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## **Labor Agreement**

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**Between**

**AFSCME Local #3629**

**And**

**The City of Newton Falls**

**Effective January 1, 2011**

**To**

**December 31, 2013**

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## PREAMBLE

This Agreement is made and entered into by and between the City of Newton Falls, Ohio, hereinafter referred to as the "City", and Local #3629 of Ohio Council #8 of the American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as the "Union."

The Purpose of this Agreement is to provide for an orderly collective bargaining relationship between the City and the Union; to enable employees covered by this Agreement to participate through Union representation in the establishment of terms, conditions, wages and fringe benefits of their employment; to secure a prompt and fair disposition of grievances; and to establish a peaceful procedure for the resolution of differences as to the terms of this Agreement.

## **Article 1** RECOGNITION

**Section 1.1** - The City recognizes the Union as the exclusive representative for all full-time employees in the following job classifications for the purpose of establishing rates of pay, wages, hours, fringe benefits and other conditions of employment.

<b>Clerk I, II &amp; III</b>	<b>Laborer</b>
<b>Maintenance Worker I, II, &amp; III</b>	<b>Lineman Apprentice I, II</b>
<b>Lineman I, II, &amp; III</b>	<b>Senior Lineman</b>
<b>Maintenance Relief Operator Apprentice</b>	<b>Maintenance Relief Operator I, II, &amp;</b>
<b>III Water Apprentice Operator</b>	<b>Water Operator I, II, &amp; III</b>
<b>Wastewater Apprentice Operator</b>	<b>Wastewater Operator I, II, &amp; III</b>

**Section 1.2** - The City Manager or his designee will serve as the exclusive representative of the City. All contacts regarding this contract and the interpretation & implementation thereof by the Union are to be made to the City Manager.

**Section 1.3** - It is understood that this Agreement shall not in any way abridge the right of any individual to refrain from affiliation with the Union.

**Section 1.4** - Both the City and the Union recognize their respective responsibilities under Federal and State Civil Rights Laws, Fair Employment Practice Act, and other constitutional and statutory requirements. Therefore, both parties hereby reaffirm their commitments, legal and moral, to not discriminate in any matter relating to employment on the basis of race, color, creed, national origin, religion, age, sex, physical or mental condition, or Union affiliation or in regard to any other matter deemed by law to be discriminatory now or in the future.

**Section 1.5** - The City agrees that employees shall not suffer general or sexual harassment at the workplace. The Union can submit such a complaint directly to Step 2 of the grievance procedure. Sexual harassment may be considered a violation of the 1964 Civil Rights Act. Sexual harassment is not a consenting relationship between adults and is defined as

including, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- A. Submission is either an explicit or implicit term or condition of employment;
- B. Submission to, or rejection, is used as the basis for employment decisions affecting the person who did the submitting or rejecting; or
- C. Its purpose unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

General harassment is defined as any conduct other than sexual harassment that has the purpose or effect of creating an intimidating or hostile work environment that unreasonably interferes with an individual's work performance.

**Section 1.6** - The City agrees that there shall be no discrimination, interference, restraint, coercion, or reprisal by the City against any employees, or any applicant for employment or promotion within covered job classifications, because of Union membership or because of any lawful activity in an official capacity on behalf of the Union.

**Section 1.7** - Upon reasonable notification to the City Manager or his designee, Union Staff Representatives may enter the various City departments for purposes of determining whether the provisions of this Agreement are being observed and for attending meetings with the City.

**Section 1.8** - It is hereby agreed that all employees presently covered by this Agreement who are members of the Union on its effective date shall remain members and subject to Union by laws for the duration of this Agreement. Any new hire of the City, who elects to become a member in good standing, shall remain a member for the duration of this Agreement.

All Bargaining Unit employees who sixty (60) days from the date of hire are not members in good standing of the Union shall pay a "fair share fee" to the Union as a condition of employment. The Treasurer of the Local Union shall certify the fair share fee amount to the City.

The deduction of the fair share fee from any earnings of the employee shall be automatic and does not require a written authorization for payroll deduction. Payment to the Union of fair share fees shall be made in accordance with the regular dues deductions as provided herein.

The amount deducted monthly shall be equal to the Union dues deducted from Union members; however, a rebate procedure shall be established to provide for a rebate of expenditures made by the Union in support of partisan politics or ideological causes not germane to the work of employee organization and the realm of collective bargaining. The aggregate fair share fees deducted shall be transmitted to the treasurer of the Local Union along with regular Union dues deductions.

It is specifically agreed that the City assumes no obligation, financial or otherwise, arising out of the provisions of this Article, and the Union hereby agrees that it will indemnify and hold the City harmless from any claims, actions or proceedings by any employee arising from deductions made by the City hereunder.

Once the funds are remitted to the Union their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

**Section 1.9** - The City agrees that monthly Union dues and initiation fees in whatever sum authorized by the Union shall be deducted from the employee's pay pursuant to its receipt from the employee of a written authorization.

**Section 1.10** - Deductions shall be made from the pay earned each month. In the event an employee who has authorized such deduction is not entitled to receive any pay in that given period, then such deduction shall be made from the next available pay period. In the event of termination or resignation, the City shall have no responsibility to collect back Union dues.

**Section 1.11** - The City's obligation to make deductions shall terminate automatically upon termination of employment or transfer to a job classification outside this Agreement.

**Section 1.12** - Upon written notification by the Union to the City, Union Dues and Fair Share Fee deductions shall be made in the following manner:

- a) All dues and fair share fee deductions shall be transmitted to the Union no later than the tenth (10th) working day following the end of the last pay period of the month in which the deductions were made. These deductions shall be forwarded to the Controller of AFSCME Ohio Council 8, 6800 North High Street, Worthington, Ohio 43085-2512.
- b) Two lists will accompany each remittance of check-off money; (1) An alphabetical list of the name, social security number and current address of each employee for whom a deduction was made and (2) An alphabet list of the name, social security number and address of each employee who may have been dropped from the previous check-off list and the reason each was dropped.
- c) Payment to the Union of Fair Share Fees deduction will be made according to the same provisions of this Agreement that govern the payment of the regular dues deductions. Payment of the fair share deductions will be accompanied by an alphabetical list of the name, social security number and current address of each employee for whom a fair share fee deduction was made and the amount of deduction. This list must be separate from the list of employees who had regular dues deducted.

Until the City has received a written notice from the Union, all dues and fair share fee deductions will continue in the same manner as outlined in the most recent collective bargaining agreement.

**Section 1.13** - In consideration of the dues deduction provisions of this Agreement, the Union agrees that it shall indemnify and save the City harmless against any and all claims, demands, civil suits, or other forms of liability that may arise out of or by reason of any action taken or not taken by the City for the purpose of complying with the provisions of

this Article, or any liability which might arise because of any information or forms furnished to the City by the Union.

## **Article 2**

### **TERM**

**Section 2.1** - This Agreement shall be retroactive and effective **January 1, 2011 and shall remain in full force and effect through December 31, 2013. Effective June 30, 2012 there shall be a wage reopener to negotiate wages to be effective for 2012 and 2013.** Either party may notify the other of its intentions to modify or re-negotiate the conditions contained herein not less than ninety (90) days, nor more than one hundred and twenty (120) days, prior to the termination date of this Agreement.

**Section 2.2** – Any notice relative to this Article shall be given by registered mail, both by the Union and the City. Any notices addressed to the City shall be addressed to the City Manager and if addressed to the Union, to the President of the Local.

**Section 2.3** – This Agreement shall remain in full force and effect during the period of all negotiations unless the Union or the City serves, upon the other party, a ten (10) day notice of its intent to terminate this Agreement.

## **Article 3**

### **PROBATIONARY PERIOD**

**Section 3.1** - Newly hired and newly promoted employees shall serve a six (6) month probationary period.

**Section 3.2** - Any employee who voluntarily quits or resigns from employment or is properly discharged for just cause and is subsequently rehired shall be considered a new employee and shall be required to serve a “new hire” probationary period under this Article.

**Section 3.3** - Newly hired probationary employees may not appeal a discharge or layoff procedure through the grievance procedure until sixty (60) days after the initial date of hire. All other rights & benefits that arise from this Agreement shall apply to all employees from their initial date of hire. Life Insurance benefits will commence with initial day of employment. Health insurance benefits shall commence the first day of the month following the completion of thirty (30) days of employment.

