

K#29581

STATE OF OHIO  
DEPARTMENT OF REVENUE

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**AGREEMENT BETWEEN**  
**THE CITY OF BROADVIEW HEIGHTS, OHIO**  
**AND**  
**BROADVIEW HEIGHTS FIREMAN'S**  
**ASSOCIATION**  
**(Part Time Fire Fighters)**

**January 1, 2011 – December 31, 2012**

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**ARTICLE 1  
PREAMBLE**

Section 1. This Agreement is hereby entered into by the City of Broadview Heights, hereinafter referred to as the "Employer", and the Broadview Heights Fireman's Association, hereinafter referred to as the "BHFA".

**ARTICLE 2  
BHFA RECOGNITION**

Section 1. The Employer recognizes the BHFA as the sole and exclusive representative for the purpose of negotiating wages, hours, terms and other conditions of employment for all part-time fire fighters, including the part-time lieutenant classification, as certified by the State Employment Relations Board and clarified by the State Employment relations Board on March 26, 1998.

**ARTICLE 3  
BHFA REPRESENTATION**

Section 1. Staff representatives will be recognized by the Employer as BHFA representatives in accordance with this Agreement and upon the receipt of a letter so identifying them and signed by the President of the BHFA or his designee.

Section 2. The BHFA shall submit in writing the name of the employee to act as BHFA representative for the purpose of processing grievances as defined in the Grievance Procedure. The Employer shall be notified in writing of changes of all officers and/or representatives. Employees shall not be permitted to function as a BHFA representative until the BHFA has presented the Employer with written certification of that person's selection.

Section 3. The BHFA shall provide to the Employer an official roster of its officers and BHFA representatives which is to be kept current at all times and shall include the following:

- (1) Name;
- (2) Address;
- (3) Home telephone number; and
- (4) BHFA office held.

Section 4. Rules governing the activity of the BHFA representatives are as follows:

(1) The BHFA agrees that no official of the BHFA (employee or non-employee) shall interfere, interrupt, or disrupt the normal work duties of other employees. The BHFA further agrees not to conduct BHFA business during working hours except as authorized, in writing, by the Chief or his designee.

(2) The BHFA shall not conduct BHFA activities in any work area without approval of the Chief or his designee.

(3) All regular monthly meetings of the BHFA may be conducted in the "Meeting Room" at station No.1, subject to the approval of the Chief or his designee, which approval shall not be unreasonably withheld.

**ARTICLE 4  
NO STRIKE/LOCKOUT**

Section 1. Inasmuch as this Agreement provides machinery for the orderly resolution of grievances,

the Employer and the BHFA recognize their mutual responsibility to provide for uninterrupted services to the citizens of Broadview Heights. Therefore, the BHFA agrees that neither it, its officers, agents, representatives, nor members will authorize, instigate, cause, aid, condone or participate in any strike, work stoppage, or any other interruption of operations or services of the Employer by its members.

Section 2. Any employee who participates in or promotes any such strike related activities as described in Section 1 above, shall be subject to disciplinary action on an individual basis, up to and including discharge.

Section 3. The Employer agrees that neither it, its agents, or representative, individually or collectively, will authorize, instigate, cause, aid or condone any lockout of members of the BHFA, unless those members shall have violated Section 1 of this Article, provided, however, that any such actions by the Employer shall be subject to the Grievance Procedure as contained in Article 11 herein.

## **ARTICLE 5 PLEDGE AGAINST DISCRIMINATION AND COERCION**

Section 1. The provision of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, race, color, creed, national origin or disability. The BHFA shall share equally with the Employer the responsibility for applying this provision of the Agreement.

Section 2. All references to employees in this Agreement designate both sexes and wherever the male gender is used, it shall be construed to include male and female employees.

Section 3. The Employer agrees not to interfere with the rights of Employees to become members of the BHFA, and there shall be no discrimination, interference, restraint or coercion by the Employer or any Employer representative against any employee because of BHFA membership.

