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JANUARY 1, 2012 – December 31, 2014

CONTRACT BETWEEN

THE CITY OF MIDDLETOWN

AND

IAFF, LOCAL #336

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Article 1 – Preamble

The following Contract by and between the City of Middletown, Ohio hereinafter referred to as the City, and Local 336, International Association of Firefighters hereinafter referred to as the Union, is recorded in written form to meet the requirements as set forth in Section 4117.09(A) in the Ohio Collective Bargaining Law.

Article 2 – Recognition

A. Bargaining Rights. The City recognizes the Union as the sole and exclusive representative of all employees as hereinafter defined.

B. Employees Defined. The term employee or employees as used in this agreement shall refer to the full-time paid employees assigned to the following classifications:

- (1) Firefighter
- (2) Lieutenant
- (3) Captain
- (4) Deputy Chief

All reference to firefighters and officers in the agreement shall include both sexes; wherever the male gender is used it shall be construed to include male and female employees.

C. Subjects for Bargaining. The Union has sole and exclusive bargaining rights under this agreement with respect to those mandatory subjects of bargaining defined under ORC 4117.

Article 3 – Consideration

A. Nondiscrimination. The parties agree that their respective policies will not violate the rights or discriminate against any employee covered by this Contract because of sex, creed, color, age, national origin, political affiliation, or in the application or interpretations of the provisions of the Contract.

Article 4 – Management Rights

IAFF Local 336 recognizes the rights of the City and the Chief of Fire Division to operate and manage its affairs in all respects, in accordance with its responsibilities and the powers or authority which the City has not abridged, delegated or modified by this Contract and such powers or authority are retained by the City.

These management rights include, but are not limited to the following:

- A. To utilize personnel, methods, procedures, and means in the most appropriate and efficient manner possible.
- B. To manage and direct the Employees of the Fire Division.
- C. To hire, schedule, promote, transfer, assign, train or retrain Employees in positions within the Fire Division.
- D. To suspend, demote, discharge, or take other appropriate disciplinary action against the Employees for just cause.
- E. To determine the size and composition of the work force and to lay off employees.
- F. To determine the shift schedules, days and starting and quitting times for the Fire Division.
- G. To determine the mission of the City and the methods and means, necessary to efficiently fulfill the mission including: the transfer, alteration, curtailment, or discontinuance of any services; the establishment of acceptable standards of job performance; the purchase and utilization of equipment for the performance of services.
- H. The City has the right to schedule overtime as required in the manner most advantageous to the City and consistent with the requirements of municipal employment in the public interest.
- I. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the Employee.
- J. Contracting and Subcontracting - IAFF Local 336 recognizes the City has statutory rights and obligations in contracting for matters relating to municipal operations. The right of contracting or subcontracting is vested exclusively in the City.
- K. The City retains the right to establish reasonable rules, regulations, and rules of conduct. Rules, regulations, and rules of conduct which are specifically cited by provisions of this contract may not be changed without negotiations and agreement of IAFF Local 336.
- L. The above rights of Management are not all inclusive but indicate the type of matter or rights which belong to and are inherent to Management. Any of the rights, powers, or authority the City had prior to the signing of this

Contract are retained by the City, except those abridged, delegated, or modified by this Contract.

Article 5 – Payroll Deductions

A. Union Dues. Upon the written authorization of the employee, the City agrees to deduct once each month from the wages of each employee the sum certified as Union dues, and deliver the sum to the Union Treasurer. Such authorization must be forwarded to the Finance Director within thirty (30) days prior to the effective date. If any employee does not have a check coming to him or the check is not large enough to satisfy the assignment, no collection shall be made from the employee for that month. Payroll deductions will not be implemented or modified without a written authorization. Employees desiring to withdraw their payroll deduction authorization will notify the City and the Union in writing.

B. House Fund. Each member shall, in addition to any other deductions, have an amount verified to the Finance Department by the employee organization deducted from his pay on the second bi-weekly pay of the month. This money shall be paid to the House Fund.

C. Fair Share Fee. Bargaining unit employees shall either become dues paying members of IAFF local 336 or remit to local 336 through payroll deduction fair share fee equal to the monthly dues of a dues paying member and in accordance with the provisions of O.R.C. 4117.09(c), on a bi-weekly basis. The amount shall be deducted from the wages of all such non-members of IAFF local 336 and shall commence 60 days after initial employment in the bargaining unit.

D. The Union agrees to hold the City harmless, and to reimburse and indemnify the City, for any and all liability, costs, and attorney fees which might arise by reason of any action taken under this article.

Article 6 – Seniority

A. The Chief will establish seniority lists both by date of original appointment and by date of promotion. These lists shall be updated each October 1st and posted on station bulletin boards by October 15th. They shall remain for a period of thirty (30) days and may be challenged during that period. Thereafter, they shall remain unchanged until the next October. A copy of each list shall be distributed to the Secretary of the Union on the date of posting.

B. Seniority shall govern the dispensing of all privileges provided by and listed as governed by seniority in this agreement. Any new privilege that arises during the life of this agreement shall be referred to the Labor/ Management Committee for determination of the applicability of seniority prior to the granting of the privilege.

C. The Chief will attempt to keep seniority balanced among the platoons and distributed equally in all houses. However, should seniority become unbalanced, the Chief will prepare a transfer list to become effective on January 1st of the following year. This transfer list will be issued prior to the date set for selection of vacation and holidays.

D. When the annual transfer list is being prepared, the most senior officers and most senior firefighters shall contact the Chief and request their preference for assignment.

The Chief will attempt to satisfy the requests by placing the officers and firefighters in those positions that would give the greatest possibility for using this seniority to fill a higher ranking position.

Article 7 – Layoff / Recall

A. Layoff. In the event the City should decide to layoff Fire Division personnel, the employee(s) with the least seniority shall be laid off first in accordance with State of Ohio Civil Service Law. Seniority, for the purpose of this section, shall be the total time of current continuous service within the bargaining unit. In the event an employee is laid off, he shall receive payment for earned but unused vacation and/or holiday (to include current calendar year), sick leave conversion, uniform maintenance, and clothing allowance with his termination pay.

B. Recall. Employees who are on lay-off shall be placed on a recall list for a period of two (2) years and shall be recalled in reverse order of their layoff with the last employee laid off being the first to be called back and continuing in like manner until the required number of employees has been obtained.

C. Recall Notification. No new employee shall be hired until all employees who have been laid off in the previous two (2) years, have been given the opportunity to return to work. Laid off employees will be notified by registered mail at their last known address to return to work within twenty-one (21) calendar days. Failure to report within the time limit removes them from the recall list.

D. Layoff/Termination. An employee who is on lay-off for a period of two (2) years is automatically terminated and loses all seniority.

Article 8 – Personnel Records

A. Each employee of the Fire Division shall, upon request, be permitted access to his personnel records, copies of all injury report forms, and Worker's Compensation forms pertaining to his own employment.

B. If an employee feels that any material in either his Fire Division personnel file or the Personnel 201 file is untrue and/or derogatory he may answer or respond to such material in writing and such answer or response will be made a part of those files. Should an employee leave the employment of the City and sign a waiver of information for any future employer, the information that is released shall include the employee's response to any material that he has deemed untrue and/or derogatory.

C. For the sole purposes of discipline, grievance and the arbitration procedure, spoken reprimands shall be removed from the employee's file after eight months, medical notices requiring doctor's certificates will be removed for such purposes after eight months, written reprimands not concerning monetary loss shall be removed for such purposes after twelve months, provided that in each of the above the employee has not had a reoccurrence of the problem.

D. Copies of any commendations and/or awards will be a permanent part of the file and the employee shall be given a copy of the same. It shall be the responsibility of the employee who wishes an award or official commendation to be placed in his file to provide a copy to the Chiefs Office and the Personnel Department file.

Article 9 – Sick Leave

A. Accumulation. Each full-time employee working a 40 hour week shall be credited with 10 hours of sick leave for each full calendar month of service. Each full-time employee working a 51 hour week shall be credited 13.5 hours of sick leave for each calendar month of service. The hours of sick leave earned shall be credited to each employee on the first pay period of each month. There shall not be a limit to the accumulation of sick leave hours.

B. Non-accrual. Employees on leave without pay for any reason for more than two weeks shall not accrue sick leave benefits.

C. Approval of Usage. The Chief of the Fire Division or other authorized official designated by the Fire Chief has authority as provided by the City Manager to approve or deny the use of sick leave. Sick leave shall not be approved for unauthorized uses. An employee may be required to submit a doctor's certificate whenever the Chief of the Fire Division suspects there has been abuse by the employee in his use of sick leave or to substantiate periods in excess of one (1) tour or three (3) days of forty (40) hour employees.

D. Computation of Usage. Employees shall be charged for sick leave usage on an hour-by-hour basis of not less than a one-half hour increment.

E. Authorized Uses for Sick Leave. Sick leave credit may be used for the following:

- (1) Illness, off-duty injury, or exposure to a contagious or communicable disease.

(2) Sickness or disability in the immediate family where the presence of the employee is absolutely necessary. For the purpose of this section, immediate family shall be defined as the employee's spouse, children, parents, (either natural, step, foster), brother, sister, and/or other relatives living in the employee's household. Time off shall not exceed three (3) 8 hour days for 40 hour workers, or twenty-four (24) hours for tour workers, for any one illness without the written approval of the Fire Chief. In cases of illness in the employee's immediate family requiring him to be at home, the employee may be required to submit a doctor's certificate or other proof which establishes the necessity for the employee to be at home caring for the family member.

(3) Funerals not covered in Article 12 of this agreement. Time off shall not exceed one (1) 8 hour day for 40 hour workers, or one (1) twenty-four hour tour for tour workers. Upon the City's request, the employee shall provide proof of attendance at such funeral.