## **Article 4**

### **PRE-DISCIPLINARY CONFERENCE**

**Section 4.1** - A pre-disciplinary conference shall be scheduled by the City prior to its taking any action to suspend, reduce, or terminate any Bargaining Unit employee.

**Section 4.2** - Pre-disciplinary conferences shall be scheduled during regular business hours and no employee shall suffer loss of regular pay or benefits while attending such conferences.

**Section 4.3** - Any such conference will be conducted by a neutral City supervisor selected by the employee or Union representative from a list of three (3) names provided by the City, from those supervisors not directly in the chain of command of the employee.

**Section 4.4** - Not less than forty-eight (48) hours prior to the scheduled time of the conference, the City will provide the employee with a written list of the charges that is to be the basis for the disciplinary action. The employee may: 1) appear at the conference & present a written/oral response to the charges; 2) appear at the conference and have a Union representative present a written/oral response; or 3) submit a written waiver waiving his/her right to the conference.

**Section 4.5** - At any such conference, the supervisor will ask the employee or his/her representative to respond to the list of charges provided to the employee. Any failure to respond or to respond truthfully may result in further disciplinary action, except when an employee is subject to possible criminal investigation and elects to invoke a right to remain silent.

**Section 4.6** - At the conference the employee may present any testimony, witness, or document that explains his/her alleged conduct and may be represented by any person he/she chooses, whether or not said individual is an employee. The Union may be represented at all Bargaining Unit pre-disciplinary conferences. Each party shall provide the other with a list of witnesses that they intend to call at least one (1) hour prior to the conference. Each party shall be responsible for notifying its own witnesses that their attendance is necessary or desired.

**Section 4.7** - Each party will be permitted to cross-examine the other's witnesses. Within ten (10) days after the conference, the supervisor shall prepare & submit a written report concluding whether or not the alleged misconduct occurred to the City Manager, the employee & the Union. The appointing authority will then decide what discipline, if any is appropriate.

## **Article 5** **DISCIPLINE**

**Section 5.1** - In the event of suspension or discharge the employee has a right to have not more than one (1) other paid on-duty Union representative present and, upon request, shall be permitted to discuss the suspension or discharge with said Union member in an area made available by the City before he is required to leave the premises. The City shall not discipline or discharge an employee except for just and proper cause. The City agrees to establish & maintain a progressive disciplinary policy that includes the following types of discipline:

- A. **Oral Reprimand:** A record of such action shall be signed by the parties in the presence of a second paid on-duty Union representative & placed in the employee's personnel file.
- B. **Written Reprimand:** The reason for reprimand shall be submitted in writing to the employee & the Union President and placed in the employee's personnel file.

- C. **Suspension:** A pre-disciplinary hearing will be provided as outlined in Article 4, above, prior to the disciplinary action.
- D. **Termination:** A pre-disciplinary hearing will be provided as outlined in Article 4, above, prior to the disciplinary action.

**Section 5.2** - Any disciplinary action taken against an employee shall be appealable directly to Step 4 of the grievance procedure.

**Section 5.3** - Should the alleged offense be of such serious nature as to warrant the immediate removal of an employee from the City’s premises, the employee may be placed on administrative leave with pay until such time as the pre-disciplinary conference can be scheduled.

**Section 5.4** –All records of a disciplinary action taken by the City against an employee shall be placed in the employee’s personnel file. Any written material associated with the disciplinary action(s) shall cease to have force and effect as it pertains to any subsequent discipline in accordance with the following schedule:

Reprimands	12 months
Suspension (1-2 days)	18 months
Suspension (more than 2 days)	24 months
Demotion/Reduction	24 months
Arbitrators Decision	Permanent in file
Termination	Permanent in file

If an employee is disciplined within the periods noted above (i.e. an employee receives a written reprimand on January 2<sup>nd</sup> and another written reprimand on December 31<sup>st</sup>, both reprimands shall remain in the file until December 31<sup>st</sup> in the following calendar year), and the written material associated with the disciplinary action will not be removed until time period of latest discipline.

## **Article 6**

### **GRIEVANCE PROCEDURE**

**Section 6.1** - The prompt & fair presentation, adjustment and/or disposition of grievances is desirable in the interest of sound relations between the employee & the City, involves important, equal obligations & responsibilities, both joint & independent, on the part of each party to protect & preserve the grievance procedure as an orderly means of resolving differences. Any action by either party to this Agreement that tends to impair or weaken the grievance process is improper.

**Section 6.2** - A grievance is a dispute or a difference between the City and the Union, or between the City and an employee who is a Bargaining Unit member concerning the interpretation and/or application of and/or compliance with any provision of this Agreement. When such a grievance arises, the following procedures shall be observed:

- **Step 1.** Within ten (10) working days of the date of the alleged act prompting the grievance, it shall be reduced to writing & served upon the other party to this Agreement. When an employee alleges to have been aggrieved, the Union Steward or Local President and the grievant shall submit the written grievance to his/her supervisor. The supervisor shall meet with the party within ten (10) working days of his receipt of the grievance and respond in writing to the grievance within fourteen (14) working days of the meeting.
- **Step 2.** If the grievance has not been satisfactorily settled at Step 1, it may be appealed to the other party, in writing, within seven (7) working days of the date of the Step 1 response. The City Manager & the Union shall meet within ten (10) working days of the appeal date. The responding party shall then respond to the appeal in writing within fourteen (14) working days of the date of the meeting.
- **Step 3.** If the grievance is not satisfactorily settled at Step 2, either party may, within ten (10) days of the response at Step 2, submit the grievance to mediation with the Federal Mediation & Conciliation Service (FMCS). A meeting shall then be held within thirty (30) days of the date of filing a request for mediation. If the grievance is not resolved through the mediation process, either party may notify the other of its intent to proceed to Step 4.
- **Step 4.** Either party may, within thirty (30) working days of the date of the Step 2 response or the failure of the Step 3 process, appeal the response to arbitration at Step 4 of the grievance process. The grieving party shall notify the Federal Mediation & Conciliation Service, or other arbitration group agreeable to both parties, and the other party of its intent to appeal. The arbitrator shall be chosen in accordance with the rules of the FMCS. All of the fees & expenses relating to the arbitration process shall be borne equally by the parties to this Agreement. The arbitrator shall have no authority to:
  - a) add or subtract from or modify in any way the provisions of this Agreement;
  - b) pass upon issues governed by law;
  - c) make an award in conflict with the law; nor
  - d) Change a specific type of discipline imposed, provided that the arbitrator determines that the City had just cause to impose discipline.

The Arbitrator shall issue a decision within thirty (30) calendar days of its submission.

**Section 6.3** - The grievance procedure as set forth herein shall be the exclusive method of reviewing and settling disputes between the City and the Union, or an employee(s) covered by this Agreement. All Arbitrator decisions under Step 4, and all pre-arbitration settlements reached by the City Manager and the Union shall be final and binding on all of the parties to this Agreement. The Manager is obligated to either recommend the implementation of the decision or settlement to City Council, if an action by Council is required, or to implement said decision or settlement.

**Section 6.4** - A grievance may be withdrawn by the grieving party at any time and withdrawal of any grievance shall not be prejudicial to the rights of the parties as they relate to that particular grievance or any future grievance; and any settlement discussion or settlements may not be used for the purpose of showing “past practices” in any future grievance procedures or arbitration hearings. The withdrawal of any grievance shall be in writing.

**Section 6.5** - A group grievance (i.e. one affecting more than one employee where the remedy is the same) shall be presented at Step 1 of the grievance procedure. All grievances shall be presented at the lowest level of remedy available. Contract administration grievances may, however, be presented at Step 2 of the grievance procedure and a grievance involving the discharge of an employee may be presented at Step 4 of the grievance procedure.

**Section 6.6** – If the grieving party should fail to comply with a procedure or stated time limit, it shall cause the grievance to be granted in favor of the other party and shall also preclude the filing of another grievance based upon the same occurrence.

**Section 6.7** - If the responding party should fail to respond to a grievance within a stated time limit, the grieving party may move the grievance forward to the next step in this process.

**Section 6.8** - The term “working days” does not include Saturdays, Sundays or legal holidays.

**Section 6.9** – Either party to this Agreement may request in writing a maximum extension of ten (10) working days to reply to a grievance and said extension may not unreasonably be denied.