Section 4. The BHFA recognizes its responsibility as bargaining agent and agrees to equally represent all employees in the bargaining unit without discrimination, interference, restraint or coercion.

Section 5. The BHFA agrees not to interfere with the rights of employees to not become members of the BHFA, and there shall be no discrimination, interference, restraint, or coercion by the BHFA or its representatives against any employee exercising the right to abstain from membership in the BHFA or involvement in BHFA activities.

## **ARTICLE 6 MANAGEMENT RIGHTS**

Section 1. The BHFA shall recognize the right and authority of the Employer to administer the business of the City and the Fire Department and in addition to other functions and responsibilities which are recognized by law, the BHFA shall recognize that the Employer has and will retain the full right and responsibility to direct the operations of the City and the Fire Department, to promulgate rules and regulations and to exercise the following rights, except as limited by this Agreement and shall include, but not be limited to the following:

- (a) To manage and direct its employees, including the right to select, hire, promote, transfer, assign, evaluate, layoff, recall, suspend, discharge or discipline for just cause, and to maintain order among employees, provided, however, that any such management rights are subject to the specific provisions contained in this agreement, including but not limited to those contained in Article 7 and Article 11;

- (b) To manage and determine the location, type and number of physical facilities, equipment, programs, and the work to be performed;
- (c) To determine the City's goals, objectives, programs and services, and to utilize personnel in a manner designed to effectively meet those purposes;
- (d) To determine the size and composition of the work force and the City's organizational structure, including the right to relieve employees from duty due to lack of work or lack of funds;
- (e) To determine work schedules and to establish the necessary work rules for all employees.
- (f) To determine when a job vacancy exists, the duties to be included in all job classifications, and the standards of quality and performance to be maintained;
- (g) To determine the necessity to schedule overtime and the amount required thereof;
- (h) To maintain the security of records and other pertinent information;
- (i) To determine and implement necessary actions in emergency situations.
- (j) To determine the department's budget and uses thereof;
- (k) To maintain the efficiency of operations;
- (l) To exercise complete control and discretion over department organization and the necessary technology to perform the work;
- (m) To require employees to maintain a medically acceptable physical fitness condition consistent with the duties and responsibilities of the position occupied; and
- (n) To exercise any and all prerogatives of management.

**ARTICLE 7  
LAYOFF AND RECALL**

**Section 1.** Seniority shall be determined as of the date of appointment to the Broadview Heights Fire Department.

**Section 2.** In the event it becomes necessary to lay off a part-time firefighter to a lack of funds, lack of work or other just cause, the employee with the least seniority in terms of service shall be the first laid off.

**Section 3.** In the event of a re-hire following a lay-off, the last firefighter laid off shall be the first rehired.

**Section 4.** The City shall maintain a layoff list which shall contain the name, address, telephone number, date of hire and date of layoff for each employee so laid off and shall notify the laid off firefighter of his/her eligibility for recall by certified mail. If the employee fails to report within five (5) days of notification, the City shall offer the position to the next most senior employee on the lay off list.

**Section 5.** Seniority shall be the sole consideration in determining eligibility for purpose of rehire.

**ARTICLE 8  
RULES AND REGULATIONS**

Section 1. The Chief may from time to time promulgate reasonable rules, standards of conduct, regulations, policies, and/or procedures for and in furtherance of employment provisions and may amend them, as he deems necessary.

Section 2. Violation by an employee of any rules, standards of conduct, regulation, policies, and or procedures shall be grounds for disciplinary action.

Section 3. The Employer agrees that this function shall be exercised in a manner consistent with the terms of this Agreement subject to the rights of employees to lodge a grievance as provided for in this Agreement.

**ARTICLE 9  
PROBATIONARY PERIOD**

Section 1. Each employee appointed to a position within the Fire Department shall serve a non-contestable probationary period of one (1) full year of active service with the Broadview Heights Fire Department.

**ARTICLE 10  
CORRECTIVE ACTION, DISCHARGE OR SUSPENSION**

Section 1. No non-probationary employee shall be demoted, suspended, discharged or removed, except for just cause.

