime hours shall not be used when computing an employee's vacation accrual.
- B. The Average Annual Days' Vacation employees accrue are based on the appropriate Hourly Accrual Rate times 2080 (the average hours employees are scheduled to work each year).

24.03 The Fire Chief shall schedule vacations for all eligible employees each year on a seniority basis subject to the following provisions:

- A. During the primary selection period, three (3) bargaining unit personnel shall be permitted to select, in 24 hour increments and blocks thereof, time off on vacation, or EDO during each 24 hour period. No more than three (3) bargaining unit personnel shall be scheduled off on any given day on vacation or EDO.
- B. Prescheduled vacation and EDO requests are to be submitted during the first two weeks of December each year. Subsequent to the primary vacation selections, shifts or partial shifts not selected during the primary selections or vacated through cancellation or shift transfer will be awarded on a first come first serve basis, subject to paragraph D below.
- C. The cancellation of leave must be completed no later than 0830 hours one (1) shift prior to the scheduled leave. All leave not cancelled pursuant to this section must be taken as scheduled. In cases of emergency or hardship, the Fire Chief or designee may approve the cancellation of leave other than provided above.
- D. When three (3) personnel are already scheduled off for a given shift and/or time, each employee interested in that day or time off should complete a 900 form. Each additional 900 form shall be kept on file by date submitted. In case of duplicate dates filed, seniority shall be the deciding factor. In the event of cancellations or shift transfers, the procedure in paragraph B shall be used for granting leave requests.

24.04 Unused accrued vacation shall be paid as terminal pay in the event an employee covered by Section 24.01 or Section 24.02 has such vacation posted on his/her personnel record. In the event of death of an employee, unused accrued vacation shall be paid to the beneficiary designated on the employee's life insurance enrollment form if any, otherwise to the employee's estate.

24.05 Vacation leave may accrue to a maximum of the allowable two (2) year accumulation. In order to receive vacation pay, time off for such vacation must be taken.

24.06 Employees must give notice no later than 0830 hours one (1) shift prior to the requested vacation usage. Vacation shall be used in minimum of four (4) increments and one (1) hour increments thereafter.

ARTICLE 25 **SICK LEAVE**

25.01 Each full-time employee of the City shall be entitled to accumulate sick leave at the rate of .05770 of an hour for each regularly scheduled work hour. Each employee's normal average monthly sick leave accrual shall be fourteen (14.0) work hours. Each employee's normal total annual sick leave accrual shall average 168 work hours. Overtime hours shall not be used when computing an employee's sick leave accrual.

25.02 Employees on leave of absence without pay or layoff shall not accrue sick leave during the period of such absence. Employees may use sick leave subject to the approval of his/her supervisor and the City Manager for absence due to only the following specific reasons and for no other reasons:

- A. Illness or injury of such employee;
- B. Exposure of such employee to contagious disease;
- C. Illness in the employee's immediate family requiring the presence of the employee. The employee's immediate family shall be limited to mean the employee's spouse and children residing in the same household unless such provision is specifically waived by the employee's department head and City Manager for justifiable reasons.

Each employee shall notify the shift supervisor of such absence not later than 0700 hours of each work day. An answering machine shall be provided by the City on the designated phone line and the Fire Chief shall designate an individual to monitor the phone messages left on the recorder. Each employee shall be allowed an unlimited accumulation of sick leave.

25.03 Each employee hired prior to January 1, 2001, who at the time of their retirement from City service has accrued to their credit at least thirty (30) days (720 hours) of unused sick leave shall receive severance pay according to the following conversion factor: total unused sick leave days, not to exceed a maximum of 1,800 hours shall be converted on the basis of one day of severance pay for each three (3) sick leave days. Employees hired on or after January 1, 2001 shall not be entitled to severance pay.

25.04 Unused sick leave in excess of 1080 work hours as of December 31st of each year may be converted to vacation leave on the basis of three (3) sick leave days (72 sick leave hours) for one twenty-four (24) hour tour of duty for employees working a shift schedule. Employees working a shift schedule may convert sick leave up to a maximum of fifty-four (54) vacation leave work hours in any one calendar year. Employees working a 40 hour week may convert sick leave up to a maximum of five (5) vacation days in any one calendar year. In the event that an employee converts sick leave as described above, such vacation leave shall not be subsequently reconverted to sick leave. Days converted from sick leave to vacation shall be charged in each department on the same basis as sick leave days are charged.

25.05 The City may require any employee requesting sick leave to furnish a statement from their attending physician (Exhibit E) or to complete an affidavit (Exhibit D) certifying that absence from work was required due to one of the reasons set forth in Section 25.02 above. The City shall also have the right to verify the report of the attending physician concerning the illness of any employee and to require the employee to be examined by a physician appointed by the City to determine the nature and extent of the illness. In the event of a disagreement between the statement from the employee's physician and the report of the physician appointed by the City, these two (2) physicians shall mutually refer the matter to a third physician who shall examine the employee and report his/her findings to the City, the Local, and the employee. Such report shall be binding on all parties concerned. The fees of the employee's physician shall be paid by the employee. The fees of the physician appointed by the City shall be paid by the City. The fees and expenses of the third physician shall be paid by the City.

25.06 Any employee absent from work for one calendar week or more due to illness, absent from work due to accident or injury, or off the active working payroll of the City for any reason for over four (4) calendar weeks may be required to submit a statement from their physician prior to their return to the active working payroll of the City certifying his/her physical ability to fulfill the regular and normal job tasks of their job assignment. The City shall also have the right to have the employee examined by a physician appointed by the City for such purpose. In the event of a disagreement between these two (2) physicians, the procedures as outlined in Section 25.05 shall be followed.

ARTICLE 26 **INJURY LEAVE**

26.01 All employees of the City of Fairborn are covered by State Workers' Compensation. Under Workers' Compensation, payment for all approved medical and surgical treatment, compensation for lost work time, and other related benefits will be provided as determined by Ohio State Law.