## **Article 7** **SENIORITY**

**Section 7.1** - Seniority shall be an employee’s length of continuous service with the City or within a particular division, depending on the issue involved. During his/her probationary period, an employee shall have no seniority. An employee’s seniority shall be retroactive to his/her first day on the job only after the successful completion of his/her probationary period.

**Section 7.2** - If any employee is discharged or quits at any time and is later rehired, he shall be considered a new employee and shall forfeit all previously accrued seniority.

**Section 7.3** - There shall be two types of seniority:

- a) Citywide seniority, the total cumulative of full-time service with the City; and
- b) Divisional seniority, the total cumulative length of service within a particular division.

For purposes of scheduling vacations, holidays, promotions, job bidding, layoffs, bumping, etc. divisional seniority shall apply.

**Section 7.4** - An employee may accumulate seniority in only one division at a time but may hold seniority in more than one division. When an employee is transferred or promoted to another division in which that employee has previously worked, divisional seniority shall be based upon his/her total accumulated seniority in that particular division.

**Section 7.5** - Seniority (City-wide and divisional) shall be broken (terminated) only when an employee:

- A. Quits or resigns;
- B. Is properly discharged for just cause;
- C. Is laid off for a period of at least two (2) consecutive years;
- D. Is absent without leave for ten (10) consecutive work days and fails to give proper excuse or notice of the reasons for such absence, unless said failure to give notice was beyond the reasonable control of the employee;
- E. Fails to report for work when recalled from layoff within ten (10) consecutive work days from the date on which the City sends the employee notice by certified mail (to the employee's last known address as shown on the City's records).

**Section 7.6** - There shall be separate seniority lists in each division that shall include all of the employees in that division.

**Section 7.7** - On or about July 1<sup>st</sup> of each year, the City shall provide the Union with both City-wide and divisional seniority lists for all Bargaining Unit employees, containing their names, addresses, job classifications, division, department, & date of classification.

**Section 7.8** - The City shall notify the Union within ten (10) calendar days of any Bargaining Unit member who quits, retires, is terminated, is granted a leave of absence, or is transferred out of the Unit; including his name, job classification, division, department and the date of the action.

**Section 7.9** - Citywide seniority shall be defined as the length of continuous service calculated from date of first employment or the date of re-employment following a break in continuous service in accordance with the following provisions:

- A. The following situations do not constitute a break in seniority or continuous service:
  - a. Absence while on approved leaves of absence;
  - b. Absence while on approved sick leave or disability leave;
  - c. Military leave;
  - d. A layoff of less than two (2) years duration;
  - e. A resignation where the employee is re-employed or reinstated within thirty (30) days.

- B. The following situations constitute a break in seniority or continuous service:
  - a. Discharge for just cause;
  - b. Retirement;
  - c. Layoff for more than two years;
  - d. Failure to return to work within ten (10) calendar days of a recall from layoff;
  - e. Failure to return at the expiration of a leave of absence;
  - f. A resignation where the employee is re-employed after 31 or more calendar days;
  
- D. In exceptional circumstances, the City Manager may grant a leave of absence without the granting of continuous service.
  
- E. If a Bargaining Unit employee should be permanently promoted to a position outside of the Unit, both his/her Citywide & divisional seniority shall be “frozen” as of the date of said promotion.
  
- F. If said former Bargaining Unit employee should be returned to the Unit for any reason, he/she shall be placed in any vacant position within the Unit, provided that all vacancies have been first posted and bid upon in accordance with the provisions of this Agreement, and provided that said employee is qualified to perform the work of the vacant position.
  
- G. Upon a former Bargaining Unit employee’s return to the Unit, he/she shall be credited with all of the seniority that he/she had accrued prior to the date of the promotion to a position outside of the Unit and shall be entitled to all of the rights & benefits attendant to the seniority provisions of this Agreement.
  
- H. An employee returned to the Bargaining Unit under the provisions of this section shall have all vacation & sick leave accruals calculated based upon his/her total years of service inclusive of all time spent in a position outside of the Unit.

**Article 8**  
**LAYOFFS**

**Section 8.1** – If it should become necessary to layoff personnel due to a lack of work or funding, employees shall be laid off in the following order:

- A. Part-time, seasonal and temporary employees;
- B. New hire probationary employees;
- C. New hire provisional employees;
- D. Permanent classified employees.

**Section 8.2** - When a layoff is necessary, the employee with the least divisional seniority shall be laid off in accordance with the above order with all part-time seasonal, temporary, probationary and provisional appointments being laid off first.

**Section 8.3** - An employee who has been laid off shall be able to bump another employee with less seniority in a lower classification for which he/she is qualified in that same division.

**Section 8.4** – In the event that an employee is unable to bump into a lower classification in the same division, he/she shall be able to exercise his divisional seniority in another division to bump an employee with less seniority in a lower classification for which he/she is qualified. Any employee who is displaced by being bumped out of his job shall have the same right to exercise his divisional seniority to bump into a lower classification in another division for which he/she is qualified. If a classified employee is bumped from his/her classification and is unable to bump to a lower classified position for which he/she is qualified, he/she may then exercise his/her City-wide seniority to bump into the “laborer” classification and the “laborer” with the least City-wide seniority shall then be laid off.

**Section 8.5** - In the event that two employees have the same divisional seniority, “Citywide” seniority shall prevail.

**Section 8.6** - Before a Bargaining Unit employee is given notice of layoff under this Article, the City and the Union will meet for the purpose of attempting to find an available job within the Bargaining Unit, in accordance with the procedure set forth herein. The Union shall receive a copy of the layoff notices for those individuals who are members of the Bargaining Unit.

**Section 8.7** - Each full-time employee shall be given a minimum of ten (10) working days advance notice of layoff indicating the circumstances that make the layoff necessary.

**Section 8.8** - A laid-off employee may request that he/she be paid for any earned & unused vacation time, personal days or compensatory time. The City shall make said payment within thirty (30) calendar days of date of the layoff notice or the request, whichever is the later date.

**Section 8.9** - There shall be no break in citywide seniority or service credit for a period of up to twenty-four (24) consecutive months during which an employee is laid-off. During any such lay-off period, an employee shall not, however, accrue additional benefits, seniority or service credits.

## **Article 9** **RECALL**

**Section 9.1**- To recall, or otherwise increase the work force in any particular classification, division, or department following a layoff, the employee shall be recalled to his job classification from any lower rate of job classification to which he “bumped” during the course of the layoff, or from layoff, in accordance with seniority, the most senior employee being recalled first.

**Section 9.2** - An employee on layoff shall be given ten (10) working days notice of recall from the date of which the City sends the recall notice to the employee by certified mail to the last known address of the employee as shown in the City records.

**Section 9.3** - No new employee shall be hired into any particular job classification(s) until all employees in the particular job classification(s) have been recalled or have been offered recall.

**Article 10**  
**SICK LEAVE**

**Section 10.1** - Sick leave shall be earned at a rate of 4.6 hours per each eighty (80) hours of service in paid status, up to a maximum of 120 hours per year with unlimited accumulation.

**Section 10.2** - If an employee is sick, he/she shall call his/her supervisor & notify them that he/she will not be at work. If the employee is unable to contact the supervisor, he/she shall contact the police desk. This process is to be followed each & every day that an employee is off work due to illness. Only if the employee is physically/mentally unable to report off may he/she have some other person report off for him/her.

**Section 10.3** - Except in emergency situations, if an employee has a scheduled appointment with a physician during his/her working hours, he/she shall notify his immediate supervisor not less than three (3) days prior to the appointment.

**Section 10.4** - Anytime that the City suspects that an employee may be abusing his/her sick leave benefit, it may require him/her to provide a written certification from his/her attending physician for any sick leave absence of three (3) or more consecutive workdays, stating the nature & extent of the illness/injury that required the use of sick leave and the anticipated date of return to work.

**Section 10.5** - An employee shall complete a signed, written statement explaining the nature of the illness or other reason for taking sick leave. The falsification of any statement or physician's certificate shall be considered grounds for disciplinary action up to and including dismissal.

**Section 10.6** - Sick leave may only be used when an employee is ill or injured OR when it is necessary for him/her to care for a member of his/her immediate family. When sick leave is requested to care for a member of the immediate family, the supervisor may require a physician's certificate supporting the need for the employee's presence to care for the ill person. "Immediate family" shall be defined as: mother, father, spouse, brother, sister, child, step child of a current marriage, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, legal guardian, or other person in place of a parent (loco parentis).