Section 2. Prior to any discipline being imposed, the non-probationary employee shall be given a hearing to respond to the Chief of Fire or his designee.

Section 3. Non-probationary employees, who are suspended, demoted or discharged, shall be given written notice regarding the reasons for the disciplinary action prior to the imposition of any disciplinary action or disciplinary hearing.

**ARTICLE 11  
GRIEVANCE PROCEDURE**

Section 1. The grievance procedure is a formal mechanism intended to assure that grievances arising from those misunderstandings that will inevitably develop in the day-to-day activities of public service are promptly heard, answered, and appropriate action taken to correct a particular situation.

Section 2. The term "grievance" shall mean any allegation that there has been a breach, misinterpretation, or improper application of this Agreement. It is not intended that the grievance procedure be used to affect changes in the Articles of this Agreement nor those matters that are controlled by the provisions of the United States or Ohio Constitutions.

Section 3. All grievances must be processed at the proper step in the progression in order to be

considered at the subsequent step.

A grievance may be brought by any non-probationary member of the bargaining unit. Where a group of bargaining unit members desire to file a grievance involving a situation affecting each member in the same manner, one member selected by each group, shall process the grievance but all employees involved must sign the grievance.

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

Any grievance not answered by management within the stipulated time limits may be advanced by the employee to the next step in the grievance procedure. Time limits on grievances may be waived by mutual written consent of the parties.

All written grievances shall contain the following information to be considered:

- (a) Aggrieved employee's name and signature;
- (b) Aggrieved employee's classification;
- (c) Date grievance was filed in written;
- (d) Date, time and place the grievance occurred;
- (e) Description of incident giving rise to the grievance;
- (f) Articles and Sections of Agreement violated; and
- (g) Resolution requested.

Section 4. The following steps shall be followed in the processing of a grievance, in order for an alleged grievance to receive consideration. In the event the grievance is not referred to the next step within the time limits prescribed, the grievance shall be considered resolved based upon the Employer's last answer.

#### Step 1- Written Grievance With Chief

In order for the grievance to be recognized, it must be filed within five (5) calendar days from the date of the incident-giving rise to an alleged grievance. The Chief or his designee shall meet within three (3) days with the grievant, who may be accompanied by a representative of the BHFA, and investigate the grievance and shall provide a written answer within five (5) calendar days following the date of the meeting.

#### Step 2 - Mayor

Where the grievant is not satisfied with the Step 1 response, the aggrieved may submit the original grievance to the Mayor or his designee within five (5) calendar days of the receipt of the Step 1 answer. The Mayor or his designee shall meet within fifteen (15) days with the grievant, who may be accompanied by a BHFA representative. The Mayor or his designee shall provide a written answer within ten (10) calendar days of the date of the meeting.

#### Step 3 - Arbitration

If the grievance is not satisfactorily settled in Step 2, the BHFA may submit the grievance to final and binding arbitration by submitting a request to the Federal Mediation and Conciliation Services (FMCS) for a list of seven (7) arbitrators, with a copy of such request delivered to the Mayor within ten (10) days of the date of the answer at Step 2 is received by the BHFA.

Upon receipt of the list of seven (7) arbitrators, the parties shall select an arbitrator within ten (10) working days from the date the list is received. Prior to striking, either party shall have the option to reject the list of names provided by the FMCS and request another list. Each party may make only one (1) rejection. The parties shall use the alternate strike method from the list of seven (7) arbitrators submitted to the parties by the FMCS. All procedures relative to the hearing shall be in accordance with the rules and regulations of the American Arbitration Association and this Agreement.

The arbitrator shall hold the arbitration promptly and issue his decision within a reasonable time thereafter. The arbitrator shall limit his decision strictly to the interpretation, application, or enforcement of those specific articles and/or sections of this Agreement in question. The arbitrator's decision shall be consistent with applicable law.