26.02 In the event any employee incurs a work-connected occupational injury and such employee is determined to be eligible to receive Workers' Compensation. The City will pay such employee injury leave or his/her regular bi-weekly earnings for up to the first thirty (30) calendar days including the date of such injury.

26.03 In the event the employee remains disabled and unable to return to work and continues to receive Workers' Compensation benefits, he/she may be permitted to receive additional injury leave for up to an additional sixty (60) calendar days.

26.04 In the event the employee remains disabled and unable to return to work beyond the initial ninety (90) calendar day period of time, and such employee continues to receive Workers' Compensation benefits, he/she may be permitted to receive additional injury leave for up to an additional ninety (90) calendar days.

26.05 Injury leave as provided by the City shall not be chargeable against accumulated sick or vacation leave.

26.06 The injured employee shall submit to the City a certificate by a licensed medical doctor (M.D. or D.O.) in order to obtain approval for injury leave for up to the first thirty (30) calendar days of injury leave. If an employee is still disabled and unable to return to work after the initial thirty (30) calendar days of injury leave, said employee shall submit to the City a certificate by a licensed medical doctor (M.D. or D.O.) for each extension of injury leave requested beyond the initial thirty (30) calendar days. Each certificate submitted by the injured employee from the licensed medical doctor (M.D. or D.O.) must certify that the employee is not available for gainful employment due to an on-the-job injury.

26.07 In addition to Section 26.06 above, the City retains the right to require an employee who has been granted injury leave to present upon request by the City a certificate by a licensed medical doctor (M.D. or D.O.) certifying that such employee is not available for gainful employment due to such injury. The City also maintains the right to require such employee to be examined by the City physician to determine the employee's eligibility for an injury leave of absence or for an employee's continuation on an approved injury leave of absence.

26.08 The Personnel Officer shall have the right to deny and/or terminate at any time an employee's injury leave benefit and/or injury leave if the City contests a Workers' Compensation claim. During any contest period an employee may use his/her accumulated sick leave or vacation allowances if otherwise eligible to do so. The granting of additional injury leave as provided for in Sections 26.03 and 26.04 shall be subject to prior approval of the City Manager.

26.09 The employee returning from injury leave of absence must submit a doctor's statement certifying the employee's ability to return to work.

26.10 The City reserves the right to withhold benefit payments and take disciplinary action, up to and including discharge against any employee, who is guilty of submitting a false claim for benefits covered in this Article or engaged in outside employment while on injury leave.

ARTICLE 27

HEALTH CARE COVERAGE

27.01. The City shall make available to all full-time bargaining unit employees the general insurance and hospitalization plans as provided to other full-time City employees. All requirements of the plan(s) (e.g., premium contributions, co-payments, deductibles, fees, eligibility, waivers, etc.) applicable to other City employees shall also be applicable to bargaining unit employees, except that bargaining unit members shall not pay more than twenty-one percent (21%) of the premium

contribution. The City shall contribute thirty four dollars (\$34.00) per month to AFSCME Care Plan for Dental Level II coverage for each eligible employee in the bargaining unit.

27.02 All health care benefits provided shall be subject to coordination of benefits in accordance with the provisions of the health care contract issued by the health care provider.

27.03 It is understood that if an employee incurs covered hospital or other medical expenses in connection with the treatment of an illness or injury caused by the negligence or wrongful act of a third party, the health care provider shall be subrogated to all of the employee's rights of recovering against said third party to the extent of any and all payments made by said health care provider with respect to such illness or injury, and the employee or the employee's agent shall execute all papers and take all action necessary and proper to secure to such health care provider such rights of subrogation.

27.04 The City retains the right to change carriers and/or plans, subject to the terms of this section. The City also has the right to implement a Health Savings Account Plan, Health Reimbursement Account, or other optional plans permitted by law, so long as the bargaining unit employee's contribution does not exceed the amount paid by non-bargaining unit City employees. Any participation in the plan as set forth herein shall be in accordance with the enrollment requirements of the Plan.

Section 27.05. In order to be eligible to receive the City's contribution, employees must agree to have their share of the cost, if any, paid via payroll deduction authorization cards. Such payroll deduction authorization cards, if any, shall be completed by the employee in order to effect employee contributions prior to the payroll deduction periods for the monthly premium.

Section 27.06. Each full-time employee who elects to be insured under the City family life insurance plan shall receive fifty thousand dollars (\$50,000) coverage on the employee and two thousand five hundred dollars (\$2,500) coverage on the employee's spouse and one thousand dollars (\$1,000) coverage on the employee's children.

Section 21.07. Any employee who elects not to be insured under the City's health benefits plan, upon proof of alternative coverage and a signed waiver, shall receive \$85 per month (single) and \$210 per month (family), paid quarterly. Any employee who elects not to be covered under any of the plans shall not receive such contribution made by the City for health or life coverage as salary, wages, compensation, reimbursement or in any other form or manner.

Section 21.08. The parties agree to establish an Insurance Committee consisting of representatives from the bargaining unit, management and representatives from other City bargaining units. This Committee will investigate alternate plans and benefits and submit its findings to the City Manager. City Council retains the right to make the final decision.

ARTICLE 28
FUNERAL LEAVE

28.01 All employees covered hereunder shall be given leave of absence with full pay for a period of time not to exceed three (3) calendar days in the event of death of the employee's father, mother, step-mother or father, father-in-law, mother-in-law, wife, husband, child, step-child, sister, brother, half-sister or brother, grandparents of employee or spouse, grandchild, son-in-law, daughter-in-law, or any relative residing in the employee's household; provided, however, nothing in this section should be construed as to mean that funeral leave of three (3) calendar days will be granted if attendance for all necessary matters pertaining thereto may be completed in a lesser amount of time. In extreme cases wherein travel distances exceed 300 AAA miles, the department head and City Manager may allow the employee to use additional vacation, personal or sick leave to extend funeral leave up to a maximum of five (5) calendar days.