F. Employee's Claim for Sick Leave. The employee shall submit a Claim for Sick Leave Form in order to receive payment under the sick leave provisions. For extended absences payment may be approved at the discretion of the Fire Chief prior to submission of this form. This form must be completed upon return of the employee to work. Failure to complete the form shall result in the employee being determined to be on leave without pay and a deduction in the subsequent payroll period. The Division of Fire should attach Claim for Sick Leave Form to the payroll voucher.

G. Advance Sick Leave. Advanced sick leave may be granted to employees who meet the necessary sick leave credits upon approval by the City Manager and the Employee's department and/or division head. Eligibility would depend upon the employee's effort to utilize all other earned credits including, but not limited to, earned vacation leave.

H. Policy for Taking Sick Leave While on Vacation. By submitting a "Claim for Sick Leave During Vacation" Form, an employee who becomes ill when on vacation may apply for payment of sick leave for the period of illness. Approval shall be granted at the discretion of the Fire Chief with concurrence of the City Manager.

I. Uniformed members of the Division of Fire are authorized to trade-in fractions of vacation days for sick leave on an hour for hour basis.

J. Transfer of sick leave days from one member to another will be allowed under rules established by the Chief of Fire.

Article 10 – Injury Leave

A. In addition to sick leave as provided by this agreement an employee shall receive job incurred injury leave as follows:

(1) In the event an employee is injured on the job, and unable to perform either his regularly assigned duties or those duties which may be assigned to the employee by the Chief of the Division of Fire, such employee may receive, as injury leave compensation, his regular base pay for the first six (6) consecutive months of time off because of and immediately following the on-the-job injury. Provided, however, at the time of the injury and in no event later than one day following the occurrence that gave rise to the injury, the employee notifies an appropriate supervisor, of the injury and, unless hospitalized, within three days of the occurrence, provides the employer a physician's statement stating the nature of the injury, limitations on the employee's ability to work, and, an expected date of return to work.

(2) If an employee is hospitalized immediately following the injury, he shall submit the physician's statement within three days after his dismissal from the hospital to the employer.

(3) If an employee does not notify the employer, as provided above, the first five (5) tours of duty off of work because of the on-the-job injury shall be charged as sick leave.

(4) If an employee sustains on the job a re-injury or aggravation of a prior on-the-job injury, the first five (5) tours of duty off work because of the re-injury or aggravation shall be charged as sick leave, unless the employee is hospitalized as a result of the re-injury or aggravation.

(5) No injury leave will be granted to any employee who fails to report the on-the-job injury to the appropriate supervisor within ten (10) days of the on-the-job injury.

B. No injury leave will be granted any employee who is off of work because of any of the following:

(1) Any medical condition that existed prior to the employee's original hire date, including an aggravation or re-injury, on or off the job, of any such pre-existing condition;

(2) Any medical condition that results from an off-the-job injury, including an aggravation or re-injury of any such condition.

C. An employee who is injured and unable to perform his regularly assigned duties, may be assigned by the Chief of the Division to perform duties not requiring great physical exertion in lieu of receiving injury leave compensation, with the approval of the employee's physician or the employer's physician as set forth in paragraph (D) below.

D. (1) An employee claiming the right to receive, or who is receiving injury leave compensation, may be required by the employer from time to time to submit himself for a medical examination by a licensed physician, selected by the

employer. The employer will pay any legitimate cost for examination that the employee's medical insurance or Workers' Compensation does not cover, including travel expenses. If the employee refuses to submit to a medical examination, injury leave compensation may be suspended or denied.

(2) If the report from the physician selected by the City is in conflict with the report submitted by the employee's physician regarding the nature of the injury, limitations on the employee's ability to work or the expected date of return to work, the employee shall be examined by a third physician to be mutually agreed to by the parties. The opinion of said third physician shall be determinative.

E. If an employee returns to work following an on-the-job injury for which he received less than the full injury leave benefit provided herein, and within five tours from the date of his return, the employee's physician or the employer's physician as set forth in paragraph (D), above, determines that the employee, because of the injury, is unable to perform those duties the employee has been assigned following the injury, the employee will be entitled to the balance of the injury leave, subject to the conditions set forth herein.

F. If an employee incurs a cardiovascular, pulmonary or respiratory disease, following immediate exposure to heat, smoke, toxic gases, chemical fumes or other toxic substances or such condition as caused or induced by the cumulative effect of exposure to heat or the inhalation of smoke, toxic gases, chemical fumes and other toxic substances, there shall be a presumption that such cardiovascular, pulmonary or respiratory disease is a job-incurred injury, for purposes of this section. Such presumption may be refuted by affirmative evidence that the condition is caused or substantially caused by other factors, not related to employment.

G. For purposes of injury leave and worker's compensation only, any off duty member shall be considered to be acting in the line of duty when he or she happens to come across any incident within the City of Middletown requiring that he or she render assistance as a firefighter, EMT or paramedic.

Article 11 – Special Leave / Trading of Tours

Each employee shall be granted special leave with pay for any day or days on which he is able to secure another employee who will work in his place without pay, provided:

A. A substitution shall be granted with the approval of the member's immediate supervisor.

B. Notice of substitution will be made by the employee regularly scheduled for the tour prior to the commencement of the tour for which the substitution is to be effective, except in cases of emergency when such notification can be made by phone. The platoon commander shall be notified by the approving supervisor of all duty trades within the firefighter rank prior to commencement of the tour.

C. A member will trade within his rank and possess equal certification and qualifications unless he has prior approval of the Fire Chief or his designee to trade with a man of lesser or greater rank. Firefighters working a trade for an officer shall not receive acting pay. Acting pay shall be paid whenever an officer or a firefighter is assigned a higher ranking position and that position was not created because of any trade.

D. During his probationary period, a firefighter shall not be permitted to trade tours in excess of four (4) times, for purposes of this section only, a trade of tour is any trade in excess of two (2) hours.

Article 12 – Funeral Leave

A. Funeral Leave. Leave with pay for participation in funeral services or arrangements shall be granted by the Chief of the Division or his designee to an employee when a death in the immediate family occurs. Immediate family shall be defined as the employee's mother, father, someone standing in loco parentis, wife, spouse, child, brother, sister, guardian, grandparents, mother-in-law, father-in-law, daughter-in-law, son-in-law, grandchildren, sister-in-law, or brother-in-law.

B. Extent of Benefit. A single duty tour of leave will be granted for platoon shift employees or three (3) eight (8) hour duty days for 40 hour employees for funeral leave. If death in the immediate family occurs during an employee's tour of duty and the employee leaves his tour, the remainder of the tour shall not be counted toward the above duty day(s) charged to funeral leave.

C. Additional funeral leave may be granted upon request with the approval of the Chief of the Division or his designee. Funeral leave in excess of that set forth in section (B) shall be charged against accumulated sick leave.

D. Unless otherwise approved in writing by the Chief of the Division, requests for funeral leave will not be approved for absences not taken within a seven calendar day period of the date of the funeral.

Article 13 – Union Business Leave

A. Local 336 shall have up to twenty (20) working tours or a total of 480 hours of Union business leave per agreement year, with full pay for Union officers and/or designees to participate in conventions, pension business, educational conferences, and to attend to the normal operating functions of the Union. Such leave will not accumulate for a Union officer or designee performing Union business outside scheduled working hours. This leave is available only to relieve such individual from work for an activity approved by this Article. Said tours may be apportioned throughout the life of this agreement by the Union. There shall be a maximum of two (2) employees on any such leave on any one tour with the exception of time allocated under Section B.

B. Sufficient time off with pay to be deducted on an hour for hour basis from the hours in Section A, above, shall be granted any two (2) elected or designated officers of the Union who are covered under this agreement for the purpose of attending and conducting regular or special meetings of the Union. A twenty-four (24) hour notice shall be given the Chief or Acting Chief of the Division. Where there are two meetings to cover different platoons, a total of no more than two (2) elected or designated employees shall be excused over the two (2) days involved. A maximum of three (3) Union members may be off during any one shift for the purpose of attending conventions, seminars, or special conferences, at the sole discretion of the Chief.

C. There shall be neither a carryover nor an accumulation of unused leave to the next calendar year except that there shall be a carryover of any unused Union time, from odd years to even years, not to exceed one-hundred twenty (120) hours.

Article 14 – Authorized Leave

A. Military Leave. Military Leave shall be provided to members in accordance with the Policy and Procedure Manual of the City of Middletown. It is understood that the term “reserve duty” in the Policy and Procedure Manual applies to the State Guard in addition to the military reserve.

B. Leave of Absence with Pay.

(1) Purpose. Leaves of absence with pay may be granted for any legitimate reason including, but not limited to the following, provided such absence has been approved in advance by the proper authority, as outlined below:

- (a) For military pre-induction examinations.
- (b) When called to serve on a jury.
- (c) When subpoenaed as a witness in a court case.
- (d) To attend meetings, conventions, conferences, or short courses of instruction which benefit the City as approved by the Chief of Fire.

(2) Procedure. A unit employee desiring to apply for a leave of absence should submit his application to his immediate supervisor, outlining briefly the necessity for such a leave. The supervisor will transmit the request to the Chief of Fire along with his comments. Further disposition will be made as follows:

- (a) Request for Leave of Five Days (Two Tours) or less. The Chief of Fire will act on such a request, when funds are budgeted.

(b) Request for More than Five Days (or Two Tours), or Other Purpose. Requests for leave of more than five days duration, will be forwarded to the City Manager by the Chief of Fire along with his recommendations.

(3) Conditions. All such leaves will be given in writing with a copy directed to the Personnel Manager. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits continue while a unit employee is on a leave with pay.