**Section 10.7 - Bereavement Leave:** Leave shall be granted for the death of an immediate family member for a period not to exceed five (5) working days. The first two days of any such absence shall be paid, but not charged against sick leave, and any subsequent day(s) up to the remaining three days shall be paid & charged against the employee's sick leave. The use of sick leave as "bereavement leave" shall not count against an employee's eligibility for the sick leave bonus specified elsewhere in this Agreement. "Immediate family member" includes: mother, father, spouse, brother, sister, child, step child of a current marriage, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, legal guardian, or other person in place of a parent (loco parentis). Additional leave for the death of a spouse or child may be required and may be evaluated & granted by the City Manager in accordance with the provisions of the Article.

**Section 10.8** – Not more than five (5) sick leave days will be allowed for the care of the employee’s wife and family during the postnatal period.

**Section 10.9** – The abuse of this sick leave benefit shall be considered grounds for a disciplinary response that may include an employee’s termination. Sick leave abuse includes its use for any unauthorized or recreational purpose and may also be defined as a pattern of absenteeism that is linked to scheduled time off (e.g. weekends, holidays, personal days, or other schedule days off).

**Section 10.10** - Any employee transferring from one “public agency” to another or who is re-appointed or reinstated, will be credited with the unused balance of his/her accumulated sick leave, provided the time between separation & re-appointment does not exceed three (3) years. If this time is greater than three (3) but not more than ten (10) years, the unused balance may be used but shall not be used in calculating severance pay. This shall apply only to employees hired on or after April 1, 1993. The term “public agency” includes the State of Ohio and all of the counties, municipalities, and boards of education situated therein.

## **Article 11** **LEAVES OF ABSENCE**

**Section 11.1** - At the request of an employee, and at the discretion of the City Manager, a leave of absence without pay may be granted to an employee required to perform any function on behalf of the Union. In addition, any employee who is also a Union officer may be permitted time off with pay to attend regional, state or national meetings or conferences of their International Union; provided that the total number of release days granted to the Union each calendar year does not exceed three (3). Any such request shall be made in writing to the employee’s supervisor at least ten (10) days in advance of the requested date. The supervisor shall review the request & then forward it to the City Manager with his/her recommendation. Such requests shall not be unreasonably denied.

**Section 11.2** - An employee shall be granted a leave of absence for military duty in accordance with 38 U.S.C.S. Chapter 43. For the purposes of this Agreement, military duty shall include service with the Ohio National Guard.

**Section 11.3** - At the discretion of the City Manager, an employee may be granted a leave of absence without pay for educational purposes relating to the operations of the City. Such leave may be renewed every six (6) months. Requests for such leaves shall not be unreasonably denied.

**Section 11.4** - An employee may at the discretion of the City Manager be granted a leave of absence without pay for good cause. Said leave may be renewed every six (6) months. A request for said leave shall not be unreasonably denied.

**Section 11.5** - An employee may be returned to work prior to the expiration of any leave of absence if by mutual agreement of the City Manager and the employee.

**Section 11.6** - Employees shall not accumulate sick leave, personal days, holiday pay, or vacation time off while on an unpaid leave of absence. After the first thirty (30) days of any

unpaid leave of absence, other than an approved Family or Medical Leave, an employee shall not be entitled to paid hospitalization, eye care, dental, or prescription drug coverage under the City's benefit plan throughout the balance of his/her absence on an unpaid leave of absence status.

**Section 11.7 -**

- A. In addition, employees shall be entitled to a maximum of twelve (12) weeks of unpaid Family or Medical Leave for any of the following reasons:
  - a) The birth of a son or daughter;
  - b) The recent adoption of a child;
  - c) The placement of a foster child with the employee;
  - d) The inability of the employee to work due to a serious health condition; or
  - e) A serious health condition of the employee's spouse, biological parent, or child.
  
- B. The employee shall be able to take such leave for the birth or placement of a child only during the twelve (12) month period, immediately following the birth or placement. For other requests, an employee may use up to twelve (12) weeks each rolling 12 month period.
  
- C. During the term of such leave the employee shall be treated as if in regular payroll status except that the leave shall be unpaid. The employee shall provide as much advance notice as possible when requesting the use of such leave.
  
- D. Employees may request and be entitled to use their accumulated sick leave, vacation, personal days or roving holidays prior to requesting Family Medical Leave, but it will be counted towards the twelve (12) weeks of leave. Upon return from such leave, employee shall be returned to the classification or division from which they left, and shall suffer no loss of any benefit.

**Article 12**

**WORKING CONDITIONS**

**Section 12.1** – From time to time, an employee may be asked, directed, or otherwise required to perform work that he/she is qualified & able to perform outside of his/her job classification. In any such situation, an employee may not refuse to perform the assignment.

**Section 12.2** - The current divisional work schedules are hereby agreed to be the normal work schedules and, except in emergency situations, the City shall not change a work schedule without good cause and unless it has first given at least 48 hours notice to the Union.

**Section 12.3** - Each employee shall be provided with a written job description for his/her position.

**Section 12.4** - There shall be a Health & Safety Committee, consisting of 2 members appointed by the City, 2 appointed by the Union, and 1 acceptable to both. The purpose of the Committee shall be to establish safe & healthful work conditions & procedures and to

encourage employees to follow these procedures. In the event of a dispute between the City & the Committee, the Union shall have the right to place such dispute in Step 4 of the Grievance Procedure.

**Section 12.5** - The City agrees that work normally done by employees within the classifications contained in the Bargaining Unit shall not be contracted out, provided that the employees within these classifications and the required City equipment & time to perform the task are available.

**Section 12.6** - The normal “work week” shall consist of 5 consecutive 8-hour days (Monday thru Friday), except for “continuous operations”. The normal “work week” for “continuous operations” shall be 40 hours, including a paid mealtime. The City shall have the right to change the normal “work week” in situations where the work is required and Management cannot control when the work must be performed. Any division that works a minimum of 14 turns in a 7-day “work week” shall be considered in “continuous operation”.

**Section 12.7** - The City shall pay its employees bi-weekly, on Wednesday.

**Section 12.8** – The division or department head shall determine and schedule meal periods and the length thereof. Wherever possible, all employees will be granted one meal period without pay during each shift worked that shall be scheduled in the middle of the shift. In no case shall any such meal period extend beyond 60 minutes nor be less than 30 minutes. Any employee required to be on duty during their meal shall be compensated for such meal period at their normal rate.

**Section 12.9 - Shift Differential** - All employees shall receive a shift differential of thirty-five (\$0.35) cents per hour for all hours worked during a normal scheduled shift commencing between 3:00 p.m. and 10:59 p.m. and a differential of (\$0.40) cents per hour for all hours worked during a normally scheduled shift commencing between 11:00 p.m. and 6:59 a.m.

**Section 12.10** - The classification of new positions and/or the re-classification of existing positions may be appealed by the Union under the grievance procedure.

**Section 12.11** - Maintenance Relief Operators shall be given at least 24 hours advance notice to work in the Water Treatment Plant in case of sick leave, and 72 hours advance notice in the case of vacations or personal days, training, etc. A change of shift may be done prior to the minimum times required, provided that all affected employees reach mutual agreement on the change. Shorter advance notice than outlined above shall be considered an overtime opportunity and shall be offered to regular plant operators first, unless otherwise agreed to by both parties.

**Section 12.12** – All Bargaining Unit members shall be subject to random, post-accident, and reasonable suspicion drug & alcohol testing. All Bargaining Unit employees shall be covered either by the City’s Drug and Alcohol or the CDL Drug and Alcohol policies but not both. The determination as to which policy applies is if the position description requires a CDL.

Any and all discipline for violations of the City’s drug & alcohol testing policy, other than the mandatory consequences outlined in the applicable Federal Law, shall be in

accordance with the disciplinary procedures outlined in this Agreement. Employees found to be in violation of the City's policy and who are not terminated shall be given the opportunity to attend a rehabilitation program. The cost of said program shall be borne by the City up to the maximum amount allowable under the City's health care plan. Any additional expenses shall be borne by the employee; except that the cost of any follow-up testing shall be borne equally by the City and the employee. The parties agree to meet within 60 days of the signing of this Agreement for the purpose of jointly updating the City's Drug & Alcohol testing policy, CDL Drug and Alcohol Policy and developing & implementing an *Employee Assistance Program*.