ARTICLE 29
HOLIDAYS

29.01 Each employee covered hereunder who is not on leave of absence without pay, or on layoff, shall receive pay for the following holidays: New Year's Day, Martin Luther King Day, Washington/Lincoln's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day and the employee's birthday. Such pay to be disbursed in a separate check on or about December 5th of each year for the holidays falling in that calendar year and during the period of employment of such employee.

29.02 Fire Department employees who, because rotation of hours and days of duty, are unable to observe holidays as specified in Section 29.01 above, shall receive pay in the amount of one-fifth (1/5) of the pay for one (1) week of their pay grade and step for each of the unused holidays specified above.

29.03 In the event of termination of an employee, the employee shall receive an appropriate pro rata share of the holiday pay. In the event of the death of an employee, this amount shall be paid as outlined in Section 24.04 of this Agreement.

ARTICLE 30
COMPANY STRENGTH

30.01 The City agrees to maintain the strength required for adequate operation of each fire engine, aerial or ladder truck, and medic unit, and shall provide no less than two (2) regularly scheduled bargaining unit members for each fire engine, aerial or ladder truck and medic unit. So long as Station 3 is staffed with only two (2) employees it shall be considered in compliance with this provision. So long as Station 2 is staffed with only two (2) bargaining unit employees, it shall be in compliance with this Article through January 1, 2012.

30.02 A minimum of seventy percent (70%) of authorized platoon bargaining unit members shall be scheduled for duty at all times.

ARTICLE 31
LONGEVITY

31.01 Employees will receive an annual longevity payment in addition to regular and other pay for continuous uninterrupted service with the City. Such payment will be made following the completion of the years of service and in the amount of base salary for the previously completed year as listed below:

<u>YEARS OF SERVICE</u>	<u>PERCENT OF ANNUAL RATE</u>
After 5 years	½ % of base annual rate
After 10 years	1 % of base annual rate
After 15 years	1½ % of base annual rate
After 20 years	2 % of base annual rate
After 25 years	2½% of base annual rate

31.02 An employee who retires either for reasons of age and/or disability shall be entitled to a pro rata longevity payment based upon the number of calendar months he/she had worked prior to such retirement since his/her last employment anniversary date. In the event of death of an employee, said employee's pro rata longevity payment shall be paid as outlined in Section 24.04 of this Agreement.

31.03 The longevity pay shall be issued to the employee in a separate check and distributed with the first regularly scheduled pay after the employee's anniversary date.

31.04 The longevity scale shall be added to the base rate for the purposes of computing the overtime rate.

31.05 Employees hired after January 1, 2001, are not eligible to receive an annual longevity payment as detailed in this Article, nor are they eligible for unused sick leave severance pay as detailed in Article 25, Sick Leave. Employees hired after January 1, 2001, shall, after five (5) years of uninterrupted employment, be eligible to participate in this Deferred Compensation Program as described below.

- A. Deferred compensation in the amount of 1-1/4% of the employee's base wage shall be paid into the employee's Deferred Compensation Account in conjunction with the first regular base pay, and each successive pay thereafter, upon completion of five (5) years of uninterrupted service with the City. Employees are responsible for deferred compensation account set-up and deduction changes which must be completed 30 days before each pay step increase and each contractual pay increase. Employees must contact payroll for the correct deduction amount.

ARTICLE 32
UNIFORMS

32.01 The City shall purchase required uniforms for new employees.

32.02

- A. An annual uniform and equipment purchase and maintenance allowance of \$975.00 for firefighters and \$1055 for lieutenants will be provided each year for all bargaining unit employees who have completed one-full year of service with the department. The first allowance to a newly employed firefighter will be prorated from the date of employment to the following January.
- B. The annual uniform allotment shall be ordered on or before March 01 of each year with a specified delivery date no later than June 01st of the same year. Employees may order from a list prepared by the Union's Uniform Committee. The Uniform Committee shall administer the uniform allotment and work with City and Fire Administration in accomplishing this section. The Uniform Committee shall submit the listing of amounts to be paid to payroll no later than May 15th. This list shall also include the amount of taxable items purchases to be added to the employees W-2 form for tax purposes. Employees whose uniform allotment order is less than the specified amount listed above shall receive the difference via a separate check no later than June 01st of each year. Failure to meet the May 15th deadline may result in delay of payment. The City will not process payment amounts less than one dollar (\$1.00).

32.03 All employees shall wear Station Wear Uniforms, or the equivalent, as approved by the Fire Chief. The parties agree to meet and discuss in a Labor Management meeting to discuss the dress code policy for on duty personnel upon request of either party.

32.04 Uniforms which are damaged or destroyed in the line of duty will be repaired or replaced by the City if the value exceeds fifty (\$50) dollars provided, however, that nothing in this section will authorize the repair or maintenance of clothing unduly worn or damaged. The care and maintenance of uniforms in the custody of the employee shall be the sole responsibility of the employee.

32.05 Uniforms provided by the City shall not be worn at any time other than actual City employment, travel to and from such work and other situations approved by the Chief.

ARTICLE 33 **TUITION REIMBURSEMENT**

33.01 All employees are eligible to make application for participation in the City's tuition reimbursement program in accordance with the City's Tuition Reimbursement policy as provided for in the Personnel Rules and Regulations.

ARTICLE 34 **BUSINESS EXPENSES**

34.01 Employees will be allowed reasonable travel and other expenses in connection with the conduct of the City's business outside the City in accordance with the City's Travel, Conference, and

Training Expenses policy as provided for in the Personnel Rules and Regulations.

ARTICLE 35
WAGES

35.01 Wage rates for employees covered herein shall be as set forth in Exhibit "A", attached hereto and made a part thereof.

35.02 Employees required to work and substantially perform the job duties of a higher classification on a temporary basis will be paid at the higher rate for the time they are required to work and substantially perform the job duties in a higher classification. Payment shall be made at the higher rate for the higher assigned classification that results in a minimum of a 5% increase.