C. Leave of Absence Without Pay.

(1) Purpose. Leave of absence without pay may be granted for any legitimate purpose subject to approval, including but not limited to the following:

(a) To further a unit employee's education. (Ordinarily such a leave will be granted only if the leave will directly benefit the City as well as the individual, and provided the unit employee agrees to return to City employment for a specified period of time after such leave.)

(b) To attend funerals not covered by paid leave.

(c) To care for a member of the immediate family in case of extended illness or injury in circumstances not covered by sick leave.

(d) Illness not covered by sick leave.

(2) Procedure. A unit employee desiring to apply for a leave of absence without pay should submit an application to his immediate supervisor, outlining the reason for the request. The supervisor will transmit the request to the Chief of Fire along with his comments. Further disposition will be made as follows:

(a) Request for Leave of Five Days (Two Tours) or Less. The Chief of Fire will act on such a request.

(b) Request for More than Five Days (or Two Tours), or Other Purpose. Requests for leave of more than five days duration will be forwarded to the City Manager by the Chief of Fire along with his recommendations.

(3) Conditions. All such leaves will be given in writing with a copy directed to the Personnel Department and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits cease while a unit employee is on a leave without pay after such leave exceeds two weeks. Fringe benefits include sick leave, vacation, annual pay increase, insurance, and holidays. The unit employee may continue his health insurance coverage at his own expense.

D. Disability Leave of Absence.

(1) A unit employee incurring any disability not duty connected, after he has exhausted all of his paid leave to which he is entitled, will be entitled to a leave without pay for a period not to exceed six (6) months, subject to the following provisions:

(a) The unit employee shall apply for such leave, in writing, to the Chief of Fire, for his approval.

(b) The unit employee shall submit a physician's report, including a statement regarding the nature of the disability and whether or not the employee is able to work.

(c) The unit employee shall submit to the Chief of Fire, a physician's statement of release for work before returning to work.

E. Emergency Leave.

(1) Purpose. Emergency leave may be granted to an employee that needs to be away from work for a personal emergency subject to the approval of the Chief or their designee.

(2) Emergency. A personal emergency is intended to include events which could result in damage or injury to the home of the employee, the employee or the employee's spouse or children. The employee must state the basis of the emergency, and the existence of an emergency shall be in the sole discretion of the Chief or his designee.

(3) Leave. If emergency leave is granted, the employee may use vacation leave or banked holiday time to be paid for such leave. Otherwise, the leave will be unpaid. The leave shall be for a minimum of twelve (12) hours, unless the emergency occurs after midnight, in which case the leave shall be the remainder of the shift, not less than four (4) hours.

(4) Rules and Regulations. The Chief may adopt rules and regulations regarding emergency leave not inconsistent with this provision of the contract.

Article 15 – Safety and Health

A. The City and the Union shall cooperate fully to maintain the highest standard of safety and health in the Fire Division in order to eliminate as much as possible accidents, deaths, injuries, and illness in the Fire Division.

B. The company officer shall have discretion to remove apparatus from service if in his opinion the mechanical condition of the apparatus warrants removal pending an

inspection by a command officer. The final decision and responsibility as to the serviceability of a piece of equipment will rest with the Chief of the Division.

C. The City will agree that blood tests for carbon monoxide poisoning will be provided upon request for any firefighter treated in a hospital for inhalation of an irrespirable atmosphere and the firefighter will be given a report of the test upon request. The City will pay any legitimate cost for blood tests and treatment for exposure to contagious disease in the line of duty, that are not covered by medical insurance or Worker's Compensation as deemed necessary by medical personnel.

D. The Chief of the Fire Division will determine the types, quality and quantity of all equipment issued for use in the Division.

E. There shall be two members from the Fire Division appointed to the city-wide Safety Committee. One shall be designated by the Fire Chief; the other shall be designated by the President of the Union.

F. The City will continue to furnish safety apparel and equipment consistent with the National Fire Protection Association recommendations and Ohio Industrial Commission Standards.

G. The City will provide, upon request by any member of the Division of Fire, an inoculation for prevention of Hepatitis, Type B, and annual flu shot.

H. Damaged safety equipment and apparel shall be ordered within 10 working days of notification of needed replacement.

I. The City will provide, upon request, within a reasonable time, a test for any employee that through documentation has been exposed to a serious infectious disease, such as AIDS, meningitis, etc. while performing his duties as deemed necessary by medical personnel. The City will pay any legitimate cost for the test not covered by medical insurance or workers' compensation, as well as reasonable expense.

Article 16 - Hours of Work.

A. The Chief of the Fire Division shall divide the firefighting force into three (3) platoons, and the Chief shall keep a platoon on duty twenty-four (24) consecutive hours, which shall be known as a tour of duty, after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for at least forty eight (48) consecutive hours, except in cases of emergency. Four employees shall not work in excess of forty-eight and two-tenths (48.2) consecutive hours, except in emergency situations declared by the Chief of the Division of Fire. On or after November 1, 1998, the City may re-open solely this section (and any other section which would have to be changed if this section is changed), if at the time, the City feels a need for some shifts to be less than twenty-four (24) hours. In the event this section is reopened and a mutual agreement is not

reached, the dispute resolution procedure would include fact-finding and, if needed, conciliation in accordance with SERB procedures.

B. Tour Employees. Effective January 1, 2002, the workweek for tour employees shall be approximately fifty one (51) hours per week. Said work schedule will be maintained by the utilization of earned days off. An Earned Day Off (E.D.O.) shall be for a period of twenty-four and one-tenth hours. Earned days off shall be scheduled utilizing seniority. The workweek for tour employees shall include Saturday and Sunday working hours in the interest of public health, safety and welfare.

C. Non-Tour Employees. The workweek for non-tour employees will consist of 40 hours.

Article 17 – Reporting for Duty

Each tour employee shall report for duty and be in uniform no later than 0700 hours or such other time as designated by the Chief of the Fire Division.

Article 18 – Reporting Off Duty

An employee must notify dispatch and the officer in charge at headquarters at least fifteen (15) minutes prior to the time he/she is scheduled for duty.

Article 19 – Emergency Call-in/Standby

A. Emergency Call-in Pay. If by the determination of the officer in charge there exists an emergency situation requiring the call-in of off-duty employees, there shall be at least five (5) individuals called in, regardless of rank.

These called in employees shall be paid for a minimum of four hours pay to be computed at their respective hourly rate.

The employee to be called in should be the employee most able to respond in the least amount of time.

The time worked as emergency call-in time shall not be included in employee's total hours on overtime list.

It shall not be a violation of this paragraph if the emergency is terminated before five (5) members are called, or in case the officer in charge determines that he/she needs a person with some specific expertise.

B. Standby. Members placed on stand-by status outside their regular work shift as approved by the Fire Chief shall receive compensation equal to two hours pay for each day on stand-by to be computed at their respective forty hour rate.

Article 20 – Temporary Assignment to Higher Rank

Any employee who is officially assigned to act in a higher position on a temporary basis and who satisfactorily performs the complete duties of the higher level position for a continuous period of twelve (12) hours or more shall be raised one step in pay for time working in such acting position. If an employee is scheduled to act in a higher position on a temporary basis for a period of twelve (12) hours or more and satisfactorily performs the complete duties of that higher level position for a period of less than twelve (12) hours, the employee shall be raised one step in pay for the time worked in such acting position, which shall be a minimum of twelve (12) hours. Rules and regulations for assignments shall be prescribed by the Fire Chief or his designee. It is the intent of the parties that this clause will not be abused by intentionally alternating lower classification employees to avoid the higher rate of pay.

Article 21 – Promotions to Higher Rank

A. The promotion of employees in the Fire Division shall be governed by the Civil Service principles of merit and fitness.

An eligible list, ranking candidates for purposes of promotion, shall be established from a cumulative score, to be determined as provided in this section.

All promotional examinations shall consist of a written test and an assessment center. The written test and the assessment center shall be weighted for purposes of scoring as follows:

- (1) For promotions from firefighter to lieutenant, the written test shall constitute sixty percent (60%) of the base score and the assessment center shall constitute forty (40%) of the base score.
- (2) For promotions from lieutenant to captain, each portion of the promotional examination shall constitute fifty percent (50%) of the base score.
- (3) For promotions from captain to deputy chief, the written test shall constitute forty percent (40%) of the base score and the assessment center shall constitute sixty percent (60%) of the base score.
- (4) For promotions within the rank of firefighter, there will be no assessment center or practical examination. A member must receive a score of 70% on the written examination. In order to test for the position of squadperson, the employee must possess a minimum of one (1) year of

service with the City's Fire Division, and must possess state certification for paramedics. In order to test for the position of apparatus operator, the employee must possess Division of Fire certification as a pumper and aerial operator.

To be eligible to compete in a promotional test for lieutenant an employee must have a minimum of five (5) years service with the Division of Fire of the City, and have obtained Step F in the pay scale.

A member taking a promotional examination for firefighter to lieutenant, lieutenant to captain, and from captain to deputy chief must receive a score of seventy percent (70%) on the written portion of the exam and 70% on the assessment center. All examinations shall be construed by outside testing consultants, with the exception of squad person and apparatus operator positions.

In addition to the base score achieved on the promotional examination, members shall be awarded credits for seniority. Seniority credit, up to a total of ten (10) points shall be awarded in the following manner; six/tenths (.6) of one point for each year of service in the Division of Fire for the first through ten years and one (1) point for each of the next four years.

The ranking on the eligibility list shall be in the order of highest cumulative score (base score plus credits) first to the lowest passing cumulative score. The appointing authority shall make the appointment from the top name on the list.