**Section 12.13** - In the absence of the employee's supervisor for a period of one or more full work days, the senior Bargaining Unit employee present shall assume all of the supervisor's responsibilities and shall be compensated, in return, at a rate equal to 50% of the difference between his/her normal hourly rate and the supervisor's normal rate. (e.g. an employee earns \$13/hour and a supervisor earns \$18/hour. 50% of the difference = \$2.50. The employee receives \$15.50/hour for the duration of the assignment.) This new rate will be called "D" rate and the employee will have the option to be designated for such D rate and its responsibilities.

The "D" rate will be in addition to the regular rate the employee earns. The following positions will be eligible for the "D" rate.

- a. Maintenance Worker (I, II, III)
- b. Maintenance Relief Operator (I, II, III)
- c. Waste Water Operator (I, II, III)
- d. Water Plant Operator (I, II, III)
- e. Lineman (I, II, III)
- f. Clerk (I, II, III)

**Section 12.14** – In the event that the City should determine that a permanent job vacancy exists, the vacancy shall be posted at each work site for a period of five (5) consecutive working days and filled by the senior most qualified employee bidding on the vacancy.

**Section 12.15** – In order to be considered for the position, an employee must meet the minimum requirements of the vacant position, must have at least six (6) months experience in his/her current position, and must sign the job posting within the period of the required job posting.

**Section 12.16** – Normally, the City will either award the job to the senior most qualified bidder, announce that no one has bid on the job, declare that no one bidding on the job meets the minimum qualifications, and/or announce its intentions to fill the position from outside the Unit within ten (10) days of the close of the job posting.

**Section 12.17** – A job will normally be filled within thirty (30) days of the date of the award. Any employee awarded a bid who fails to meet all of the standards required for the successful completion of his/her promotional probationary period or who voluntarily returns to his/her former position during said period, shall be returned to said position and, to the extent necessary, those that may have followed in the advance shall also be returned to their former position.

**Article 13**  
**CONFLICT WITH STATUES**

**Section 13.1** - The City and the Union agree that this Agreement shall comply with the applicable Federal and State laws. If it is determined by a court of the last resort that any provision of this Agreement is in conflict with law, that conflict shall not affect the validity of the remaining provisions and/or section of this Agreement and the City and the Union shall begin negotiating an alternative provision within ten (10) calendar days of the ruling of conflict.

**Section 13.2** - It is further agreed that, in the event that the State or Federal Government adopts legislation affecting the State's political subdivisions or the labor organizations having agreements with said subdivisions, there may be a reopening of this Agreement, only for the purpose of amending said agreement to conform to law. Either party hereto shall have the right to call for a reopening of this Agreement under said circumstances by giving written notice to the other party. Such notice shall be given at any time after said legislation is signed into law and prior to the effective date of the that law. Such negotiations shall commence within ten (10) calendar days after notification. And, said negotiations shall not include economic items.

**Article 14**  
**HOSPITALIZATION & LIFE INSURANCE**

**Section 14.1** - For the duration of this Agreement, the City shall continue to offer hospitalization insurance, eye care, and dental and prescription drug benefits to all bargaining unit employees. It is further agreed that the level of benefits shall not be reduced for the duration of this Agreement nor shall the benefit level change except to increase the level of benefit, without the use of the Health Insurance Committee, as outlined herein.

**Section 14.2** - Starting with the health insurance renewal at the time of adoption:

A. Prescription drug coverage will be \$7.00 generic, \$25.00 for formulary and \$45.00 for non-formulary prescriptions. If a prescription drug is offered in a generic form, employees shall be required to take the generic equivalent. If the employee decides to take the brand drug with the generic available, the employee shall pay the difference between the cost of the generic drug and the total cost of the brand drug, in addition to the \$25.00 copay.

Mail order Co-pays for prescription drugs shall be \$14.00 for generic; \$50.00 for formulary; and \$90.00 for non-formulary.

B. Effective upon execution of this Agreement, health insurance coverage will be 80%/20% for "In Network Claims".

C. Effective upon execution of this Agreement, health insurance coverage for "Out of Network Claims" will be a 60%/40% employee/employer split.

- D. Effective upon execution of this Agreement, for “Out of Network Claims”, the employee deductible shall be \$600/year for single coverage and \$700/year for family coverage.
- E. Effective upon execution of this Agreement, Employees shall pay, by payroll deduction, a portion of the monthly health insurance costs according to the following amounts:
  - a. Single coverage: \$20.00/pay (\$520.00)
  - b. Family coverage: \$30.00/pay (\$780.00)
- F. Office co-pays shall be \$20.00 per visit.
- G. Vision care will have a maximum benefit of \$250.00, this benefit is available and can be applied to lens, frames or lasik surgery per calendar year.
- H. Chiropractic Care will have a maximum of \$750.00 per calendar year.
- I. Orthodontics will have a lifetime maximum of \$1,500.00.
- J. Mental Health/Substance Abuse coverage will be eliminated.

**Section 14.3** - The City of Newton Falls shall provide term life insurance in the principal sum of Fifty Thousand Dollars (\$50,000) on each full-time employee. Plus the following insurance policies:

Spouse:	five thousand dollars	\$ 5,000
Child:	under 14 days	no benefit
	14 days, but less than 6 months	\$500.00
	6 months and older	
	(Dependent children up to the age of 19, or age 23 only if a full-time student)	\$1,000.00

**Section 14.4** - The parties to the agreement agree to create a health insurance committee to explore changes in the hospitalization plan and ways to achieve cost savings.

**Article 15**  
**VACATION**

**Section 15.1** - Employees shall accrue vacation time off with pay in accordance with the following schedule:

<b><u>Completed years of service:</u></b>	<b><u>Days of vacation earned each year:</u></b>
1-5	10
6-9	15
10-14	20
15-20	25
21 or more	30

**Section 15.2** – In determining completed years of service, the calculation shall be made from the first day of regular full-time employment with the City to anniversary dates thereafter.

**Section 15.3** – During an employee’s first full year of service, he/she shall accrue vacation time off as set forth under this Article, but will not be able to take vacation time off until he/she has completed his/her first full year (first anniversary date) of employment and shall not have earned a paid vacation unless or until he/she has completed 12 consecutive calendar months with the City.

**Section 15.4** - Increases in vacation accruals shall commence on the anniversary date of the employee as outlined in this Article. Employees may accumulate and carry over from year to year a maximum of forty (40) hours vacation accruals. Such accumulations shall be based upon an employee’s completed years of service with the City. Employees will be required to use at least one-half (½) of the vacation time that he/she earns each year.

An employee may be permitted, subject to approval by the Superintendent and the City Manager, to dispose of the remaining balance (up to one-half) of the employees annual vacation leave earned in the 12 consecutive month period leading up to his/her anniversary date) in one of the three ways, as follows:

- a. Cash-in the total amount;
- b. Cash-in a portion of total amount earned and carry forward into the next year of service the remaining balance (not to exceed 40 hours); or
- c. Use all but 40 hours or less of the total amount earned and carry the entire remaining balances (40 hours or less) forward into the next year of service.

Any employee who doesn’t intend to use ALL of their unused vacation balance earned in that anniversary year will submit a written request to their supervisor. The request will include disposition of the remaining portion of the unused vacation that was earned during the year prior to the employee’s anniversary date. The request will be made to the employee’s supervisor at least thirty (30) days prior to the employee’s anniversary date. The supervisor will review the request, attach a written recommendation, and forward it to the City Manager. If approved the request will be forwarded to the Finance Department with a

copy to the supervisor. If denied, the request will be returned to the employee and a copy to the supervisor, including the Manager's reason for denial.

Any approved "buy-back" by the City will normally be reflected in the next available payroll following the employee's anniversary date. The rate of pay will be that rate enforced at the date of request. In any event, the City shall pay the employee an amount equal to the approved "buy-back within thirty (30) days of the employee's anniversary date.

**Section 15.5** - Only permanent, full-time employees are eligible for paid vacation time off.

**Section 15.6** - An employee shall be paid at his/her current rate of pay while on vacation.

**Section 15.7** - On or after January 1st of each calendar year, each eligible employee shall be asked to specify his preference for vacation time off during that year. Vacations shall, insofar as practicable, be granted as requested. Through March 31st of each year, vacation time off shall be awarded on the basis of divisional seniority. After March 31st, it will be awarded on a first come, first served basis. Through March 31st, when two employees in a division apply for the same time off and they have the same divisional seniority, the employee with the greater Citywide seniority shall be afforded first preference. Any request for vacation time off shall be made at least thirty (30) days in advance.