35.03 Employees certified as a paramedic as of January 01, 2001 or thereafter must maintain such certification. However, a Joint Committee comprised of an equal number of bargaining unit members and management will convene from time to time as necessary to hear and consider applications for temporary waivers from mandatory paramedic duties and responsibilities. In the event the Committee cannot reach a decision on the application, the Fire Chief shall have the final decision on the application.

35.04 Employees who have acquired paramedic certification shall receive an additional annual salary increment of three percent (3%) of their base annual wage. All other employees hired prior to January 1, 1998, who have acquired emergency medical technician certification and are required to maintain such certification shall receive an additional annual salary increment of \$150.00. Such payment shall be made in January of each year for each employee who held such respective certification(s) on December 31st of the preceding year. Management shall provide the required training in order to maintain such certification.

Employees hired after January 01, 2001 who are not certified as paramedics must, within three (3) years of their date of hire, acquire paramedic certification. Costs associated with acquiring paramedic certification, including off-duty training pay, shall be the responsibility of the City.

35.05 Regular pay shall be based on the bi-weekly amounts shown in Exhibit "A".

35.06 All employees will receive their paychecks by direct deposit by January 1, 2008, unless a request for accommodation of religious beliefs is made.

ARTICLE 36
MANAGEMENT AND LOCAL SECURITY

36.01 The Union and employees agree that during the life of this Agreement they will not cause or participate in any strike against the City or slow-down, work stoppage or other cessation, interruption or interference of services or operations of the City by the employees covered by this Agreement or by any individual employee or by the Union. Any violation of the provisions of this Section shall constitute cause and be grounds for disciplinary action up to and including discharge of the employee

or employees involved. The City shall have the option to invoke rights and remedies prescribed by law or, under this Agreement, the City shall have the right to discharge or otherwise discipline any employee violating this Section, and no such discharge or disciplinary action may be set aside unless the employee is found innocent of any violation of this Section. Also, during the term of this Agreement, the City will engage in no lockout of the employees covered by this Agreement.

ARTICLE 37 **WAIVER**

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

37.02 Except to the extent otherwise set forth in this Agreement, during the term of this Agreement, each party waives any right to request the other party to negotiate on any mandatory subject and agrees that it shall take no action to compel the other party to negotiate on any mandatory subject.

ARTICLE 38 **SEVERABILITY**

Should any Article, Section or portion thereof of this Agreement be held unlawful and unenforceable by any court or administrative tribunal, competent jurisdiction or applicable legislative body, such decisions or legislation shall apply only to the specific Article, Section or portion thereof directly specified. The parties will meet and discuss the abrogated provision. The remainder of this contract shall remain in full force and effect.

ARTICLE 39 **IMPASSE PROCEDURE**

39.01 Should the parties not successfully conclude negotiations by eleven (11) days prior to the expiration date of this agreement, the parties shall send a letter to the State Employment Relations Board (SERB) to request a conciliator. If the 11th day prior to the expiration date of this Agreement falls on a Saturday or Sunday, the date shall be moved to the last weekday prior to the 11th day which is not a holiday.

39.02 The parties agree to select a neutral, hereinafter referred to as a conciliator, through SERB. The conciliator shall be selected using the Rules of SERB.

39.03 At any time set forth herein, either party shall have the right to call for the services of a mediator through the Federal Mediation and Conciliation Service (FMCS) or SERB. Should such a request be made by either party, the other party shall join in sending a joint written request to FMCS

or SERB. The parties may agree to submit to a fact finding hearing prior to scheduling the conciliation hearing.

39.04 For purposes of §4117.14(G)(11), December 19, 2009 shall be construed and controlling as the date of the issuance of the order of SERB to submit to a final offer settlement procedure.

39.05 The parties agree that the conciliator and the conciliation process, unless mutually agreed to otherwise, shall be bound by the applicable provisions of R.C. Chapter 4117 and the Ohio Administrative Code. The parties further agree that the issuance of a conciliation final offer settlement award constitutes a binding mandate to the parties to take whatever actions are necessary to implement the award.

39.06 The provisions of this article shall replace the statutory impasse procedures of R.C. §4117.14 unless otherwise set forth to the contrary herein.

39.07 Either party may request that a court reporter attend the hearing and make a verbatim record of the conciliation hearing. The parties will equally share the costs of the court reporter's services. If both parties agree that a transcript should be prepared, the parties will equally share the costs of transcription. Otherwise, the cost of transcription will be borne by the party requesting the transcript.

ARTICLE 40 **EDUCATIONAL INCENTIVE PAY**

40.01 Employees in the classification of Firefighter and Fire Lieutenant shall be eligible for educational incentive pay upon satisfying the following criteria:

- A. Attainment of Degree in Fire Science Technology, Fire Administration, Nursing or other fire-related, degree program approved by the City Manager. (The degree must be from an accredited or approved college, university or technical school.)
- B. Completion of twenty-four (24) months of service, in the Firefighter or Fire Lieutenant classification, with the City of Fairborn.

Employees who satisfy the above criteria shall receive annual education pay in the amount of:

1.	Associate Degree	\$250.00
2.	Baccalaureate Degree	\$500.00
3.	Masters Degree	\$750.00

The incentive pay shall be limited to a maximum of one degree per person. The incentive pay shall be paid annually with the first pay in December. Where an employee becomes eligible for incentive pay after February 1st in a calendar year, the incentive pay to which the employee is entitled for that calendar year shall be calculated on a pro rata basis based upon the number of months that the employee was eligible in that calendar year.

ARTICLE 41
CONTRACTING OUT

41.01 The City shall not contract out any bargaining unit work that would result in a reduction in the number of bargaining unit employees. Bargaining unit work shall be defined as:

- A. Fire suppression, fire investigation, fire inspection, rescue and related work.
- B. Emergency medical services, paramedic services, EMS transport and related work.