The Chief will establish a list of source material for each promoted position not to exceed seven books to be used for promotional testing. The books to be used on the promotional test shall be listed in the announcement. Not more than one book may be changed within three months prior to any promotional testing. If two or more books are changed there must be six months prior to promotional testing. It shall be understood that new revisions of books will not be recognized as changes to the source list. The Chief will keep one set of the seven books in his office and make them available for loan to members.

Article 22 – Grievance Procedure

- A. (1) A grievance is defined as a specific violation of a term of this Contract, or disciplinary action taken against an employee. Each written grievance must state the Article of the contract where the violation has occurred and the remedy requested to settle the grievance.
- (2) Any step in the grievance procedure outlined below may be skipped on any grievance by mutual consent. In the absence of such mutual consent at any step where a response is not forthcoming within the specified time limits, the grievance will be presumed to have been denied. In such a case, the grievant must present his grievance to the next step in the grievance procedure in order to

obtain further consideration. A copy of all grievances and responses will be forwarded to the Personnel Manager, and the President of the IAFF.

Step 1. The employee or group of employees shall present their grievance in writing to his or their immediate supervisor for his disposition. This must be done within thirty (30) calendar days following the date of occurrence or when the employee or the Union should have had knowledge of the occurrence of the facts upon which the grievance is based. The grievant may, if he or they so desire, be accompanied by a member of the Grievance Committee at this step.

The immediate supervisor shall reply in writing to the aggrieved within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays). If the aggrieved employee or employees do not refer the grievance to the second step of the procedure within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after receipt of the decision rendered in this step, it shall be considered to be satisfactorily resolved.

Step 2. The grievance, together with all correspondence, shall be submitted to the Chief. The Chief shall investigate and hold a grievance meeting within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after receipt of the grievance. The Chief shall give his answer to the Union and the aggrieved in writing within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after termination of such grievance meeting. Both the Union and/or its representatives and Management shall have the right to call such witnesses as are necessary to the investigation and explanation of the grievance. The aggrieved may be represented by a member of the Grievance Committee.

Step 3. The grievance shall be presented to the City Manager or his designee no later than five (5) calendar days after the receipt of an unacceptable decision rendered at Step 2, or within five (5) calendar days after the five (5) calendar day period in which the response is due. If the grievance is not so presented, it will not be further considered. A meeting shall be scheduled within five (5) calendar days after the filing of the grievance at Step 3. The decision of the City Manager or his designee shall be given within five (5) calendar days of said meeting. If the aggrieved employee does not notify the City Manager or his designee through the President of the IAFF of his dissatisfaction with the decision rendered, the grievance shall be considered resolved. If the City Manager or his designee fails to answer in writing within the five (5) calendar daytime period the grievance will be presumed to have been denied.

Step 4. Failure to resolve any grievance processed through Step 3 will result in the grievance being referred to an Arbitrator, provided written

notice for the same is made by the IAFF President within five (5) calendar days after the receipt of the decision of the City Manager or his designee, or after the five (5) calendar day period in which the decision is due. In the event that the IAFF President or his designee should fail to serve such written notice on the agency from which the Arbitrator is to be provided and the City Manager or his designee, the grievance shall be considered settled. The arbitrator shall be chosen from a listing provided by the American Arbitration Association. The listing may be requested by the IAFF and/or the City.

B. (1) The parties understand and agree that in making this Contract they have received for its term all bargaining issues which were or which could have been made the subject of discussion. The arbitral forum here established is intended to resolve disputes between the parties only over the interpretation or application of the matters which are specifically covered in this Contract and which are not excluded from arbitration.

(2) The arbitrator shall have no power to add to or subtract from or modify any of the terms of this Contract or addendum to this Contract nor to rule on any matter except while this Contract is in full force and effect between the parties. In the event a case is appealed to an arbitrator and he finds that he has no power to rule on such case the grievance will be denied.

(3) The award of the arbitrator shall be based exclusively on evidence presented at the arbitration hearing.

(4) If the arbitration upholds the grievance as set forth by the Union and grants the remedy sought by the Union, the City shall bear the expenses of the arbitrator. If the arbitrator denies the grievance, the Union shall bear the expense of the arbitrator. In all other circumstances, the expense of the arbitrator shall be shared equally by the parties. Each party shall make arrangements for and pay the expenses of witnesses who are called by the arbitrator.

(5) The Arbitrator's decision shall be final and binding on the IAFF, on all Bargaining Unit Employees, and on the City.

C. IAFF representation at steps one and two of the grievance procedure shall be limited to the designated representative and the aggrieved Employee. The IAFF President and/or Legal Counsel may accompany the grievant and the designated representative at Steps 3 and 4. By mutual agreement additional persons may be designated to attend.

D. Decisions made at any level below that of the Chief shall not be interpreted as setting a precedent, and the Chief reserves the right to take official action without prejudice, based on his own findings in each grievance.

- E. The City is authorized to pay grievance settlements.
- F. By mutual written agreement of the parties, time limits as set forth in the grievance procedure may be extended.
- G. Class grievances may be initiated by IAFF Local 336 at Step 3 of the grievance procedure, subject to the time limits of Step 1.
- H. The grievance form will be subject to approval by both the IAFF and the City.

Article 23 – Labor/Management Committee

A. In the interest of sound relations between the Local 336 and the City, a joint committee of no more than six (6) members, half of whom shall be from Management and half of whom shall be from Local 336, will convene as needed for the purpose of discussing subjects of mutual concern. Meetings may be requested not more than once every thirty (30) days, except upon agreement by both parties. Once requested by either party, the meeting must be held within thirty (30) calendar days. There shall be no obligation upon the City or Local 336 to renegotiate working conditions, pay or any other policy or practice which may be the subject of such discussions.

Article 24 – Discipline

A. Any employee may be disciplined for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, neglect of duty, conviction of criminal charges, misfeasance, malfeasance, nonfeasance, discourteous treatment of the public, failure to pay just debts, violation of the rules of the Civil Service Commission, violation of the Administrative Regulations of the City, violation of the Division of Fire Rules, Regulations, general or special orders, and any other failure of good behavior, or an accumulation of minor infractions.

B. Possible disciplinary actions are as follows: spoken reprimand, written reprimand, suspension with or without pay, reduction of pay, demotion to lower classification, dismissal.

C. (1) No employee shall be demoted, or dismissed without the Chief first meeting with the employee. In special cases, the employee may be suspended pending a meeting, but such meeting must be held promptly. On suspension, the suspended employee may request a hearing to be held by the close of the next succeeding workday. The Union President or Steward shall have the right to attend such meeting subject to the disciplined employee's desires. Any such meeting shall, at the request of the employee, be continued to permit his Steward or Union President's attendance.

- (2) A suspension without pay requires that:
- (1) Written notice be given to the employee of the charges against him and the evidence upon which they are based within ten (10) working days of management's knowledge of the alleged incident.
 - (2) A pre-suspension hearing before the Fire Chief a neutral and detached administrator, who was not involved in any of the events giving rise to the suspension, shall be held within ten (10) working days of the notice provided in paragraph one of this subsection. This administrator shall be appointed by the City Manager or his designated representative. The employee shall be afforded, at the hearing, a fair opportunity to be heard in opposition to the charges against him including the right to question witnesses.
 - (3) The employee has a right to have with him two (2) representatives of his choosing.
 - (4) The employee shall be informed of the Fire Chief's decision and the reasons for it in writing within ten (10) working days of the hearing.
 - (5) The employee may waive the pre-suspension hearing. If the employee grieves the suspension without pay, such grievance will proceed directly to Step 3 of the grievance procedure in Article 22 of this agreement.

D. In cases of dismissal, the employee may request all monies due him within two working days after his supervisor and department head certify in writing that all City property has been properly returned and just debts paid to the City.

Article 25 – Longevity

A. All employees shall be entitled to longevity pay in accordance with the following scheduled percentages of their annual City payroll earnings:

- 10th anniversary through 14th anniversary inclusive – 1%;
- 15th anniversary through 19th anniversary inclusive – 2%;
- 20th anniversary until retirement – 3%.

Upon reaching said anniversaries, each employee shall receive the total percentage in full for that year.

B. Longevity checks shall be prepared for distribution on the first biweekly pay in December.

C. Employees who resign, are laid-off, or retire from employment will be entitled to any earned longevity pay when the final pay check is issued. Any employee discharged from City employment shall forfeit all rights to longevity pay.

Article 26 – Clothing

A. The City shall provide each new recruit a complete allotment of uniforms as outlined in Departmental Rules and Regulations at the expense of the City.

B. Each tour employee shall receive a uniform purchasing credit of \$300 (\$325.00 effective January 1, 2009; \$350.00 effective January 1, 2010) per annum. Each day employee shall receive a uniform purchasing credit of \$350 (\$375.00 effective January 1, 2009; \$400.00 effective January 1, 2010) per annum. Unspent credits may be carried over and added to the next year's credit to a maximum of \$1,000. At the sole discretion of the Chief of the Division of Fire, the uniform purchasing credit may be advanced up to two (2) years to cover uniform replacement. Unspent credits are payable upon termination to a maximum of \$1,000; to be included with the employee's final check.

C. Each employee may request emergency replacement of damaged wearing apparel in accordance with Administrative Regulation A.R. 1-37. These items shall be ordered within 10 working days of notification of needed replacement. Any personal apparel or equipment that is damaged while the member is performing their duties as an employee shall be considered for replacement in accordance with Chapter 101 of the City's Policy and Procedure Manual.

D. All members will receive a separate check for \$300 (\$325.00 in 2009; \$350.00 in 2010; \$375.00 in 2011) the first pay period of December for uniform maintenance reimbursement.

E. The City and the employee shall share equally the cost of initial uniform changes mandated by the Fire Department; provided, however, that prior to any uniform change, a trial period of no less than 90 days will be utilized in order to determine the durability and safety of the proposed new item(s).