**Section 15.8** - Vacation time off shall normally be scheduled in forty (40) hour increments. In special circumstances, the City Manager may, however, grant vacation time off in increments of not less than four (4) hours.

**Section 15.9** - The established vacation year is each employee's anniversary year commencing with his/her date of hire. Vacations are accrued or earned based upon the employee's length of service and time worked (paid status) during the preceding year. New employees accrue vacation during their first calendar year, but may not take any vacation until their second calendar year.

**Section 15.10** - In addition to the vacation time off listed in Section 15.1, after an employee's first calendar year of service, he/she shall receive five (5) "personal days" off annually. Any such "personal day" off may be taken at a time that is mutually agreeable to the employee & his/her supervisor.

**Section 15.11** - During an employee's first calendar year of service or part thereof, he/she shall receive one (1) "personal day" off for every ten (10) calendar weeks of time worked up to a maximum of five (5) "personal days" off.

**Article 16**  
**HOLIDAYS**

**Section 16.1** - For all permanent employees, the following shall be paid holidays:

New Year's Day	Martin Luther King Day
President's Day	Good Friday
Memorial Day	Independence Day
Labor Day	Thanksgiving Day
The day after Thanksgiving Day	Veteran's Day
Christmas Day	

All permanent employees shall receive eight (8) hours of holiday pay at their current rate for such holidays as are in full force and effect, provided that the employee has completed at least thirty (30) days of service.

**Section 16.2** - Employees in continuous service operations shall in each case, observe the actual holiday date. Other employees shall be governed by the following: When one of these holidays falls on a Sunday, the next Monday will be observed as the holiday. When a holiday falls on a Saturday, the preceding Friday will be observed as the holiday.

**Section 16.3** – Any holiday that falls during any employee's scheduled vacation shall not be counted as a day of vacation. And any holiday that falls during an employee's sick leave shall not be counted as a day of sick leave.

**Section 16.4** – To be eligible for "holiday pay", an employee must have worked or been off on an approved vacation, bereavement, compensatory time, military leave or personal day throughout both scheduled workdays immediately before & after the holiday. Any employee who is off on sick leave without a written certification from his/her attending licensed physician or off on an unpaid leave of absence on either scheduled workday shall not be eligible for "holiday pay".

**Section 16.5** - Employees who are required to work during a holiday, shall receive eight (8) hours of holiday pay at their prevailing base rate plus one and one-half (1 ½) times their base rate for the hours actually worked; however, for sixth and/or seventh day(s) an employee must actually work those days to be eligible for time and one-half pay. Holidays will be considered eight (8) hours worked for overtime purposes.

**Article 17**  
**JURY DUTY & WITNESS PAY**

The City shall grant Jury Duty/Court Leave with full pay to any employee who is summoned for jury duty by any court of competent jurisdiction, or if the employee is subpoenaed to court and required to testify about a matter resulting from his/her duties as a City employee or as a witness in a criminal case in which the employee is not a party.

Any employee who is appearing before a court or other legally constituted body in a matter in which he/she is a party may be granted vacation time, personal days, or leave without pay. Such instances would include, but not be limited to, criminal or civil cases, traffic court, divorce proceedings, custody, or appearing as directed as a parent or guardian of juveniles.

**Article 18**  
**OVERTIME & CALL-IN PAY**

**Section 18.1** - Overtime work customarily performed by Bargaining Unit employees shall not be performed by supervisors, unless qualified Bargaining Unit employees are not available, or an emergency exists as defined below.

An emergency, for the purpose of this Agreement, shall be an unforeseen happening requiring the prompt action of the City (e.g., service outages, hazardous weather conditions, danger of injury to residents, etc.). In such situations, the Police Dept. shall receive all emergency reports and shall call the appropriate individuals as hereinafter set forth:

1. The supervisor shall be contacted in all emergency situations:
2. In the absence of the supervisor, the most senior classified employee in a particular division shall be contacted;
3. The supervisor or most senior classified employee shall determine the extent of or emergency nature of the situation.
4. Supervisors will attend to the situation when, based upon the information provided, it is impossible to adequately assess the extent of the emergency; all of the classified employees in a particular division are unavailable or refuse to respond, or the extent of the emergency warrants the express involvement of a supervisor;
5. The Police, the supervisor or his designee shall contact employees in a division upon verbal authorization of the supervisor or his designee, when it is determined that the extent of the emergency work is common and routine within the classification.

During extended periods of illnesses of five (5) or more days, vacations, or personal days off, the supervisor at the Water Treatment Plant may perform the duties of a Maintenance Relief Operator. However, the supervisor may not perform this unless it has been first offered to the appropriate Bargaining Unit members. Scheduling in this instance shall be done on a weekly basis.

**Section 18.2** - Overtime shall not be mandatory so long as there are sufficient qualified personnel to perform the overtime assignment. In the event there is an insufficient qualified work force available to perform the overtime work, the City may assign mandatory overtime in inverse order of seniority (i.e. least senior employee first). Only in a case where the supervisor concludes that such an assignment would create an unusual hardship on the employee or that the assignment would threaten the health or safety of the employee, co-workers or the public, the supervisor may waive such an otherwise mandatory assignment.

**Section 18.3** – A supervisor may require a Bargaining Unit employee to continue to work a maximum of four (4) hours beyond the normal end of the shift. If this requirement presents a hardship to the employee, the supervisor will call a Bargaining Unit employee in to relieve the on-duty employee as early as possible. The on-duty employee will continue to work the additional hours until he/she is relieved.

**Section 18.4** – Up to three (3) hours of overtime on weekends and holidays in the Wastewater Treatment Plant shall be mandatory as scheduled by the supervisor. Such overtime shall be scheduled on a rotating basis. Nothing in this Article shall preclude employees from trading schedules, so long as the supervisor is notified and there is assurance that the turns are covered.

**Section 18.5** - Overtime shall be first offered to the senior qualified Bargaining Unit employee within a respective division. If an overtime assignment occurs on a job that is in progress before the end of the shift, the employees on the job at the time of the overtime assignment shall first be offered the assignment before additional employees are called in. Should senior personnel be working at the time of the assignment as outlined above those employees shall first be offered the overtime. Further overtime call out shall be based upon seniority within the respective division. When no qualified Bargaining Unit employee is available for overtime within a given division, the overtime shall be offered to qualified employees within the Bargaining Unit, in accordance with the procedures outlined below.

Once each year, prior to October 1<sup>st</sup>, the Union and the City shall agree upon supplemental call out lists for the City's various divisions. These lists shall include the employee's name, qualifications and citywide seniority date. Employees shall be placed upon the lists for which they are qualified in descending order of seniority. When a divisional list is exhausted the Citywide lists shall be utilized to call out qualified employees, beginning first with most senior qualified employee and rotating through the list until it has been exhausted. Failure to respond to a call out shall be counted as an overtime opportunity. Overtime opportunities from these supplemental lists shall be equalized to as great an extent as possible. Lists shall be valid from January 1- December 31 of each year following the October 1, submission.

**Section 18.6** - If an employee rejects five (5) consecutive overtime requests, the City shall have the right to not call that employee for overtime purposes for the remainder of the calendar year. On or about the first of each calendar year, the City shall afford each employee an opportunity to waive voluntary overtime work during that year.

**Section 18.7** – **Call-in Pay** - A “call-in” is defined as being recalled to work after an employee has completed the regular workday and left the work site. Pay for call-ins shall be a minimum of 3 hours at 1 ½ times the greater of the hourly rate or the applicable overtime rate. Call-in pay shall not apply to scheduled overtime requiring at least 72 hours advance notice. Call-in pay time shall begin when the employee reports to work notifying his/her supervisor or the dispatcher of his arrival. Failure to respond to a pager call-in within 10 minutes of the call or the use of an answering machine shall be considered a non-response. Call-in pay shall not apply if the employee is called to work within 2 hours of the start of his/her scheduled shift. In these instances, he/she shall receive the applicable premium rate

of pay. The City is not obligated to call-in an employee who was off on any leave during his/her last or next scheduled shift. Employees must notify their immediate supervisor of their availability for call-in.