ARTICLE 42
FITNESS FOR DUTY

42.01 The following procedures shall be applicable to all employees.

- A. Employees will be subject to discipline up to and including termination for any violation of the Fairborn Fitness for Duty: Drug, Narcotics and Alcohol Policy. Employees shall be allowed to elect rehabilitation through the EAP in lieu of discipline; provided the employee has not been involuntarily referred for rehabilitation in lieu of discipline on any prior occasion; and further provided that the employee must execute a return-to-work agreement which requires the employee to comply with the treatment regimen recommended by the EAP. This EAP treatment regimen will include periodic drug/alcohol testing of at least six (6) tests within the first twelve (12) months of treatment and as recommended by EAP during the second year of treatment.
- B. Employees using prescribed medications, or mood altering over-the-counter medications, where employees know their work performance is being adversely affected by these medications, shall report this fact to their immediate supervisor to avoid misunderstandings concerning the use of these particular drugs. The supervisor may request written documentation from a physician as to the effect of use of the particular drug on the employee's ability to safely and substantially perform his or her job duties. If any portion of the employee's job duties cannot be performed safely and properly while the medication is being used, reasonable accommodation will be made, if possible, to allow the employee to continue in his/her position. Where reasonable accommodation cannot be made to allow the employee to safely and substantially perform his/her job duties, the employee shall be placed on a leave of absence until such time as the treating physician advises that the employee no longer needs to take the medication in question, or the use of the medication no longer impairs the employee's ability to safely and properly perform the duties of the job. Sick leave, leaves of absence, and other disability leave benefits shall be available to the employee in accordance with the terms of the applicable policies in the event the employee is deemed unable to perform his/her job while using the medication in question.
- C. Employees will not be permitted to drive a City vehicle if they have consumed any alcoholic beverages within four (4) hours prior to reporting for work. The City shall adhere to this requirement when calling in employees for overtime.

D. Employees who are involved in an accident in a City vehicle where:

1. The accident involves the loss of human life;
2. The employee receives a citation for a moving traffic violation arising from the accident; or
3. Any person involved in the accident must be taken to the hospital;

shall be required to take a drug/alcohol test, to be administered within eight (8) hours following the accident.

The procedures in E below will also be followed if the results are positive on an employee who did not seem to be impaired at the time of the accident. A medical form must be taken along with the employee to the medical facility. Employees subject to post-accident testing must remain readily available for such testing, and if there is any unreasonable delay in securing required testing, the driver shall be deemed to have refused to submit to testing, and may be terminated in accordance with the provisions of this Agreement. No employee shall consume any alcohol until the drug/alcohol test has been administered. All employees shall be driven to the testing facility by a supervisor. If the police officer investigating the accident determines that the employee seems impaired, the supervisor shall be notified and the employee shall be driven to and from the medical facility and then home. A medical form must be taken along with the employee to the medical facility. An employee who is tested because of possible impairment shall be placed upon Administrative Leave and the procedures in E below shall be followed. An employee who is tested because of (D), (1), (2) or (3) above shall not be placed on Administrative Leave

E. Supervisors shall make use of Exhibit F and the definitions contained within Section 42.06 when determining whether reasonable suspicion exists to require an employee to undergo a drug and/or alcohol test. Where there is sufficient reasonable suspicion to believe an employee is in violation of the Fitness for Duty: Drugs, Narcotics, Alcohol Policy, the following procedures shall be taken:

4. If there is any reason to believe the employee presents a safety hazard to self, co-employees, other persons or property of the City of Fairborn, the employee must be removed from the area of hazard.
5. The immediate supervisor shall document all circumstances and observations that gave rise to the suspicion the employee may be in violation of the Policy, including witness statements where available. (Examples of circumstances which may give rise to a reasonable suspicion that an employee is in violation of the Fitness for Duty policy include: accidents, slurred speech, unexplained aggressive behavior, unsteady gait, inappropriate responses, patterned absenteeism, etc.) The supervisor shall provide the documentation to the Fire Chief, and the Fire Chief shall keep the Personnel Manager informed of the situation.
6. A union representative shall be notified of the situation.

7. The Fire Chief and/or Personnel Manager shall meet with the employee, in private (with the Union representative present) and discuss the situation with the employee. In this meeting, the employee will be provided an opportunity to explain the behaviors noted by the supervisor.
 8. If the Fire Chief and/or the Personnel Manager, after the meeting with the employee, confirm that the reasonable suspicion is sufficient to suspect a violation of the Policy involving drugs/alcohol, the employee shall be taken to the selected testing facility for a drug/alcohol test. The employee shall not be witnessed while submitting a sample for drug testing. This testing shall be performed within eight (8) hours once reasonable suspicion is confirmed by either the Fire Chief and/or the Personnel Manager.
 9. Employees wishing to have a drug or alcohol test conducted by their physician, in addition to any tests required by this policy, must use the split urine sample secured at the time of the initial sample collection, and must have any confirming tests performed within 72 hours. The cost of such additional testing is the responsibility of the employee; but the employee will be reimbursed if the second drug/alcohol test is negative. In removing an employee from a perceived hazard area and transporting an employee to and from any testing facility, or in sending an employee home after testing (or testing has been refused), no employee shall be permitted to operate a motor vehicle if believed to be impaired. Police will be summoned if such employee insists upon operating a motor vehicle.
 10. Until the results of the Fitness for Duty evaluation are known, the employee will be on paid administrative leave. This paid leave will be charged to the leave balance of the employee if the medical evaluation proved the employee to be unfit for duty. This paid leave will not be charged to the leave balance of the employee if the medical evaluation proves the employee to be fit for duty.
- F. After receipt of the test results, the employee shall be contacted by the testing facility and a medical review will be done if the results are unfavorable. The employee shall notify the Personnel Manager within (2) days of knowledge of the test results.
- G. Employees who fail the drug test on the Fitness for Duty evaluation will be dealt with on an individual basis. All test results shall be evaluated by a qualified person of the testing facility. Those who test positive for illicit use/abuse of any controlled substance and/or alcohol (0.04 for alcohol) shall be required to seek rehabilitation evaluation through the EAP in lieu of discipline if it is a first time offense.
- H. Any refusal to submit to a Fitness for Duty medical evaluation and/or drug/alcohol test or to sign medical testing release forms will result in the termination of the employee. Where an employee has failed the drug test for illicit use of controlled substances, refusal to seek assistance through the EAP and/or failure to follow the recommended regimen of the EAP shall result in termination of the employee. No employee involuntarily referred to the EAP for evaluation, assistance and/or rehabilitation will be permitted to return to work without having first executed a return-to-work agreement stipulating the requirements to conform

with the rehabilitation regimen, which includes periodic drug and/or alcohol tests of at least six (6) tests within the first twelve (12) months of treatment and as recommended by EAP during the second year of treatment. Any failure to comply with any term set forth in a return-to-work agreement, which shall be in effect for no more than two (2) years, will result in the immediate termination of the employee.