The arbitrator shall not have the authority to add to, subtract from, modify, change, or alter any provision of this Agreement; nor add to, subtract from, or modify the language therein in arriving at his determination on any issue presented that is proper within the limitations expressed herein. The arbitrator shall expressly confine himself to the precise issues submitted for arbitration. The arbitrator shall be without authority to recommend any right or relief on the alleged grievance occurring at any time other than the contract period in which such right originated or to make any award based on the rights arising under any previous Agreement, grievance or practices. The arbitrator shall not establish any new or different wage rates not negotiated as part of this Agreement. In the event of a monetary award, the arbitrator shall limit any retroactive settlement to the date the grievance was presented to the Employer in Step 1 of the grievance procedure.

Either party before the arbitration hearing of the grievance, on the grounds that the matter is non-arbitrative or beyond the arbitrator's jurisdiction may raise the question of the ability to arbitrate a grievance. If applicable, the first question to be placed before the arbitrator will be whether or not the alleged grievance is arbitrative. If the arbitrator determines the grievance is within the purview of arbitration, the alleged grievance will be heard on its merits before the same arbitrator.

The decision of the arbitrator will be final and binding upon the BHFA, the employee, and the Employer. The losing party shall pay all costs directly related to the services of the arbitrator. Should the decision not affirm the position of either party, the arbitrator shall determine which party shall pay the cost of the arbitrator, or in what proportion the parties shall share the costs. In the event an arbitrator is hired, and before the arbitration process begins one of the parties concedes to the other party, the party who concedes shall pay any and all costs incurred by the other party.

## **ARTICLE 12 OVERTIME**

Section 1. Overtime shall be defined as hours worked in excess of one hundred and six (106) during a fourteen (14) day work period consistent with Fair Labor Standards Act (FLSA).

## **ARTICLE 13 UNIFORM ALLOWANCE**

Section 1. The Employer shall furnish employees of the Fire Department with boots, coat, bunker, pants, helmet, gloves and all other necessary equipment on a one-time basis only. If any of the above equipment is damaged in the line of duty an exchange may be permitted as determined by the Chief or his designee.

Section 2. Each employee, at the time of appointment, shall be issued the following:

1. 3 uniform shirts
2. 3 golf shirts
3. 3 tee shirts
4. 3 work pants
5. 1 sweatshirt
6. 1 jacket
7. 1 pair work shoes
8. 1 ball cap
9. 1 belt

**Section 3.** On January 1<sup>st</sup>. of each year, each employee, that will work, a minimum of 500\* hours for that year, shall be eligible for an annual uniform allowance in the amount of \$ 600.00. Employees working less than 250 hours in that year shall only be eligible for an allowance of \$300.00 in that year. In the event an employee works between 250 hours and 500 hours for that year the employee's total yearly clothing allowance shall be equal to the following amount :

$$\text{Clothing Allowance} = (((\text{total hours worked} - 250 \text{ hours}) / 250 \text{ hours}) \times \$300) + \$ 300.$$

This allowance shall be for the purpose of securing uniforms, clothing or equipment as approved by the Chief or his designee. In the event the employee has not been employed for a full year prior to January 1<sup>st</sup>, or if the employee leaves employment before December 31, the allowance amount shall be pro-rated. A \$50 dollar carry over is allowed from year to year with the stipulation that an employee's clothing allowance can not exceed \$650.00 in any one year.

\* This stipulation of working a minimum of 500 hours shall only be valid when the total posted available hours for part-time fire fighters sign up exceeds the number of active part-time firefighter's times 500 hours times 120%.

## ARTICLE 14 COMPENSATION SCHEDULE

### Section 1.

The compensation schedule for employees covered by this agreement shall be as follows:

	<b>Effective 1-1-2011</b>	<b>Effective 7-1-2011</b>	<b>Effective 1-1-2012</b>	<b>Effective 7-1-2012</b>
<b>First year of service</b>	\$11.08/hour	\$11.19/hour	\$11.30/hour	\$11.67/hour
<b>Second year of service</b>	\$14.77/hour	\$14.92/hour	\$15.07/hour	\$15.56/hour
<b>Third year of service</b>	\$18.45/hour	\$18.63/hour	\$18.82/hour	\$19.44/hour
<b>Lieutenant Salary</b>	\$3,273/year	\$3,306/year	\$3,339/year	\$3,372/year

Hours worked shall be rounded off to the nearest ¼ hour.