Article 27 – Insurance

A. Members shall be entitled to participate in the City's health insurance program as recommended by the Health Care Committee and described in the documents on file in the Finance Department.

(1) The City agrees to maintain a City Health Care Committee for the purpose of regularly reviewing employee health care needs, and implementing a health care program for its employees. The Committee shall act in accordance with the Final Report of the Health Care Task Force Report dated July 10, 2006, and

further amendments by the Committee. If the Committee is not maintained by the City, the City will provide the health care benefits in place at the time of the dissolution of the Committee for the remainder of the Agreement.

(2) The Union agrees to participate in the City Health Care Committee and to adhere to the recommendations of the Committee regarding all aspects of the health care plan, subject to the limitations set forth in Appendix A. The City agrees to adhere to recommendations of the Committee as such recommendations apply to the members. The Union shall have one (1) designee that serves on the Committee and may exercise voting rights on behalf of the Union. Any member appointed as the Union's designee shall be paid for attending the Committee meetings. Any overtime incurred by a member while attending meetings of the committee shall be paid at one and one-half times their regular rate of pay.

(3) All coverage shall be subject to the insurance company's requirements and eligibility.

B. Group life insurance coverage paid by the City shall be provided in an amount equal to that provided under the annual salary ordinance. The 1997 amount is:

For Firefighters: \$20,000 For Officers: \$22,500

Double indemnity premiums shall be paid by the City on all coverage.

C. Any member retiring on or after January 1, 1972, shall receive \$5,000 life insurance coverage paid for by the City. Double indemnity will not be provided on such coverage.

D. The City will indemnify members and provide a defense to members as the result of his/her employment, in accordance with the provisions of Ohio Revised Code Chapter 2744 and Section 250.03 of the Middletown Codified Ordinances.

APPENDIX A

Employees shall have the option to participate in a basic health insurance plan as recommended by the Health Insurance Committee, subject to the following monthly employee contributions (to be deducted in equal installments not less than one time per month), co-pays, deductibles and co-insurance or those recommended by the Committee, whichever is less.

Employee Contribution

	Single	Employee & Spouse	Employee & Children	Family
1/1/12	83.49	175.33	158.63	227.51
1/1/13	91.84	192.86	174.49	250.26

Doctor and Misc. Co-Pays

<i>Itemized Co-Pays:</i>	Member Costs (\$)	
	2012	2013
Physician Visit Co-Pay (In Network)	15.00	20.00
Physician Visit Co-Pay (Out of Network)	Meet 1 st Dollar deductible then 30% employee responsibility	Same
Specialty Care Physician Visit Co-Pay	25.00	30.00
ER Co-Pay	75.00	80.00

Prescription Co-Pays

	Member Costs (\$)	
	2012	2013
Tier 1 Retail (30 day supply)	7.00	10.00
Tier 2 Retail (30 day supply)	25.00	25.00
Tier 3 Retail (30 day supply)	40.00	42.00
Tier 1 Mail Order (90 day supply)	10.50	15.00
Tier 2 Mail Order (90 day supply)	37.50	40.00
Tier 3 Mail Order (90 day supply)	60.00	63.00

Out of Pocket Maximums

Total Out of Pocket Limits Per Year (Deductible Plus Co-Pay):	2012	2013
Per Covered Person (In Network)	500	750
Per Covered Person (Out of Network)	1,000	1,500
Per Family (In Network)	1,000	2,000
Per Family (Out of Network)	2,000	4,000

Limits placed on employee contributions, co-pays and out-of-pocket maximums in this Agreement do not prevent the City from offering employees alternate health care plans which might have higher or lower contribution levels, co-pays and out-of-pocket maximums.

The maximum contributions, co-pays and out-of-pocket costs contained in Appendix A of this Article 27 shall be reopened for negotiation of the maximums to be effective January 1, 2014 in accordance with the provisions of Chapter 4117 of the Ohio Revised Code. No other issue in this article or other article of this Agreement shall be subject to negotiation by the parties, except as agreed by the parties.

Article 28 – Vacation

A. Schedule of Earned Vacation. All tour employees who have served at least one year in the Fire Division shall thereafter be entitled to leaves of absence by way of vacation periods with full pay, in accordance with the following schedule:

1 through 4 years	14 days	16 through 19 years	32 days
5 through 7 years	16 days	20 through 24 years	33 days
8 through 9 years	23 days	25 through 29 years	34 days
10 through 14 years	24 days	30 through 34 years	35 days
15 years	25 days		

B. Those employees not working the three platoon system who have served at least one year shall be entitled to leaves of absence, by way of vacation periods with full pay, in accordance with the following schedule:

1 through 4 years	10 working days
5 through 7 years	12 working days
8 through 9 years	17 working days
10 through 14 years	18 working days
15 years	19 working days
16 through 19 years	24 working days
20 through 24 years	25 working days
25 through 29 years	26 working days
30 through 34 years	27 working days

C. Upon a 40 hour per week employee achieving 800 accumulative sick leave hours or a 51 hour per week employee achieving 1060 accumulative sick leave hours, that employee will be entitled to exchange 32 hours sick leave for 32 hours vacation. Employees with more than 280 accumulative sick leave hours but less than 800 accumulative sick leave hours for a 40 hour per week employee or employees with more than 371 accumulative sick leave hours but less than 1060 accumulative sick leave hours for a 51 hour per week tour employee will be able to exchange sick leave

hours for vacation hours at the ratio of 3:1 (96 hours sick leave maximum for 32 hours vacation).

D. Total annual vacation time shall include:

- earned vacation days
- compensatory time-off in lieu of holidays
- sick leave converted to vacation
- partial tours held in escrow from previous year(s)

E. The scheduling of vacation shall be made by seniority in each platoon, subject to guidelines and limitations established by the Division of Fire, in the month of December.

Article 29 – Holidays

A. The following holidays are celebrated by all employees:

- | | |
|------------------------|----------------------------|
| New Years Day | Thanksgiving Day |
| Martin Luther King Day | Day after Thanksgiving Day |
| President's Day | Christmas Eve Day |
| Good Friday | Christmas Day |
| Memorial Day | Employee's Birthday |
| Independence Day | Personal Day |
| Labor Day | |

B. If any of these holidays falls on Sunday, the following Monday is considered the holiday. If any falls on a Saturday, the preceding Friday is considered the holiday, for all forty hour workers.

C. Holiday regulations for full-time employees:

- (1) A full-time employee working a 40 hour schedule shall be excused from work that day.
- (2) A full-time employee who is regularly scheduled to work on a holiday, or whose normal off-day falls on a holiday, shall be given another day off in lieu of the holiday.
- (3) If an employee is off without pay because of unauthorized absence either the workday before or the workday after a holiday, he forfeits that holiday.
- (4) If a holiday falls during an employee's vacation period, it shall not be charged to vacation time, except where departmental or division policy is to grant additional time in a lump period in lieu of granting regular holidays off.

D. Effective January 1, 2004, in lieu of time off on the above-listed holidays, tour employees will receive 132 hours of compensatory holiday time off annually. Compensatory holiday time off in lieu of holidays shall be added to members' total accumulated vacation days (See Vacation Article).

E. Holiday Pay. Employees who are regularly scheduled to work, and do work, on New Year's Day, Thanksgiving Day, or Christmas Day, shall be entitled to the following additional compensation:

One-half of the regular shift pay for those members working between 7 a.m. the morning of the holiday and 7 a.m. the following day, in addition to compensatory time off and the regular holiday pay.

F. Members of the Division of Fire shall have the option, up to six (6) times per year in accordance with the first payrolls in February, April, June, August, October and December, of exchanging up to 132 hours per year of holiday time earned, but not taken, for pay at the member's current hourly rate.

G. Each member shall be able to accumulate unlimited holidays.

H. A member may request to use compensatory holiday time (personal day) to take time off work (in lieu of accumulating these hours) in the following manner; a) a day worker may take up to eight (8) hours in four (4) hour increments, or b) a tour worker may take up to twenty-four (24) hours in twelve (12) hour increments, and such twelve (12) hour increment shall either commence at the beginning of a shift or terminate at the end of a shift. The member may not request that this day be taken on any of the premium pay holidays listed in section E of this Article. This time shall be granted on a first come first served basis. The member must give the Chief of the Division of Fire 24 hours notice of this request and the Chief or his designee may refuse such request if the request is made less than 24 hours in advance or if 3 other members have already received approval on a particular day.

I. Any 40-hour employee reassigned to tour work shall have his or her banked compensatory holiday hours multiplied by 1.275, and any tour worker reassigned to a 40-hour position shall have his or her banked compensatory holiday hours multiplied by .7843.

Article 30 – Training and Education

A. The City shall provide tuition and necessary materials for training courses as required by the Department and which deal directly with firefighting and/or emergency medical skills and techniques. Any schooling, conferences, or seminars being offered to members by the MFD Training Department shall be posted in all stations for a minimum of 5 days.

B. The City of Middletown will pay for the cost of tuition for courses in accordance with Section 2.64 of the Policy and Procedure Manual.

Article 31 – Bulletin Boards

The City will maintain, at no cost to Local 336 IAFF, one (1) bulletin board size 3' by 3' at each station for Local business. The bulletin boards shall be displayed in a prominent place in each fire station. The bulletin boards shall not be used by individual firefighters to post items which are obviously derogatory to Management. No partisan political information will be posted at any time by either the Union or an individual firefighter. Endorsements by Local 336 IAFF communicated to members are not partisan political activity. Anything deemed obviously derogatory by Management, except official Union communication, shall be removed pending dealing with the matter via the labor/management process.