**Section 18.8** - An employee that is called in as defined in above section 18.7 shall be paid the shift differential for that particular shift as outlined in Article 12, Section 12.9 of this agreement.

## **Article 19** **CONTRACT NEGOTIATIONS**

The City agrees that during contract negotiations between the Union and the City, the Negotiating Committee shall not lose any pay as a result of their participation in such negotiations.

## **Article 20** **NO STRIKE - NO LOCKOUT**

**Section 20.1** – It is understood & agreed that the services performed by City employees included in this Agreement are essential to the public health, safety and welfare. The Union therefore agrees that there shall be no interruption to the work for any cause whatever, nor shall there be any work slowdown, boycott, strike, or other interference with this service. And the City agrees that it will not lock out or prevent employees from performing their regularly assigned duties.

**Section 20.2** – The officers of the Union are required to take affirmative action to prevent, or try to prevent, a strike by their members. The Union agrees that during the term of this Agreement, they will not cause, encourage, or participate in any strike or illegal picketing against the City.

## **Article 21** **COMPENSATION**

**Section 21.1** – Effective upon ratification by both parties and following implementation by city ordinance, bargaining unit employees shall receive a onetime 10% increase to salaries which will be the salary rate for the remaining term of this contract.

**Section 21.2** - The wages specified in the attached “Schedule A” shall be in effect throughout the term of this Agreement. New employees may start at Step “A” through “E” if the City Manager determines that the new employee meets and or exceeds the Minimum Job Requirements as shown in Schedule “B” and shall receive a one step raise each year of employment on the anniversary date of employment.

**Section 21.3** – “Schedule B” outlines the standards that are to be applied in determining an employee’s eligibility for advancement in pay as a result of increased service time and/or the acquisition of new job skills. The job skills listed in “Schedule B” are the minimum skills required for a particular pay level and these skills are not all inclusive. The language in “Schedule B” is not to be considered the “**job description**” for the specific position.

**Section 21.4** - An employee wishing to move to a higher classification in “Schedule B” shall submit a written request for certification to his/her supervisor. Said certification would take effect on the employee’s next six-month or annual anniversary date, whichever comes first. The supervisor may approve or deny the request. If the request is denied, it shall be grievable under this Agreement. Certification shall be strictly dependent upon the employee’s service time, possession of requisite job skills and satisfactory job performances in his/her present classification.

**Section 21.5** – In an instance where an employee is eligible for both an anniversary step increase and advancement to a higher classification, they shall move immediately to the proper pay range and step.

**Section 21.6 – Overtime** - Overtime shall be paid at the rate of one and one-half (1 ½) times the hourly rate for all hours paid over forty (40), within a seven (7) day period or over eight (8) hours per day. Employees may elect to receive compensatory time off in lieu of overtime pay up to a maximum balance of one hundred twenty (120) hours at the applicable overtime rate. Compensatory time off shall not be an option for overtime worked outside the employee’s division.

Employees may elect to receive compensatory time off in lieu of overtime pay. An employee may earn up to a maximum of 120 hours of comp time in any given calendar year. All but 60 hours must be used prior to December 31 of each year. Any unused (above 60 hours) Comp Time on December 31 will be converted and paid at applicable rate of that year in which it was earned. Once any Comp time is used it may not be replaced above 120 hours in that year. An employee can only use the compensatory time that was available on the previous paycheck.

Employees shall be permitted to use accrued compensatory time upon request, provided the requested time off will not substantially interfere with the operation of the City. In the event that two (2) or more employees desire to take compensatory time off during the same 24-hour period, and it is the determination of the Superintendent that not all can be accommodated, the employee who submits the first request for compensatory time shall be given preference, unless two employees submit a request on the same day, in which the case the employee(s) with the greatest length of divisional seniority will be given preference.

**Section 21.7** – The following premium rates shall be paid to qualified employees for all paid time, including overtime, vacation time off, & personal days, but excluding sick leave, beginning with the first shift following receipt by the City of the license or certificate, as follows:

<u>Division(s):</u>	<u>License/Certificate:</u>	<u>Sponsor:</u>	<u>Rate:</u>
Wastewater, Water Water Distribution	Class I - Operator	Ohio EPA	\$0.30 per hour
	Class II- Operator	Ohio EPA	\$0.60 per hour
Maintenance Electric	Class III - Operator	Ohio EPA	\$1.00 per hour
	CDL	Ohio BMV	\$0.25 per hour
	CDL	Ohio BMV	\$0.25 per hour
	“Journeyman Lineman”		
	AmpOhio/Merchant or equiv.		\$1.00 per hour
	CDL	Ohio BMV	\$0.25 per hour

**Section 21.8 - Non-use of sick leave** – Each employee shall be paid fifty dollars (\$50.00) for the first calendar quarter, sixty dollars (\$60.00) for the second consecutive calendar quarter, eighty dollars (\$80.00) for the third consecutive calendar quarter, and one hundred dollars (\$100.00) for the fourth consecutive calendar quarter & every consecutive calendar quarter thereafter in which he/she does not use sick leave.

**Section 21.9 - Training**

- A. Bargaining Unit employees may be reimbursed up to five hundred dollars (\$500.00) annually for technical school or college course expenditures for job-related development. Reimbursement is subject to pre-approval by the City Manager.
- B. **Mandatory Training, School and Seminars.** Employees who are required to attend training schools or seminars shall be compensated in the following manner:
  - a. If the training is held during an employee’s normal working hours, he/she shall be compensated at his/her regular straight time rate of pay for all hours spent in training. Reasonable travel time to and from the training will also be paid.
  - b. If the training is held outside of an employee’s normal working hours, he/she will be compensated at one and one-half (1 ½) times his/her normal hourly rate of pay for all time spent in training. Reasonable travel time to and from the training will also be paid. Compensation may be taken either in overtime pay or, at the employee’s option, compensatory time off. Supervisors may, however, alter work schedules and/or shifts at their discretion in order to accommodate a training schedule.
  - c. All schooling, training and seminars will be pre-approved by both the employee’s supervisor and the City Manager.
- C. The City will pay for all training & testing relating to an employee’s first two attempts to acquire any Ohio EPA operator’s license. Additional testing shall be at the employee’s expense, except that the City shall pay for any passing grade.

**Article 22**  
**LONGEVITY**

Upon completion of five years of service, longevity shall be paid, for years of regular full-time service with the City of Newton Falls as follows:

<u>Years complete</u>	<u>Hourly Rate</u>	<u>Years complete</u>	<u>Hourly Rate</u>
5	\$0.30	23	\$0.66
6	\$0.32	24	\$0.68

7	\$0.34	25	\$0.70
8	\$0.36	26	\$0.72
9	\$0.38	27	\$0.74
10	\$0.40	28	\$0.76
11	\$0.42	29	\$0.78
12	\$0.44	30	\$0.80
13	\$0.46	31	\$0.82
14	\$0.48	32	\$0.84
15	\$0.50	33	\$0.86
16	\$0.52	34	\$0.88
17	\$0.54	35	\$0.90
18	\$0.56	36	\$0.92
19	\$0.58	37	\$0.94
20	\$0.60	38	\$0.96
21	\$0.62	39	\$0.98
22	\$0.64	40	\$1.00

This rate shall be added to the employee's base rate and paid on all hours in pay status.

**Article 23**  
**CLOTHING**

- A. Employees in the Public Works Department shall be reimbursed up to the following amounts annually for boots & shoes, as follows: Electric Division \$160.00; all other divisions \$110.00 (Water Treatment, Water Distribution, Wastewater and Maintenance). In order to secure this reimbursement, an employee must present a receipt for the purchase to his/her supervisor. Should an employee leave his/her position with the City for any reason or other retirement under OPERS within 180 days of his/her receipt of this reimbursement, he/she shall be required to pay 50% of this reimbursement back to the City.
- B. The City shall provide uniforms; eleven (11) each work pants, short sleeve shirts, & long sleeve shirts each year for every employee in the Water Treatment, Wastewater, Water Distribution, & Maintenance Divisions and six (6) each cotton trousers (or jeans if desired by the employee) and cotton shirts for each employee in the Electric Division.
- C. The City shall also provide as an optional uniform two (2) pair of insulated/non-insulated coveralls to each Public Works Department employee who shall be replaced at least once every five (5) years OR replaced/repared sooner, as needed, provided that the apparel has not been abused or lost.
- D. Each employee in the Public Works Department shall be required to wear a uniform or other approved apparel at all times while on-the-job working for the City. Failure to do so shall be grounds for discipline.