Firefighters will be guaranteed two (2) hours for non-scheduled time. Non-scheduled time shall be defined as time not scheduled less than twenty- four hours prior to the actual start time of work. All non scheduled time shall be paid at one and one-half (1 ½) their regular hourly rate for the entire non-scheduled time worked..

NOTE: Depending upon prior experience and qualifications, an employee may be hired and/or moved at the Employer's discretion, through any of the above steps.

## ARTICLE 15 PARAMEDIC PAY

**Section 1.** Starting the third year of service, employees qualified as a "Paramedic" and working a minimum of 500\* hours in that year, shall be paid an additional \$1050.00 per year to be paid in two separate payments of \$525.00 each - one payment to be paid during the first pay period in June and the other payment to be paid in the first pay period following December 31. Employees qualified as a "Paramedic" and working less than 500\* hours in that year shall be paid an additional \$525.00 per year to be paid in one separate payment of \$525.00 during the first pay period in June only. As used in this

section, qualified "Paramedic" shall mean an employee of the Fire Department who has successfully completed a "Paramedic" course, certified by the State of Ohio, and under the standards established by the State of Ohio that govern certifications, including any continuing education requirements. If the employee performs duties as a "Qualified Paramedic" for only part of the year, or remains with the Fire Department for only part of the year, the payment shall be paid pro-rated.

Employees qualified as paramedics the first year of service will receive no paramedic pay. Employees qualified as paramedics the second year of service will receive 50% paramedic pay.

\\* This stipulation of working a minimum of 500 hours shall only be valid when the total posted available hours for part-time fire fighters sign up exceeds the number of active part-time firefighters times 500 hours times 120%.

## **ARTICLE 16 HOLIDAY PREMIUM PAY**

Section 1. Employees scheduled to work any of the following eight (8) holidays shall be paid a premium of time and one half (1 1/2) their regular hourly rate for all such hours worked:

New Years Eve	Labor Day
Easter	Thanksgiving
Memorial Day	Christmas Day
July 4 <sup>th</sup>	Christmas Eve
New Years Day	

Section 2. Any employee who works one of the following days shall receive an additional stipend of \$48.00 for each 12-hour tour worked. This amount will be pro-rated for time worked that is more or less than a twelve-hour tour.

New Years Eve	Christmas Day
Easter	Christmas Eve
Thanksgiving Day	

Section 3. For purposes of Holiday Compensation in Section 1 above, the holiday shall be considered as the twenty four (24) hour period commencing on or about 8:00 am of the Holiday specified in Section 1 above.

## **ARTICLE 17 BENEFITS**

Section 1. The Employer shall furnish employees covered by this Agreement with death and disability benefits as contained in "Benefit Proposal II" in effect on September 8, 2008. Insurance with equal or better benefits will be researched at the end of the present policy term, December 31, 2008. If better coverage at a like policy cost is available, the city and BHFA shall mutually agree to enter into a policy with said carrier.

Section 2. Employees covered by this agreement shall not be eligible for the following fringe benefits: Funeral leave, Jury Duty, Longevity, Medical Insurance, Sick Leave, Disability Leave, Vacations and Holidays.

**ARTICLE 18  
DRUG AND ALCOHOL TESTING**

Section 1. The parties agree to abide by the City-wide Drug and Alcohol Testing Policy adopted by the City. A copy of that policy is attached hereto.

**ARTICLE 19  
DURATION OF AGREEMENT**

Section 1. This Agreement shall be effective as of January 1, 2011, and shall remain in full force and effect through December 31, 2012 unless otherwise terminated as provided herein.

Section 2. This Agreement may only be amended or modified during the life of the Agreement by the express mutual written consent of both parties.