- I. Employees convicted of violating any federal, state or local criminal drug statute, where violation occurred on City of Fairborn premises, and/or during work hours, must report the conviction to the Personnel Manager within five (5) working days of the conviction. Such conviction will result in either the employee's immediate termination, or in a requirement that the employee satisfactorily participate in and complete rehabilitation as recommended by the EAP. Employees may be placed on paid leave upon arrest depending upon the violation and its effect upon their job duties.
- J. No employee will be permitted to elect rehabilitation in lieu of discipline more than one (1) time.
- K. Employees who test positive on the drug/alcohol test may appeal the disciplinary action received through the appropriate grievance procedure.

42.02 No employee will be subjected to random drug/alcohol testing, except any employee subject to a return-to-work agreement after completing rehabilitation (only during the two (2) year term of the return-to-work agreement).

42.03 Every employee shall be given notice of the City of Fairborn's policies with regard to substance abuse as follows:

- A. New employee orientation will include a brief explanation of the City of Fairborn Fitness for Duty Policy.
- B. Each employee will be provided with a copy of the Fitness for Duty Policy.
- C. The Personnel Manager will maintain information on community resources and employee benefits available to employees and/or dependents for assistance in problems related to substance abuse. The EAP is also available for such resource/information referral.
- D. Every year there will be available for employees, without charge, at least one (1) educational program addressing the physical, mental, and emotional dangers of alcohol and other substance abuse as well as the rehabilitation options available to affected employees.
- E. The Personnel Manager will assist in developing presentations and/or materials for discussions, meetings, or publications to inform employees about the City of Fairborn Fitness for duty Policy, the dangers of substance abuse, and resources available to the employee in dealing with substance abuse problems. The EAP may also be used in developing such presentations and materials.

- F. Appropriate topics for supervisory training include: an explanation of the City of Fairborn Fitness for Duty Policy; detailed explanation of the EAP; drug awareness and symptoms of substance abuse; methods for dealing with substance abusers; supervisory responsibilities in implementing the City of Fairborn Fitness for Duty Policy; and confrontational/referral techniques for the supervisor.

42.04 Information provided to any supervisor, managerial personnel, or other administrative personnel, of any problem or potential problem, relating to the consumption, use or abuse of alcoholic beverages or controlled substances, or related to any other medical problem (including prescribed medications, alcoholism or drug addiction) of an employee is considered a part of the employee's medical record, and shall be strictly CONFIDENTIAL. Except as may be required by law, or on a "need to know basis," no supervisor manager, or other administrator may discuss or otherwise divulge any information concerning such matters. A "need to know" shall be carefully observed so that only those persons with the need to know the information to assure correct medical treatment, a safe working environment, or proper implementation of the City of Fairborn Fitness for Duty Policy, will be informed of such matters. Records related to such matters will be kept in a separate medical records file, sealed and labeled, "CONFIDENTIAL," with access to said file limited to the aforementioned "need to know" persons. Any employee desiring to view the contents of his/her own medical records file, may do so and upon request, will be provided with one (1) free copy of any medical record, including blood alcohol content tests and or urinalysis test results, contained in said file.

42.05 The following procedures shall be used when an employee is tested under the provisions of this Agreement.

- A. In all circumstances where drug/alcohol testing may be required, the affected employee will be provided with written notice of the potential for such testing. Where an employee may be subject to testing, other than the previously described "reasonable suspicion" testing, the bargaining unit representative shall be provided with a written notice of the potential for such testing.
- B. The City of Fairborn will contract with a National Institute of Drug Abuse (NIDA) certified medical testing facility to provide drug/alcohol testing for employees as may be required in the Fitness for Duty Policy and Procedures.
- C. The testing facility will provide written assurance that persons sent for testing will be treated in a professional manner, with due regard for maintaining the integrity of the sampling and testing process, but with concern for the dignity of the applicant or employee in question. Records as to samples collected, and testing results will be kept by the testing facility to assure an adequate chain-of-custody.
- D. The testing facility shall be directed to have employees empty their pockets and follow DOT or other Federal guidelines before submitting an unwitnessed urine sample.
- E. The testing collection facility will be directed to divide the urine into two (2) samples – one (1) to be used by the testing facility and one (1) to be kept in storage for the required time

according to NIDA standards, which is also available for testing by the employee at another approved NIDA certified lab.

- F. The testing facility will be directed to perform a second confirming test (on a split sample obtained and preserved for that purpose) on all initial urinalysis screen tests with positive test results for substances of abuse. No person will be reported as having failed the test to the City of Fairborn until after the second confirming test has also resulted in a positive finding using the GC/MS.
- G. The cut-off limit for the BAC “positive” results shall be .04 percentile grams of alcohol per 210 liters of breath on the breath testing device and shall require EAP intervention in accordance with this policy. Any positive results for illegal drugs or abuse of legal drugs shall also require EAP intervention in accordance with this policy.
- H. Employees who test higher than .02 and less than .04 percentile grams of alcohol per 210 liters of breath shall be restricted from driving a vehicle for 24 hours and shall be retested before being allowed to drive.