Article 32 – Legal Appearance

A. Each firefighter required to appear in court resulting from their duties or to give affidavits, make statements to Police or other investigators, observe line-ups or engage in any other type of legal appearance pertaining to their employment with the City, on other than their regularly scheduled tour of duty shall be compensated at the minimum of three (3) hours at the 40 hour rate at time and one-half.

B. Each firefighter required to appear in criminal cases which arise out of the performance of their official duties, who have acted properly and in accordance with applicable laws, regulations and/or work rules, shall, at their option, have access to advice from an attorney from the Law Department of the City at no cost to the member. In the event the Law Director rules that a conflict of interest exists, the administration agrees to review claims of firefighters for compensation for reasonable legal fees and if it is determined to be a proper and worthy claim, the administration will forward the claim to the City Commission with a recommendation to compensate the firefighter as a moral obligation.

C. Each firefighter who is required to appear in court while on duty shall be retained on paid status.

Article 33 – Voting Procedure

Any employee who is called to work on Election Day outside of his/her scheduled work week and is unable to vote because of being called in shall be granted reasonable time off, with pay, upon request, to vote.

Article 34 – Legal Representation

A. In the event a civil action is brought against an employee arising out of the proper performance of his official duties, the Law Director, upon request, will review the facts of the incident giving rise to such action, and if it is determined that the defendant acted properly and in accordance with applicable law, regulations and procedures, the Law Director's office will defend the member in such action subject to the availability of his staff.

B. In the event defense of a legal action by the Law Director's office is not available, the administration agrees to review claims in behalf of employee for compensation for legal fees for legal action resulting from the legitimate performance of his duty. If, upon review, it is deemed to be a proper and worthy claim, the administration will forward the claim to the City Commission with a recommendation to compensate the member as a moral obligation.

Article 35 – Local 336 Activities

A. Negotiating Committee. Local 336 shall advise the City of the name of its negotiators, not to exceed four (4). A maximum of three (3) such representatives shall be paid regular salary for time spent in negotiating sessions set by management during regular working hours; no payment will be made for negotiating time outside the said representatives' normal workday.

B. The names of the duly chosen bargaining representatives of the unit shall be submitted to the Fire Chief sufficiently in advance of scheduled bargaining meetings, so as to permit scheduling for continuity of operations within the department.

C. (1) Members shall have the right to engage in union activity at work, at the sole discretion of the officer in charge, so long as the activity does not interfere with the member's duties as an employee.

(2) Union members shall have the right to vote on officers, tentative contract agreements, fact-finders reports and any other general union business while on duty.

(3) Union members shall have the right to attend executive board and committee meetings while on duty.

Article 36 – Union Office

The Employer will make available the former Chiefs office #1 Station (located at 307 N. Clinton Street, Middletown, Ohio) for Local #336 meetings and business, provided such use is at no cost to the Employer. Provided, one week after the effective date of this collective bargaining agreement the Union will vacate the present Union office and be

entitled to occupy the former Assistant Chief's office, under the same conditions and for the same purposes set forth in this article. The Employer will also provide, at its option, at said location, either an internal PBX line or Ohio Bell phone line. Billing for long distance calls shall be submitted to Local #336 for payment.

Article 37 – Agreement Printing

The City shall provide Local 336 with copies of the Contract in numbers no less than 125% of the total Division of Fire workforce at the time of signing. The City will also provide a copy of the contract on a computer disk.

Article 38 – Miscellaneous Benefits

A. The City shall supply the following items for station use:

- (1) Linens – to include but not limited to towels, wash cloths, dish towels, dish rags, sheets, pillow cases, pillows, blankets, etc.
- (2) Furniture – to include, but not limited to sofas, chairs, tables, recliners, beds, mattresses, televisions, etc.
- (3) Appliances – to include, but not limited to (including maintenance and service costs) range, microwave oven, refrigerator, dishwasher, clothes dryer, small hand appliances (mixers, blenders, etc.).
- (4) Cooking and Eating Utensils – to include, but not limited to pots, pans, plates, glasses, silverware, serving utensils, bowls, etc.
- (5) Cleaning Supplies – to include but not limited to soap, bleach, detergent, mops, brooms, etc.

Items listed above to be repaired or replaced on an as-needed basis. Any unresolved item to be repaired or replaced shall be referred to the Labor/Management Committee for final resolution.

B. Upon retirement, the employee will have the option to purchase their helmet, Company Identity Shield and fire boots at a cost of \$1.00.

C. The City shall pay the cost incurred by any employee who is required by his superior to attend a meeting or function pertaining to his official duties as such employee during other than his regular working hours. Such cost shall not include transportation to or from such meeting or function if held within the City, but shall include any meal deemed necessary by his superior in view of the hour during which the meeting or function is held. No such meeting or function shall be called or held without the prior written approval of the City Manager.

D. The City shall also pay the reasonable costs of employee awards honoring faithful service and the costs of such awards are hereby deemed to be compensation.

Article 39 – Miscellaneous Provisions

A. General Orders. A copy of all General orders and special notices issued by the Chief of the Fire Division shall be distributed to the Secretary of the Union at his Fire Department assignment.

B. Insurance Policies. The City shall provide the Union with an up-to-date copy of all insurance policies covering bargaining unit employees.

Article 40 – Strikes and Lockouts

A. Each of the parties hereto acknowledges the rights and responsibilities of the other party and agrees to discharge its responsibilities under this agreement. The Union, its officers and representatives, and all employees are bound to observe the provisions of this agreement. The City, its officers and representatives, are bound to observe the provisions of this agreement.

B. In addition to the responsibilities that may be provided elsewhere in this agreement, the following shall be observed:

(1) There shall be no strikes, work stoppages, or interruption or impeding of work. No officer or representative of the Union shall authorize, instigate, aid, or condone any such activities. No employees shall participate in any such activities.

(2) There shall be no lockouts.

Article 41 – Emergency Waiver

A. In the event an emergency is proclaimed by the City Manager as set forth by the Codified Ordinances, the Chief of the Division may, after the declaration of an emergency, make such work assignments within the recognizable scope of Fire Division skills, as he deems necessary, without regard to employee classifications, overtime limitations, or seniority.

B. Upon termination of the emergency, grievances that occurred during the emergency will be processed in accordance with provisions outlined in the Grievance Procedure in Article 22. This will include the declaration of the emergency itself.

Article 42 – Savings Clause

If any provision of this agreement, or the application of such provision should be declared invalid by any court of competent jurisdiction or by reason of any existing or subsequently enacted State or Federal legislation, the parties shall meet within thirty (30) days of a request by either party to determine the extent, if any, to which changes must be made. Only those articles that are in violation of the new laws will be discussed. The remaining parts or portions of this agreement shall remain in full force and effect.

Article 43 – Benefits to be Paid Upon Termination

A. Accrued Vacation Upon Resignation or Death. An employee who voluntarily resigns with reasonable notice; or dies, shall be paid for vacation credit earned in the previous year, but not yet taken, and for vacation credit earned in the present year.

B. Accrued Vacation Upon Retirement. An employee who voluntarily retires with reasonable notice shall be paid for vacation credit earned in the previous year, but not yet taken, and for vacation credit earned in the present year. In addition, if the employee notifies, in writing, the Chief of the Division of Fire of his intent to retire during the forthcoming year and the date of his retirement, on or before December 31 of the calendar year preceding the date of his retirement, the employee shall be paid for vacation credit earned in the previous year (second full year prior to the year of retirement), but not yet taken. The retirement date must be on the employee's anniversary date of hire.

If the employee fails to retire on the date provided to the Chief of the Division of Fire, all vacation credit from the second full year prior to the year of retirement shall be forfeited, unless:

- (1) The Chief of the Division of Fire approves a change in the employee's date of retirement, and the retirement shall occur in the same calendar year as originally provided to the Chief of the Division of Fire; or
- (2) An unanticipated catastrophic event occurs which requires the employee to postpone his retirement.

If the employee wishes to change his retirement date because of an unanticipated catastrophic event, the employee must submit a written request to the city Manager to carry over the earned vacation from the second full year prior to the year of retirement to the year in which the request is made. This request must be made on or before the date of retirement provided to the Chief of the Division of Fire. If the City Manager approves the carryover of the earned vacation credit, the vacation must be taken in the calendar year of the decision of the City Manager, and is subject to approval of the Chief of the Division of Fire as to when the vacation days may be taken. If the city

Manager denies the carryover of the earned vacation credit, the employee may seek review by a mutual third party (agreed to by the City) at the cost of the employee.

The employee may withdraw his notice of retirement at any time prior to December 31 of the year preceding his retirement. However, if the notice is withdrawn, the employee must take the earned vacation credit for the second full year prior to the year of retirement in the present calendar year.

C. Sick Leave Conversion Upon Termination. Upon the death or retirement of an employee, all unused sick leave credit will be converted to termination pay as follows:

(1) If an employee has accumulated unused sick leave in an amount of one thousand (1,000) hours or less, it will be converted on the basis of thirty-two (32) hours sick leave for eight (8) hours pay.

(2) If the employee has accumulated unused sick leave between one thousand and one (1,001) hours and one thousand, five hundred (1,500) hours, all hours will be converted on the basis of twenty-four (24) hours sick leave for eight (8) hours pay.

(3) All unused sick leave hours accumulated in excess of one thousand, five hundred (1,500) hours, but less than two thousand, five hundred (2,500) hours shall be converted on the basis of sixteen (16) hours of sick leave for eight (8) hours of pay.

(4) All unused sick leave hours accumulated in excess of two thousand, five hundred (2,500) hours shall be converted on the basis of eight (8) hours of sick leave for eight (8) hours of pay, to a maximum of five hundred (500) hours of pay.