Section 3 If this document is executed past the above listed effective date, listed in section 1, a retroactive check shall be issued to each affected employee on the following scheduled pay day after the executed date of this document. Each employee shall be fully compensated for the additional pay and benefits that this contract affords them for this period.

**SIGNATURE PAGE**

IN WITNESS WHEREOF, parties have hereunto signed by their authorized Representative this day of August 20, 2012.

FOR THE EMPLOYER

  
\_\_\_\_\_  
Mayor Sam Ajai

FOR THE BHFA

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Approved as to legal Form and Correctness:

  
\_\_\_\_\_  
Vincent Ruffa  
Law Director

Approved by Ordinance No. 112-12 Passed this 20 day of August, 2012.

## **CITY DRUG AND ALCOHOL TESTING**

Section 1.     Policy: The parties are concerned about the effects of alcohol abuse and illegal drug use. Such use and abuse adversely affects work quantity and quality, jeopardizes employee health, and can create an unacceptable and dangerous work environment. Further, substance abuse is contrary to our commitment to excellence. Therefore, in order to promote a safe, healthy, and productive work environment the parties agree to implement the following substance abuse procedures.

Section 2.     Procedure: Employees are prohibited from:

1. Possessing, using, buying, selling, transporting, or transferring illegal drugs while working, while on City property, or while operating City vehicles.
2. Possessing, consuming, buying, selling, transferring or transporting alcoholic beverages while working, while in City vehicles, unless specifically authorized in advance in writing by management.
3. Any use of controlled substances, which are defined under the regulations as marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
4. Reporting for duty or remaining on duty while having an alcohol concentration of 0.04 or greater.
5. Any use of alcohol that could affect the performance of the employee including use during the eight (8) hours prior to work, or until an employee undergoes a post-accident alcohol test.

Section 3.     Definitions:

1.             "Under the influence" means, with respect to drugs and alcohol, the presence in an employee's system of any detectable amount of alcohol or drug, or its metabolites, and speech, actions, or an appearance which lead a supervisor to reasonably suspect that the employee's ability to perform his or her job safely and effectively has been impaired by drugs or alcohol.
2.             The term "drugs" includes marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), pursuant to Federal and Ohio law.

Section 4.     Testing Procedure:

1.             The following situations will result in the selection of employees for drug and/or alcohol testing:
  - a.             Pre-employment. All newly-hired employees and employees promoted or transferred into a safety-sensitive position must complete a drug test with

a verified negative result prior to beginning employment or performing any safety-sensitive functions.

- b. Periodic. All affected employees may be drug tested in conjunction with their periodic physical at the City's expense.
- c. Random. All affected employees will be subject to random drug and alcohol testing and must report immediately upon being informed of their random selection.
- d. Reasonable Cause. Any affected employee shall be escorted to a collection site and provide a specimen if, in the opinion of their supervisor(s), there is reasonable cause to suspect the use of drugs or alcohol based on specific, contemporaneous, articulable observations concerning the employee's appearance, behavior, speech, or odors.
- e. Post Accident. Immediately upon a supervisor/management decision that an employee has been involved in an accident while on duty or while acting in his or her capacity as an employee or representative of the City, the employee must submit to a urine collection at a designated collection site to test for the presence of drugs. Such urine test shall be conducted no later than thirty-two (32) hours after the accident. A post-accident alcohol test shall also be administered, generally within two (2) hours, but no later than eight (8) hours after the accident. Tests conducted by authorized federal, state or local law enforcement officials for drugs and/or alcohol may be used in lieu of the City conducting its own testing. An employee shall be subject to testing following an accident involving loss of human life if he/she was performing a safety-sensitive function. An employee involved in a nonfatal accident shall be subject to post-accident testing if he/she received a citation for a moving violation arising out of an accident.
- f. Follow-up Testing. After a previous positive test, the employee will be subject to unscheduled testing as required by the DOT and consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. Follow-up testing shall not exceed sixty (60) months from the date of the employee's return to duty. Follow-up testing may also be conducted pursuant to the terms of a last chance agreement voluntarily entered into between the City and the employee.
- g. Return to Duty. An employee who tests positive for drugs or alcohol shall not be permitted to return to duty until he/she produces a negative test result and completes any recommended rehabilitation.