42.06 The following definitions shall apply for purposes of this article.

- A. Controlled substance – Drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V. (Narcotics-Opiates, Narcotics-Opiium Derivatives, Hallucinogens, Depressants, Stimulants, Hallucinogenic Substances, Immediate Precursors, Narcotic Preparation)(Ohio Revised Code 3719.01)
- B. City of Fairborn Premises – Includes any building, parking lot, or other property owned or used by the City of Fairborn, including motor vehicles.
- C. Reasonable Suspicion – Based upon specific, documented work performance, observed behavior and/or appearance which is sufficient for at least two (2) supervisors to believe an employee may be abusing or dependent upon drugs or alcohol.

ARTICLE 43 **DURATION**

43.01 This Agreement shall become effective upon ratification by both parties, and shall remain in force and effect until 12:00 midnight, December 31, 2012 and thereafter for successive periods of one year, unless either party shall at least sixty (60) days prior to December 31, 2012 (or December 31 of any subsequent year if the Agreement shall have continued in effect) serve written notice on the other party of a desire to terminate or amend this Agreement. A notice of desire to amend shall specify the nature of the amendments desired. A notice of desire to amend shall have the effect of terminating the entire Agreement at 12:00 midnight on December 31, 2012 or of any later year, as the case may be, in the same manner as a notice of desire to terminate, unless before 12:00 midnight on December 31, 2012 or any subsequent year, all subjects of amendments proposed by either party have been disposed of by agreement or by withdrawal by the party proposing the same.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 12th day of August, 2010.

FOR: FAIRBORN PROFESSIONAL
FIRE FIGHTERS ASSOCIATION,
IAFF LOCAL 1235 AFL-CIO, CLC

FOR: CITY OF FAIRBORN, OHIO

By: Thomas P. O'Malley
Thomas P. O'Malley
President

By: Deborah McDonnell
Deborah McDonnell
City Manager

By: Manuel Neikov
Manuel Neikov
Bargaining Committee

By: Mike Riley
Mike Riley
Fire Chief

By: Mike Richert
Mike Richert
Bargaining Committee

By: John E. Thomas
John E. Thomas
Division Chief

By: Pat Ricketts
Pat Ricketts
Bargaining Committee

By: Sam S. Andes
Sam S. Andes
Division Chief

By: Brad Eckert
Brad Eckert
Bargaining Committee

By: Kelly Babcock
Kelly Babcock
Management Consultant

By: JR Rouff
JR Rouff
Bargaining Committee

By: _____
Henry Arnett, Esq.
IAFF Counsel

EXHIBIT "A"
JOB CLASSIFICATION AND WAGE RATES

Job Classification

The following pay grades for the indicated job classification shall be in effect as of the effective date of this Agreement. Entry level to remain in effect until employee counts toward staffing. Thereafter the employee will progress through the pay steps every 12 months.

<u>JOB CLASSIFICATION</u>	<u>PAY GRADE</u>
Firefighter	438
Fire Lieutenant	440

The following wage rates for the indicated pay grades shall remain in effect commencing upon ratification of this Agreement.

<u>PAY GRADE</u>	<u>STEP ENTRY</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	
438	H	20.4304	22.7004	23.9375	25.0573	26.2243	27.4143	28.5579	29.7478
	B	1,634.43	1,816.03	1,915.00	2,004.58	2,097.94	2,193.14	2,284.63	2,379.82
	A	42,495.03	47,216.73	49,789.78	52,119.02	54,546.41	57,021.59	59,400.33	61,875.22
440	H			29.0664	30.4201	31.8005	33.1271	34.5074	
	B			2,325.31	2,433.61	2,544.04	2,650.17	2,760.59	
	A			60,458.06	63,273.84	66,145.04	68,904.38	71,775.26	

Wages for the contract years 2011 and 2012 shall be determined as follows:

Either Party may reopen Exhibit A of this Contract for the purpose of negotiating wages only for 2011 and 2012. If the parties do not agree to the wage rates for either year, the parties shall follow the impasse procedure outlined in Article 39 of the Agreement. Any agreement on wages shall be included as an Appendix to this Agreement.

EXHIBIT "B"

AUTHORIZATION FOR PAYROLL DEDUCTION

NAME _____
DEPARTMENT _____

CLASSIFICATION _____
DIVISION _____

TO: CITY OF FAIRBORN, OHIO

I hereby authorize the City of Fairborn, Ohio to deduct, until further notice, the sum of \$ _____ from my wages each month for membership dues in the Fairborn Professional Fire Fighters Association, IAFF Local 1235, AFL-CIO, CLC, effective _____, 20__.

It is my understanding, will and desire that this authorization shall be revocable by written notice upon my request.

I also hereby authorize the City of Fairborn, Ohio, to accept and honor the written requests of the Fairborn Professional Fire Fighters Association, IAFF Local 1235, AFL-CIO, CLC, signed by its President and Secretary-Treasurer, to increase or decrease the amount of membership dues checked off from my wages.

DATE _____ EMPLOYEE _____

WITNESS _____ SIGNATURE _____

EXHIBIT "C"

CITY OF FAIRBORN

A F F I D A V I T

This is to certify that sick leave taken on _____ was

legitimately taken for the reason(s) stated below:

(Signature)

(Witnesses) (Date)

State of Ohio)
) SS
County of Greene)

Sworn to and subscribed in my presence this _____ day of _____, 20 _____.

(Notary)

EXHIBIT "D"

RETURN TO PERSONNEL

**PERSONNEL OFFICE
City of Fairborn
44 West Hebble Street
Fairborn, OH 45324**

**CITY OF FAIRBORN
ATTENDING PHYSICIAN'S STATEMENT**

To be completed by Employee:

Name: _____ Department _____

Nature of Illness or Injury: _____

Date of Injury or Illness: _____

Is this a work-connected injury? Yes No

If you answered yes to the above question, did you fill out an Injury Report? Yes No

RELEASE

I hereby authorize the attending physician of the above-named employee to release to the City of Fairborn any and all information they may have with respect to the above sickness or injury, including past and present medical history, diagnosis, consultations, treatments, operative procedures, x-rays, and pathological findings. I agree that a Photostat copy of this authorization shall be considered as effective as the original.