**Article 24**

## COMMERCIAL DRIVER'S LICENSE

**Section 24.1** - The City will provide training to each employee who is required to have a commercial driver's license (CDL) and will make every reasonable effort to schedule the training during normal working hours. Employees shall be permitted paid time off to participate in the training. If an employee who is required to have a CDL should for any reason fail to pass the licensing examination, he/she will be afforded 6 months, excluding vacation, sick leave and/or worker's compensation leave, during which to pass the examination. Should said employee for any reason fail to pass the examination and secure the required CDL within this 6 month period, she/he shall be reduced one pay grade per every 6 months until he/she passes the examination.

**Section 24.2** - Any new hire employee who is hired to fill a position requiring a CDL and does not possess a CDL at the time of his/her hiring shall be required to secure the CDL at his/her own expense during his/her new hire probationary period. If said employee should for any reason fail to secure the CDL within his/her probationary period, the City may elect to either extend the probationary period one time only for an additional six (6) months or disqualify & terminate the employee. If the City elects to extend the probationary period the employee shall be required to secure the CDL at his/her own expense during the period of the extension. If an extension is granted, failure for any reason to acquire the required CDL during said period, shall result in the employee's disqualification & termination.

**Section 24.3** - The City will fully reimburse each employee who is required to secure or maintain a CDL for the total cost of the license.

**Section 24.4** - All employees of the Electric, Maintenance, Water Distribution, & Wastewater Treatment Divisions of the Public Works Department shall be required to secure and maintain a CDL throughout his/her entire period of employment with the City.

## **Article 25** **SEVERANCE PAY**

**Section 25.1 - Retirement** - Employees who have a minimum of 10 years of public service or qualify for retirement under the OPERS and who elect to retire shall, at the time of retirement, receive a lump sum payment for all accumulated, but unused, sick leave at 1:1 for everything up to 500 hours & at 1:2 for everything between 500 to 1000 hours up to a maximum payment equal to 750 hours and a lump sum payment for all accumulated, but unused, vacation leave; unused personal days and any accumulated but unused compensatory time.

**Section 25.2 - Other Separation** - Employees separated from employment for any reason other than his/her retirement shall, at the time of separation, be entitled to a lump sum all accrued but unused vacation hours; all unused personal days; and any accumulated, but unused, compensatory time.

**Section 25.3 - Death Benefit** - In the event of an employee's death, the amount of sick leave,

vacation leave, personal days, and compensatory time outlined in Section 25.1 shall be paid to the employee's spouse or estate if there is no surviving spouse.

**Article 26**  
**MILEAGE**

When an employee is required to use his/her personal vehicle for City business, he/she will be reimbursed at the same rate as all other employees, as may be established by City Council. Employees who elect to use their personal vehicle, when an appropriate City vehicle is otherwise available may be reimbursed for his/her actual out-of-pocket fuel expense directly related to the use, subject to approval in-advance by his/her supervisor and the City Manager.

**Article 27**  
**MANAGEMENT RIGHTS**

**Section 27.1** – The City retains all exclusive rights & powers not specifically modified by the terms & conditions of this Agreement; including, but not limited to:

- A. Managing, controlling & conducting its business, operations, & work force;
- B. Determining matters of inherent managerial policy; including, but not limited to, areas of policy discretion such as the functions & programs of the City, standards of service, its overall budget, utilization of technology, organizational structure, staffing levels, employee qualifications, adequacy of the work force, and the overall methods, process, means, or personnel by which governmental operations are to be conducted;
- C. Planning, directing, supervising, evaluating & directing its work force; including the right to hire, discipline, suspend, discharge for cause, promote, demote, layoff, assign, retain, schedule & transfer employees;
- D. Establishing & enforcing rules and/or regulations relating to its work force & operations;
- E. Maintaining & improving the efficiency & effectiveness of governmental operations; and
- F. Determining & implementing the City's overall mission as a unit of local government;

**Section 27.2** - **Matters Bargained and Not Bargained**- The exercise of the foregoing powers, rights, authority, duties, and responsibilities, the adoption of reasonable policies, rules and regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the express terms of this Agreement. The City is not required to bargain with the Union during the term of this Agreement on subjects reserved to its management and direction except as affect wages

hours, terms and conditions of employment and the continuation, modification or deletion of a provision of this Agreement.

**Article 28**  
**O.P.E.R.S CONTRIBUTION**

Throughout the term of this Agreement the City will contribute only the “employer share” of the contribution to the employee’s retirement account with Ohio Public Employee Retirement System (OPERS).

**Article 29**  
**MILITARY LEAVE**

The City of Newton Falls prohibits discrimination against persons because of their service in the Armed Forces Reserve, the National Guard and other uniformed services of the United States government. All employees who participate in Armed Forces military service listed above will be entitled to reclaim their employment after being absent due to military service or training. All benefits and seniority will accrue to the employee on military leave as they would as if the employee were actually working his/her regular position with the City of Newton Falls.

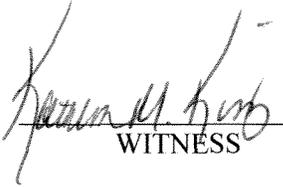
Employees in the military services listed above shall be granted time off with pay when ordered to temporary active duty or when ordered to military training exercises not to exceed one hundred seventy-six (176) hours per year. In addition, all health care benefits will be paid during such military leave. All such time is subject to verification of military service for time requested.

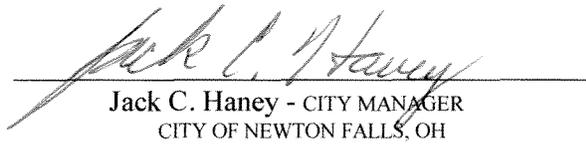
**Article 30**  
**TRANSITIONAL WORK**

Transitional Work will be used for employees who are injured or who contract an occupational disease while in the course of employment. Probationary employees, as well as full-time employees, may receive Transitional Work in connection with an occupational illness or injury, but only if the injury is certified by the city and/or deemed compensable by the Industrial Commission of Ohio. As a general rule, injury leave will be denied when the BWC/Industrial Commission of Ohio has determined that the claim is not compensable, or when the injury involves “horseplay”.

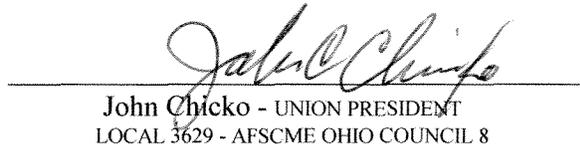
**Article 31**  
**SIGNATURES**

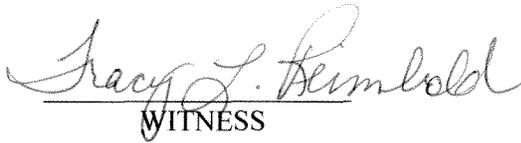
The captions appearing in this Agreement are intended only as a matter of convenience and in no way shall define, limit, or describe the scope or intent of such section or Article of the Agreement. IN WITNESS THEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEALS AT NEWTON FALLS, OHIO, ON THE 17, May, 2012.

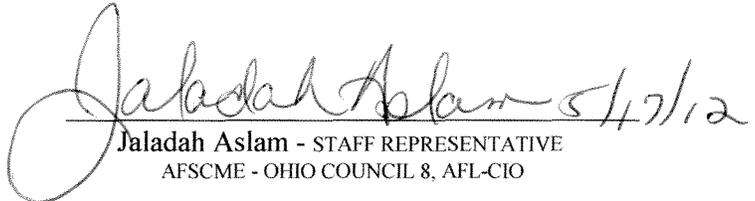
  
WITNESS

  
Jack C. Haney - CITY MANAGER  
CITY OF NEWTON FALLS, OH

  
WITNESS

  
John Chisko - UNION PRESIDENT  
LOCAL 3629 - AFSCME OHIO COUNCIL 8

  
WITNESS

  
Jaladah Aslam - STAFF REPRESENTATIVE  
AFSCME - OHIO COUNCIL 8, AFL-CIO

APPROVED AS TO FORM BY:

  
A. Joseph Fritz - LAW DIRECTOR