- 2. Employees will be directed to cooperate in urine and alcohol tests under the following circumstances:

- a. Post accident as described above.
  - b. The appearance, speech, or actions of an employee causes a supervisor to reasonably suspect that the employee's ability to work may be impaired by alcohol or drugs.
  - c. As part of a required physical examination in which the employer will cover the cost of the test.
  - d. The employee tested positive previously and agreed to or is required to participate in follow-up testing.
  - e. The employee is selected at random for drug and/or alcohol testing.
  - f. Prior to returning to work if the employee has previously tested positive.
  - g. The employee is promoted or transferred into a safety-sensitive position from any non-safety sensitive position.
3. Employees who refuse to be tested are subject to discipline up to and including, discharge, depending upon the circumstances and the requirements of applicable law. Each employee shall be paid his/her regular hourly wage for the time involved in taking any drug/alcohol test required by the City.
  4. All applicants for employment must submit to pre-employment testing for evidence of drug use. Refusal of an applicant to be tested will result in the applicant not being hired. The City will obtain, according to DOT regulations, information on positive alcohol and controlled substances tests and refusals to be tested within the preceding two (2) years from the previous employers. This information will be reviewed no later than fourteen (14) days after the employee performs safety-sensitive functions.
  5. Urine specimens will be collected at a designated collection site under circumstances designed to prevent sample switching or tampering. Urine specimens will be sealed and sent via courier to a certified lab for testing. Detailed records will be kept to prevent misidentification of samples.
  6. The following protocol will apply to all specimen collections:
    - a. The applicant/employee will provide a urine sample at the assigned collection site at the appointed time.
    - b. The applicant/employee will participate in the chain of custody procedures in order to insure accurate collection by:

- (1) providing photo identification;
  - (2) completing and signing consent, release of information, and Chain of Custody forms; and
  - (3) following urine collection procedures in cooperation with the collection site.
- c. If the applicant/employee refuses to provide the specimen for drug or alcohol testing, the applicant may not be hired and the employee will be subject to discipline including discharge.
7. All positive urine screens will be confirmed through GC/MS testing (Gas Chromatography/Mass Spectrometry) before any discipline is imposed or hiring decisions are made.
8. An independent Medical Review Officer (MRO) will review all drug tests performed by the laboratory. The MRO is to determine whether positive test results indicate illegal drug use or whether other medical explanations could account for the result. The MRO will attempt to contact the employee prior to notifying the City of the results.
9. On all "positive" drug screen test results, the MRO will make reasonable efforts to first contact the applicant/employee and review the findings. If the applicant/employee cannot be reached during the above-mentioned time frame, City management will be contacted and informed to contact the applicant/employee and have such person contact or make themselves available to be contacted by the MRO to review the findings. If the applicant/employee does not make himself/herself available to be contacted by the MRO, the applicant may not be hired and an employee will be subject to discipline including discharge unless valid circumstances unavoidably prevented the employee from contacting the MRO in a timely manner.
10. Confidentiality & Privacy. The City will attempt to ensure that all aspects of the testing process are as private and confidential as reasonably practical. As such, the City shall maintain records related to its substance abuse programs including employee test results in a secure location with controlled access. Actual test results will be provided to supervisors and managers who have a need to know such information; to the person tested; and any person permitted or required by law or regulation to receive such information including a subsequent employer. Except as required by law, test results will not be disclosed to co-workers, an employee's family, uninvolved supervisors, or law enforcement authorities without the specific permission of the person tested.