An employee who voluntarily resigns, (with reasonable notice), will be paid for all unused sick leave hours accumulated as follows: if the total unused sick leave hours accumulated total one thousand (1,000) or less, they shall be converted on the basis of thirty-two (32) hours of sick leave for eight (8) hours of pay; or if the total unused sick leave hours accumulated exceeds one thousand (1,000) they shall be converted on the basis of twenty-four (24) hours of sick leave for eight (8) hours of pay, to a maximum of five hundred (500) hours of pay.

An employee may not convert sick leave credit to terminal pay if it has been converted to vacation credit in accordance with Article 28 of this agreement.

D. Longevity. An employee who voluntarily retires with reasonable notice or dies prior to the date of payment of longevity, will receive that longevity earned to the date of retirement or death as a percentage of his base salary earned to that date. It will not be paid on other benefits or on terminal leave pay.

E. Holidays. An employee who resigns or retires with reasonable notice, or dies, will be paid for holidays which have been earned but not taken, unless special provisions have been made by ordinance.

F. Equity Factor Defined. The "equity factor" is determined by dividing the number of hours in the employee's workweek by 40.

G. (1) Termination Insurance Benefits. All employees who retire under the Public Employees' Retirement System, or Police and Firemen's Disability and Pension Fund because of inability to work due to disability, or having reached the respective pension funds' retirement age and/or years of service requirements, shall receive Hospital Care and Surgical Care insurance coverage if same is not provided by the respective pension fund. No duplication of coverage is permitted.

Any person retiring on or after January 1, 1972, shall receive \$2,000 life insurance coverage paid for by the City. Double Indemnity will not be provided on such coverage.

(2) Payment of Benefits.

(a) The conversion to vacation credit and the conversion to termination pay will be computed in whichever sequence achieves the greatest benefit to the employee.

(b) Vacation and holiday credit will be reduced to total hours times the applicable hourly rate. All other benefits listed above will be reduced to total hours multiplied by the "equity factor", times the hourly rate.

(c) Payment of benefits herein contained shall be in a lump sum and will be included in the employee's final paycheck.

(3) Provisions for Employees Who are Dismissed. In the event a permanently appointed employee, who has been employed more than one year, is dismissed, he will receive payment for his vacation which he has earned in the previous year and not yet taken. He may receive vacation credit earned in the present year as determined by the department head. The department head's decision should be in writing to the Personnel Manager. Total vacation credit must be calculated to the nearest full day.

(4) Computation of Benefits. The employee's department head will be responsible for the computation of termination benefits. The Personnel Manager shall review the calculations. Any discrepancies shall be satisfied between the employee's department head, the Personnel Manager and the City's fiscal officer.

Article 44 – Promotions Within the Firefighter Rank

A. Any member promoted to the position of squadman shall receive additional compensation, as set forth herein.

Effective July 1, 2008

<u>Years of Service on Squad</u>	<u>Pay</u>
0-5 years	\$1,500.00
6-10 years	\$1,750.00
11 or more years	\$2,050.00

<u>Years of Service on Squad</u>	<u>1/1/09</u>	<u>1/1/10</u>	<u>1/1/11</u>
0-2 years	3%	3.5%	4%
3-6 years	4%	4.5%	5%
7 or more years	5%	5.5%	6%

All percentages are of the applicable top step pay for a firefighter (F4).

B. Any member promoted to the position of apparatus operator shall receive additional compensation set forth herein.

Years of Service as Apparatus Operator Pay

0-6	1%
7 or more	1.5%

All percentages are of the applicable top step pay for a firefighter (F4).

C. All additional compensation under this section shall be paid annually in the first pay of December.

Article 45 – Wages

A. Wage Rates.

Firefighter F01	A	B	C	D	E	F
Current 2011	\$45,071.56	\$47,194.12	\$49,409.43	\$52,999.37	\$57,453.75	\$60,152.60
1/1/2012	\$45,071.56	\$47,194.12	\$49,409.43	\$52,999.37	\$57,453.75	\$60,152.60
1/1/2013	\$45,071.56	\$47,194.12	\$49,409.43	\$52,999.37	\$57,453.75	\$60,152.60

Lieutenant F02	E	F	G
Current 2011	\$62,583.10	\$65,523.09	\$68,603.54
1/1/2012	\$62,583.10	\$65,523.09	\$68,603.54
1/1/2013	\$62,583.10	\$65,523.09	\$68,603.54

Captain F03	E	F	G
Current 2011	\$68,603.54	\$71,824.38	\$75,202.35
1/1/2012	\$68,603.54	\$71,824.38	\$75,202.35
1/1/2013	\$68,603.54	\$71,824.38	\$75,202.35

Deputy Chief F04	D	E	F	G
Current 2011	\$75,202.35	\$78,735.24	\$82,436.70	\$86,312.73
1/1/2012	\$75,202.35	\$78,735.24	\$82,436.70	\$86,312.73
1/1/2013	\$75,202.35	\$78,735.24	\$82,436.70	\$86,312.73

If after January 1, 2013 and prior to December 31, 2013, City Council approves a cost of living increase for all non-organized employees or the members of any other bargaining unit, members shall receive such salary increase as a “me-too” at the time such increase is effective for the affected employees. This “me-too” provision does not apply to salary increases which are either; (i) negotiated by employees covered by other collective bargaining agreements and approved prior to January 1, 2012, or (ii) ordered by a third party and binding upon the City.

This Article 45(A) shall be reopened for negotiation of wage rates to be effective January 1, 2014 in accordance with the provisions of Chapter 4117 of the Ohio Revised Code. No other issue in this article or other article of this Agreement shall be subject to negotiation by the parties, except as agreed by the parties.

B. Salary Adjustment. The salary of each employee shall be reviewed annually or otherwise as herein provided by the Fire Chief for the purpose of determining which employee shall be entitled to a step increase. All of his personnel records, performance and length of service shall be considered in making recommendations with major emphasis placed on the evaluation of services rendered. On the recommendation of the Fire Chief, the City Manager may advance an employee at the time of such review until the maximum step has been reached.

No employee in F-1 hired after January 1, 1993 shall be:

- (1) increased to Step B until the employee has passed a written test, to be prepared by the Chief of the Division of Fire, regarding familiarity with the City of Middletown, specifically streets and landmarks;
- (2) increased to Step C until the employee has received state certification as a paramedic, and
- (3) increased to Step E until the employee has completed training and received Division of Fire certification for operation of pumper trucks; and
- (4) increased to Step F until the employee has completed training and received Division of Fire certification for operation of an aerial apparatus.

C. Members agree that all payroll payments will be direct deposited in an account of their choice in compliance with the guidelines established by the City of Middletown Finance Department.

Article 46 – Special Assignments

The positions of inspectors and fire marshals shall be assigned only to firefighters or fire officers during the period of this contract. However, nothing in this agreement is intended to prevent the City from using other City employees for inspections as permitted by law.

Article 47 – Paramedic Certification Pay

A. All members who are not promoted to the position of squadperson and maintain their paramedic certification throughout the entire calendar year shall receive additional compensation in the amount of \$200.00.

B. All additional compensation under this section shall be paid annually in the first pay of December.

Article 48 – Overtime

A. Overtime pay for duties normally assigned to the tour employees will be paid one and one-half times the tour employees' hourly rate (51 hours). Overtime pay for duties normally assigned to the day employees will be paid at one and one-half times the day employees' hourly rate (40 hours). The Fire Chief shall determine whether the duties being performed are normally assigned to the tour employee or the day employee.

B. Overtime, for the purpose of this agreement, is defined as being any time worked outside the employee's normally scheduled hours of work.

C. Employee assignments to overtime will be in accordance with procedures established between Local 336 and the Chief of the Division.

D. Overtime other than emergency call-in or stand-by shall be by quarter-hour increments.

E. Except as provided in paragraph A, above, effective April 15, 1986, any employee working in excess of two hundred four (204) hours in any twenty- eight (28) seven (27) day work period, as defined by the Fair Labor Standards Act, as amended, shall, subject to paragraph F, below, as determined by the Employer, either be paid time and one-half his/her regular rate or receive compensatory time off on the basis of one and one-half hours off for each hour of overtime worked. Time off to use earned compensatory time will be granted within sixty (60) days of the request made by the employee. When compensatory time is used, it shall not count as hours worked during the applicable work period for purposes of determining overtime. No employee shall be permitted to accrue more than four hundred and eighty (480) hours of unused compensatory time and any employee who has accrued unused compensatory time to the four hundred eighty (480) hour limit shall be paid in cash for additional overtime worked. If an employee is paid in cash for accrued compensatory time, he/she shall be paid at the employee's regular rate at the time of payment. Upon termination of employment, unused compensatory time shall be paid at the employee's average regular rate for the last three (3) years of employment or the employee's final regular rate, whichever is higher.

F. The Employer's determination to designate the compensation of overtime by the use of compensatory time as set forth above shall be subject to either:

(1) The existence of a financial emergency, as determined and declared by the City Manager; or

(2) The Division of Fire exceeding the payment of \$250,000.00 per calendar year in overtime pay.

Article 49 – Hazardous Material

A. Any claim or suit brought against any employee as a result of a Hazardous Material Incident, which arises from or because of any action or inaction by such employee in the scope of his employment as an employee of the City, shall be defended by the Director of Law until the final termination of the proceedings therein, unless the City is an adverse party to the employee in such proceedings.

B. The City shall save any of its employees harmless from personal liability on any judgment resulting from any claim or suit brought against any such employee because

of any action or inaction by such employee in the scope of his employment with the City, unless the City is an adverse party to the employee in such proceedings.

C. The provisions of this section shall not apply to any claim or suit brought against an employee of the City arising from or because of any action or inaction of such employee that would constitute a crime under the laws of the United States, the State or the City, or that is malicious or wanton in nature.