Employee's Signature _____ Date: _____

To be Completed by Attending Physician

Date first consulted by patient: _____ Date of next appointment: _____

Diagnosis or current condition of patient: _____

Is patient still in your care? Yes No

Expected treatment duration: _____

Date patient able to return to work: _____

May patient continue and/or resume normal duties without limitations? Yes No

May patient continue and/or resume light duty work? Yes No

Please explain physical limitations: _____

Physician's Name _____ Telephone Number _____

Business Address: _____

Physician's Signature _____ Date _____

Received at Personnel Office by _____ Date _____

(Initials)

PHYSICIAN RELEASE OF ILL OR INJURED FIRE PERSONNEL

INSTRUCTIONS FOR USE: This form is to be filled out and signed by the attending physician for a Fire Person who has been absent because of an injury, or who has been under a physician's care while absent because of an illness.

INFORMATION FOR PHYSICIAN: The Fire Chief, Division Chief, EMS Chief, Fire Marshall, Fire Lieutenants and Firefighters in this Department are required, during emergencies, to participate physically in whatever duties may be required to control structural and brush fires, do rescue work and any other emergency duty which may be required of the Fire Department.

When evaluating the physical capacity of a Fire Person in the above classes, for his or her return to duty after an illness or injury, consider that he/she may be subjected at any time to the following arduous duties and strains:

1. Lift weights of 50 pounds or more repeatedly.
2. Go long hours without sleep (24 hours or more).
3. Pull hose lines up two or three flights of stairs.
4. Drive engines on interstate highways and through heavy city traffic under emergency conditions with red lights and siren.
5. Be exposed to toxic fumes and heated gases.
6. Be exposed to overheating, chilling, and wet clothing.
7. Be aroused out of a sound sleep by fire alarm bells.

TO THE PHYSICIAN: It is extremely important to the employer that we are made aware of any light duty capabilities which the employee may be able to perform. In order to assist you in your opinion or description of the employee's physical duty restrictions or freedoms, would you please review his/her department's Light Duty Assignments and Traits listed below?

LIGHT DUTY EXAMPLES

1. Answering phones, typing, 2-way radio, office work, filing, researching, writing reports.
Inspections of Commercial Occupancies,
2. Pre-planning: a form of inspection-surveying commercial, industrial and institutional.
3. Janitorial duties sweeping, mopping, dusting, emptying garbage, cleaning, etc.
House number surveys.

PHYSICAL ACTIVITIES

1. Sitting, laying down.

Walking, writing; occasional bending, stooping, sitting.
2. Walking, writing, bending, stooping.
3. Stooping, bending, lifting light to medium (10 - 15 lbs), standing, walking.
Driving in car, sitting, motor vehicle operation, sitting prolonged periods, writing.

EXHIBIT "E"

Confidential

CITY OF FAIRBORN
SUBSTANCE ABUSE/CHEMICAL DEPENDENCY
Supervisory Checklist

Instructions: Supervisors shall use this form to document poor performance, behavior or appearance believed to be related to substance abuse. Use of this form does not mean an employee is chemically dependent. Only a professional, qualified to evaluate such problems, may diagnose chemical dependency. In using this form, be as specific as possible, giving dates, times, etc.

Employee Name _____ Employee No. _____

Position: _____ Supervisor: _____

WORK PERFORMANCE (check any applicable)

- Absenteeism (unexcused, excessive, patterned, bizarre excuses, frequent minor "illnesses")
- Tardiness (excessive late report, long meal breaks, leaving work early, afternoon "illness")
- On-the-Job Absenteeism (away from work area, frequent use of restroom, long breaks, excessive personal telephone calls)
- Difficulty in Concentration (inattention to detail, work requires greater effort or time, bad decision, poor judgment)
- Forgetfulness (difficulty in recalling or following instructions, increasing difficulty in performing complex tasks)
- Lowered Efficiency (missed deadlines, wasted supplies, complaints from co-employees about performance, undependable, varying periods of productivity)

Provide details of work performance problems identified (attach copies of attendance records, disciplines and other documentation, supporting problems)

BEHAVIOR (Check any applicable)

- | | |
|--|---|
| <input type="checkbox"/> Avoidance by Co-Employees | <input type="checkbox"/> Nervousness |
| <input type="checkbox"/> Overreaction to Criticism | <input type="checkbox"/> Irritability |
| <input type="checkbox"/> Avoidance of Managers | <input type="checkbox"/> Talkativeness |
| <input type="checkbox"/> Wide Swings in Mood | <input type="checkbox"/> Using Illness as Alibi |
| <input type="checkbox"/> Unreasonable Resentments | <input type="checkbox"/> Excessive use of mints, gum, candies, etc. |

Provide detailed explanation of any behavior checked: _____

APPEARANCE (Check any applicable)

- | | |
|--|--|
| <input type="checkbox"/> Hand Tremors | <input type="checkbox"/> Blood Shot Eyes |
| <input type="checkbox"/> Poor Muscle Control | <input type="checkbox"/> Odor of Alcohol |
| <input type="checkbox"/> Unsteady Gait | <input type="checkbox"/> Dull Eyes |
| <input type="checkbox"/> Constant Runny Nose | <input type="checkbox"/> Dilated Pupils |
| <input type="checkbox"/> Euphoria | <input type="checkbox"/> Sleepiness |
| <input type="checkbox"/> Detached Attitude | <input type="checkbox"/> Depression |
| <input type="checkbox"/> Hand Burns | <input type="checkbox"/> Deteriorating Personal Grooming |
| <input type="checkbox"/> Bruises | <input type="checkbox"/> Flushed Face |

Provide details as to any observed appearance problems checked _____

OTHER: Describe other symptoms of substance abuse about which you are aware. (Such as verifiable first-hand observation of excessive drinking, accidents or near-accidents, legal or financial problems): _____

A G R E E M E N T

**Fairborn Professional Firefighters Association,
IAFF Local 1235, AFL-CIO, CLC**

and

City of Fairborn, Ohio

EFFECTIVE:

January 1, 2007

THROUGH:

December 31, 2009