11. The City will, however, inform the police of trafficking in illegal drugs by employees or other criminal activity and will turn over any illegal drugs confiscated on City property to the police.
12. Consequences of Testing Positive. Employees who provide valid pre-dated prescriptions for the substance(s) for which they test positive will not be disciplined.
13. The consequences of testing positive may result in discipline including termination and refusal to submit to a test will result in termination of employment. Each case shall be reviewed on its own merits. A "positive test" for purposes of alcohol testing shall mean an alcohol concentration of 0.04 or greater. However, an employee who is found to have an alcohol concentration of 0.02 or greater, but less than 0.04 shall not be permitted to perform safety-sensitive functions. A "positive test" for purposes of drug testing shall mean the presence of a drug above the levels prescribed by DOT. In the event that the Employer elects not to terminate an employee for testing positive, the Employer may condition reinstatement upon successful completion of any treatment recommended and/or approved by the MRO. An employee who undergoes such treatment shall do so at his or her expense if not fully covered by applicable insurance. Additionally, an employee undergoing recommended treatment as a condition to reinstatement may utilize sick or other available leave, but if none is available shall be placed on unpaid leave.
14. Voluntary Treatment And Counseling. (Prior to detection or selection for testing.) The City shall reasonably accommodate an employee's substance abuse problem by granting an employee's request for treatment/rehabilitation, including treatment or rehabilitation through the employee assistance program. Employees who request leaves of absence for treatment will not be subject to discipline. These unpaid leaves will be approved by management and the employee must agree to abide by the "Last Chance Agreement". Employees may not, however, escape discipline by first requesting such treatment or leaves after being selected for testing or violating City policies and rules. Such requests for treatment will be kept confidential in accordance with federal and state law.
15. The City will establish an employee assistance program which will include a committee of an equal number of City and Union representatives to review requests and assist in the preparation of a plan for an employee who feels he or she may have a substance abuse problem. Such employees coming to the employee assistance program for help will not be disciplined or retaliated against.
16. Employees caught possessing, using, selling, buying or transferring drugs or alcohol while at work, on City premises, or while using City vehicles will be terminated.

17. Employees arrested for selling drugs to, or buying them from another employee will be suspended without pay and if convicted, terminated. Depending on the circumstances, employees arrested for and convicted of other drug offenses may also be terminated.
18. Employees are responsible for their conduct and actions while under the influence and will be subject to disciplinary actions for any policy or rule violations in an impaired state. Impairment due to drugs or alcohol shall not be construed so as to condone or exonerate an employee or be considered a justifiable defense or mitigating circumstances for any improper actions, violations of City policy and procedures, or poor performance.
19. Supervisor and Employee Training. The City will ensure that persons authorized to determine reasonable suspicion, including Union representatives, are trained to recognize the symptoms of impairment and intoxication. Further, employees of the City shall be provided a copy of this policy and information pertaining to testing procedures, conduct that is prohibited, the effects of drugs and alcohol, and the consequences for violations of the policy.

**FISHER & PHILLIPS LLP**  
ATTORNEYS AT LAW

William E. Blackie, III  
*Of Counsel*

STATE EMPLOYMENT RELATIONS BOARD

**Cleveland**  
9150 South Hills Boulevard  
Suite 300  
Cleveland, OH 44147

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(440) 838-8800 Tel  
(440) 838-8805 Fax

Writer's E-mail:  
wblackie@laborlawyers.com

July 18, 2013

State Employment Relations Board  
65 East State Street, Suite 1200  
Columbus, Ohio 43215-4213

**Re: The City of Broadview Heights and Broadview Heights Fireman's Association  
(Part Time Fire Fighters)**

Dear Sir/Madam:

Enclosed please find the fully executed Collective Bargaining Agreement for the period January 1, 2011 through December 31, 2012 for The City of Broadview Heights, Employer, and the Broadview Heights Fireman's Association. We kindly ask that you file the fully executed Agreement in accordance with usual practices.

I do not believe that a Notice to Negotiate was filed with SERB in connection with this matter. If one is necessary in order to complete the filing, please let us know.

Very truly yours,



William E. Blackie  
FISHER & PHILLIPS LLP

WEB:tmb  
Enclosure