D. The Division of Fire shall keep, during the time of employment, a file on each member involved in any on-the-job Hazardous Material Incident, to include but not limited to the following: location, date and time of the incident, materials involved, if known, exposure length, any injury received during the incident, and health risks, if known, when exposed to said materials.

Article 50 – Total Agreement, Headings and Genders

A. The provisions of this Contract constitute the entire written Contract between the City and Local 336. Neither party shall be bound by prior written or verbal agreements.

B. It is understood and agreed that the use of headings before Articles is for convenience only and that no heading shall be used in the interpretation of any such Article nor affect any interpretation of any such Article.

C. Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular, and words whether in the masculine, feminine or neuter genders shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

Article 51 - Embodiment

The two parties to this Contract jointly and separately agree that this Contract embodies all applicable provisions relating to employees covered.

The City and IAFF Local 336 each certify without reservation that an adequate opportunity has been afforded its bargaining representatives to propose and vigorously advocate all negotiable subject matter during the course of collective negotiations preparatory to the signing of this Contract. Arrangements, provisions, and procedures previously agreed to by the parties, either formally or informally, shall henceforth be void as of January 1, 1988, unless included herein.

Article 52 – Drug / Alcohol Testing

I. PURPOSE OF DRUG/ALCOHOL TESTING PROGRAM

A. The Fire Department has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug/alcohol dependence or illegal drug use.

B. A reasonable drug/alcohol testing program must establish a balance between the rights of the employee and the compelling governmental interest in maintaining a Fire agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves with diligence to ensure that employees can perform their duties without endangering themselves or the public.

C. There is sufficient evidence to conclude that use of alcohol or illegal drugs and/or drug abuse (whether illegal or prescription drugs) and alcohol abuse seriously impairs an employee's performance and general physical and mental health. The illegal use of drugs by Fire employees (therefore, possession) is a crime in this jurisdiction, and clearly unacceptable.

II. DEFINITIONS

A. Drug Test. A urinalysis test administered under approved conditions and procedures to detect drugs by a laboratory certified in accordance with Department of Health and Human Services rules and regulations.

B. Alcohol Test. A blood sample or urine sample taken at either a hospital or accredited testing laboratory, or a breath test administered by an operator licensed by the Ohio Department of Health on a machine approved by the Ohio Department of Health.

C. Reasonable Suspicion. An apparent state of facts and/or circumstances found to exist upon inquiry by the Fire Chief or his designee, which would warrant a reasonable, prudent person to believe the employee was under the influence of drugs/narcotics and/or alcohol.

D. Positive Test Results. A test performed: (i) on a blood specimen provided by the employee measuring an alcohol concentration by weight in such specimen of .01% or more; (ii) a breath specimen provided by the employee measuring a concentration of one hundredth gram or more by weight of alcohol per two hundred ten liters of the employee's breath; (iii) a urine specimen provided by the employee measuring a concentration of fourteen thousandths of one gram or more by weight of alcohol per one hundred milliliters of the employees' urine; (iv)

a urine specimen provided by the employee detecting any amount of a drug (any controlled substance listed on Schedule I-V of 21 C.F.R. 1308).

III. GENERAL RULES

A. Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Any statutorily defined illegal use of drugs by an employee, whether on or off duty, is prohibited. Department employees are prohibited from consuming or possessing alcohol at any time during or just prior to the beginning of a work period, or anywhere on City property, including buildings, property, or vehicles.

B. All property belonging to the Department, including the entire premises of the department, is subject to inspection at any time without notice as there is no expectation of privacy.

1. Property includes, but is not limited to, City owned vehicles, desks, and files.

C. Failure of any Fire employee to comply with the intent or provisions of this Article of the contract are grounds for disciplinary action, including dismissal, or other action determined appropriate by the Chief of Fire. Refusal by a Fire employee to take a required test, ie: a test that is ordered based upon reasonable suspicion as defined in paragraph II (C) above, or under circumstances described in paragraphs IV (A) and (B), below, or follow this article of the collective bargaining agreement, will result in immediate relief from Fire duties pending disposition of any administrative personnel action. A refusal occurs if the employee fails to agree to submit to a required drug test within two (2) hours of receiving the order, or to a required alcohol test within one (1) hour of receiving the order.

IV. POLICY-DRUG TESTING/URINALYSIS AND ALCOHOL TESTING

A. Employees of the department shall be required to submit to a test for alcohol, drug or narcotic use as outlined below:

1. The Chief of Fire or his designee (Asst. Chief, Deputy Chief or those acting in the position) may order a drug/alcohol test when he or she has reasonable suspicion that an employee is using, or is under the influence of drugs, narcotics, or alcohol.

2. The order shall be in writing and the employee shall be advised of circumstances surrounding the order to test.

3. Whenever practical, prior approval should be obtained from the Chief of Fire before his designee orders the test.

4. The Fire Chief or his designee orders a drug or alcohol test when he has reasonable suspicion of an employee's usage or possession, or that an employee is under the influence of drugs and/or alcohol, and shall prepare a report containing the facts and circumstances including any pertinent dates and times. The report shall be made available to the employee upon request. The employee may provide the report to the Union if he/she so chooses.

5. Any positive test result, will be submitted as a part of a written complaint by the Fire Chief or his designee ordering the test.

B. In the event that an employee is required to submit to a drug or alcohol test, the following guidelines should be observed:

1. The employee shall be granted enough time to change from uniform to civilian clothing.

2. The employee will be transported to the designated testing center by a supervisor.

3. The employee may request that a Fire department employee of his/her choice be present for the transportation and test, provided said individual is on duty and reasonably available.

4. A controlled test will be conducted by personnel of the testing site.

5. Subject to the rules of the testing authority the employee may have an observer for the test.

6. All urine or blood samples will be properly labeled, sealed, and turned over to the site personnel by the employee. The specimen will be divided properly by the designated test center or laboratory designated by the test center.

7. All parties involved will be transported back to the Fire department.

8. If the employee is held over his/her assigned time, he/she will be compensated for that time.

C. A negative test result shall bar the City from further discipline, for refusing to submit to a test, and the use or abuse of drugs, in violation of this policy.

D. A positive test result on a drug test, after a second qualifying test, may serve as a basis to refer the employee to the Employee Assistance Program maintained by the City of Middletown. If the employee refuses or fails to attend the EAP or to follow any and all recommendations of the EAP, the employee shall be subject to disciplinary action. The Employer or employee shall have the

option to have a third test performed. The third test shall be performed by the designated test center, or a laboratory designated by the test center. The third test shall be a G.C. Mass spec. or a test of equal or greater accuracy (at the designating test center's option). A positive result on the third test may result in discipline. If the employer requests this third test, it shall bear the cost of the test. If the employee requests the test, the cost shall be borne by the employee if the third test is positive; and by the employer if the third test is negative. A negative third test shall bar any action authorized under Article 52(IV)(D). The employer is authorized to deduct any costs due from the employee under this subsection through payroll deduction in two (2) payments without written permission of the employee. A positive test result on an alcohol test may serve as a basis for discipline, up to and including dismissal.

E. Employees who have been found to be using illegal drugs or narcotics, or abusing prescription drugs or violating the alcohol provisions of this policy, shall be provided a hearing before the City Manager or his designee where evidence is presented and preserved, before final action is taken against the employee.

F. The City will indemnify and save the Union harmless from any action alleging the constitutionality of the administration of this drug testing provision.

Article 53 - Fitness for Duty

Employees shall have their choice of either of the following during any calendar year of this Agreement:

- (1) The cost or balance thereof of any individual adult fitness membership upon the employee obtaining the 50% level on four out of five categories of the YMCA's Physical Fitness Evaluation Profile, to a maximum reimbursement of no more than a single adult YMCA annual fee; or
- (2) The opportunity to participate in the City's Health and Wellness program and be eligible for the cash incentives as rewarded to other non-union employees.

Employees hired in the F-1 classification after January 1, 2007 must participate in the City's Health and Wellness Program described in (2) above in each year to be eligible to receive a step increase as provided in Article 45, paragraph B.

Article 54 - Family and Medical Leave

Family and medical leaves shall be granted in accordance with the Family and Medical Leave Act of 1993 as amended, and the Policy and Procedure Manual of the City of Middletown.

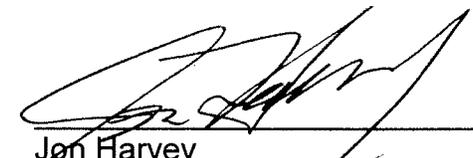
Article 55 – Termination

This agreement shall become effective on January 1, 2012 and terminate on December 31, 2014.

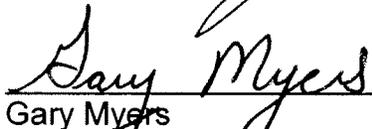
Appendix A of Article 27 and Article 45(A) are subject to reopener as provided in those respective sections.

SIGNATURES

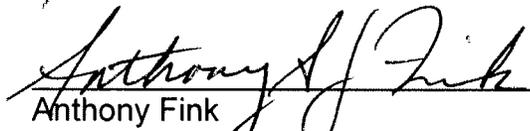
IAFF LOCAL 336



Jon Harvey
President, IAFF, Local #336



Gary Myers
Bargaining Committee Member

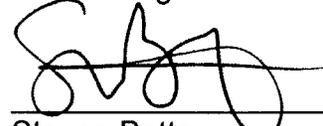


Anthony Fink
Bargaining Committee Member

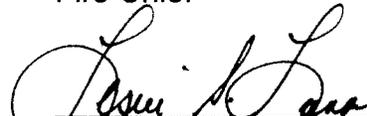
CITY OF MIDDLETOWN



Judith A. Gilleland
City Manager



Steven Botts
Fire Chief



Leslie S. Landen
Director of Law